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OIG Fraud Alert on Speaker Programs Warns Physicians They Risk Kickback Allegations

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In a special fraud alert,^[1] the HHS Office of Inspector General (OIG) puts physicians and other health care practitioners (HCPs) on notice they could be accused of accepting kickbacks from medical device and pharmaceutical manufacturers by participating in their speaker programs. OIG is dubious about the value of speaker programs when HCPs are generously rewarded for sharing information about drugs, devices or disease states that is available elsewhere (e.g., online) at venues that don't necessarily lend themselves to education (e.g., fancy restaurants).

"Drug and device companies that host or pay for such speaker programs and HCPs who speak at or attend such programs could be liable under the anti-kickback statute for any prohibited remuneration," OIG said in the fraud alert, which was posted Nov. 16.

The alert explains the fraud and abuse risks of speaker programs and lists "suspect characteristics" that could indicate remuneration that would be a violation of the Anti-Kickback Statute if the device or drug manufacturer intends to induce the HCP's referrals.

OIG is signaling to "more prudent providers that it may not be worth attending or offering speaker programs anymore in the current settings they're used to," said Chicago attorney Dayna LaPlante, with Polsinelli. There are significant concerns in the OIG's eyes, especially since education can be found in other places (e.g., medical journals, package inserts) without remuneration. That "further suggests that at least one purpose of remuneration associated with speaker programs is often to induce or reward referrals," OIG said.

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