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Use of SDP Doesn't Lead to Fishing Expedition, Former OIG Counsel Says

By Nina Youngstrom

Providers may worry that if they report one type of violation through the self-disclosure protocol (SDP), the HHS Office of Inspector General (OIG) will snoop for others. But a former OIG attorney said that's not how it works.

"Providers who use the self-disclosure protocol are presumed to be taking their compliance obligations seriously and to have an effective compliance program," said David Traskey, who was a senior counsel at OIG until May. "OIG rewards participation in the self-disclosure protocol" and isn't using it to "poke around into other aspects of a provider's practice." There are two reasons: it could have a chilling effect on future use of the SDP and resources are limited, he said.

A relatively small number of attorneys work on self-disclosures in OIG's administrative and civil remedies branch (around 30). "As a general matter, they won't fish around for more work to do," said Traskey, with Garfunkel, Wild P.C. in Washington, D.C. "They don't have the time or the bandwidth to say 'we got a disclosure from the hospital about a problem with incident-to billing in cardiology. I wonder if they have the same problem in orthopedics.'"

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