

## **How does the OIG resolve self-disclosures involving claims submitted for services of unlicensed individuals?**

If an entity determines that it has submitted claims for items or services provided by an individual who does not possess a valid license to provide those items or services, that entity may have liability under the Civil Monetary Penalties Law (CMPL), 42 U.S.C. 1320a-7a, for the submission of claims for items or services furnished by the unlicensed individual. Items and services provided by unlicensed individuals are not payable by Federal health care programs. If the items or services were directly billed by the unlicensed person, such as for physician services, then the appropriate measure of damages under the Health Care Fraud Self-Disclosure Protocol will be the total amount paid by the Federal health care programs for those items or services.

If the unlicensed person provided items or services that are not billed separately to Federal health care programs, then for purposes of resolving the self-disclosure, the OIG will use a proxy for damages. In many cases, the appropriate proxy will be the disclosing party's total costs of employing or contracting with the unlicensed person during the period of time the individual was not licensed. OIG will not reduce the disclosing entity's costs of employment by its Federal payor mix, as is the case in self-disclosures involving the employment of excluded individuals. While no Federal health care program payments can be made for services provided by excluded individuals, unlicensed individuals cannot provide services regardless of payor. The provision of health care by unlicensed individuals warrants a significant penalty, and the cost of employment is a reasonable proxy for the total claims submitted for items and services provided by an unlicensed person. As with all settlements, the determination of the appropriate measure of damages will be made on a case-by-case basis, taking into account the facts and circumstances of the disclosure.