

## Compliance Today – September 2018

### Why should you conduct a physician payment reconciliation?

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Implementing routine physician payment reconciliation processes mitigates legal and regulatory risks and enhances the structure of compliance within your organization.

In 2017, the U.S. Department of Justice recovered \$2.4 billion in healthcare fraud civil cases<sup>[1]</sup> and followed through on their 2015 pledge to hold individuals as well as corporations accountable. In recent years, several multi-million-dollar settlements related to Stark Law, Anti-Kickback Statute (AKS), and related False Claims Act enforcement, along with fines and penalties to executives and other individuals, resulted from improper referral relationships and activities.

Federal fraud and abuse laws prohibiting rewards for referrals are designed to protect patients by eliminating conflicts of interest that might lead a physician to prescribe a path of care that isn't in the patient's best interest. Financial relationships between hospitals and referral sources are subject to increasing government scrutiny, and violations can have significant financial and criminal consequences. Adopting practices for implementing and monitoring contracts with referral sources, identifying Stark Law and AKS compliance risks based on your current program structure, and performing an in-depth review of existing physician and referral source arrangements and payments will allow you to detect potential compliance risk exposure.

### How to avoid Stark and Anti-Kickback liabilities

First, ensure you have created a culture of compliance by establishing an effective compliance program based on the elements outlined in the Federal Sentencing Guidelines and recommended by the Department of Health & Human Services, Office of Inspector General (HHS OIG). This fundamental step creates processes to support the establishment of compliant financial relationships with referral sources, monitoring and auditing to be certain payments made to referral sources are consistent with written agreements, and mechanisms for reporting and responding to instances of potential compliance risk are in place.

Create a formal contract management process to prevent Stark and AKS violations through the establishment of agreements that meet exception and safe harbor requirements. The process should include both legal and compliance review of all contract arrangements, maintenance of a master list or database of all active and inactive contracts, and proactive monitoring and auditing of all financial arrangements with and payments to referral sources. Effective monitoring and auditing in this space includes an annual physician payment reconciliation, periodic physical inventory of leased space and tracking of non-monetary compensation as well as medical staff officer and director time logs.

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