

## Report on Medicare Compliance Volume 29, Number 17. May 04, 2020 New Guidance on Stark Waiver Says Arrangements Can Be Amended

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By Nina Youngstrom

In new “explanatory guidance”<sup>[1]</sup> on its blanket waiver of the Stark Law during the COVID-19 public health emergency, CMS has clarified that hospitals are free to amend existing financial terms, as long as they set things right when life gets back to some version of normal.

“That’s helpful,” said attorney Larry Vernaglia, with Foley & Lardner in Boston. “We knew you could make new financial relationships, but it wasn’t clear to everyone whether you could change existing financial relationships under the plain language of the blanket waiver.” Hospitals and other entities that provide designated health services (DHS) have the green light to reduce physicians’ rent, for example, or increase their compensation during the pandemic, but after that “they have to restore the original terms or enter into a new excepted arrangement,” he said.

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