

Anti-Kickback Update - HHS-OIG Settles

Ambulance Swapping Case \$3 Million

Settlement from Nursing Home in

Ambulance Swapping Case

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Demonstrating the government's commitment to combat health care fraud and keeping providers accountable, the U.S. Attorney's office of Southern District announced that Regent Management Services L.P., a long term provider, agreed to pay approximately \$3.199 Million to settle allegations that it received kickbacks from ambulance companies for referrals of Regent's Medicare and Medicaid patients needing transport in exchange for free or reduced transport costs for its other patients from those ambulance companies.

What makes this settlement of particular interest is that it holds the medical institution, i.e. hospitals and skilled nursing facilities, accountable rather than the ambulance companies for an ambulance "swapping" arrangement. Medicare and Medicaid reimburse ambulance transport at a more lucrative rate. The kickbacks came in the form of free or reduced rate transports by the same companies for other Regent patients. The federal anti-kickback statute prohibits offering, paying, soliciting or receiving compensation to induce referrals of federal health care program items. If Regent had not made the Medicare and Medicaid referrals to the ambulance companies, Regent allegedly would have been responsible to pay significantly higher rates for patient transports.

By holding Regent, the skilled nursing facility, responsible rather than the ambulance companies, the settlement demonstrates that companies other than the provider billing Medicare and/or Medicaid for its services may be held accountable for improper actions. Chief Counsel to the Inspector General of the DHHS-OIG, Gregory Demske, noted that "[a]ny company or individual considering entering such schemes should understand that their actions may have serious legal and financial consequences.

Once again, the Health Care Fraud Prevention and Enforcement Action Team (HEAT) demonstrated that it continues to focus its efforts to reduce and prevent Medicare and Medicaid financial fraud. Providers need to be aware that even if they are not directly billing Medicare and/or Medicaid, they can be held accountable when entering illegal referral relationships with the billing providers.

Healthcare providers should review whether relationships could create problems with the anti-kickback statute. If you have any questions or we can be of further assistance, contact qualified counsel

By Denise Bloch

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