



HEALTH CARE LAW ALERT

Local Cardiology Practice Enters Into \$1.3 Million Dollar Settlement for Alleged Stark Law and False Claims Act Violations

On August 14, 2014, the United States Attorney for the Northern District of New York, Richard S. Hartunian, announced a \$1.3 million settlement with Cardiovascular Specialists, P.C., d/b/a New York Heart Center (NYHC), a cardiology practice with offices throughout central and northern New York, related to alleged Stark Law and federal False Claims Act violations. Per the settlement agreement, the alleged conduct involved a compensation formula used internally by NYHC from September 2007 to August 2008 to compensate its affiliated physicians which took into account the volume or value of each physician's referrals within the practice for Medicare-reimbursable CT scans and nuclear diagnostic tests even though those tests were not personally performed by the referring physician.

The federal physician self-referral prohibition or "Stark" Law prohibits physicians from referring Medicare patients for certain designated health services (DHS) to a provider with which the physician has a financial relationship, including referrals within a physician's own medical group practice, unless the financial relationship fits within one of the narrowly drawn exceptions to the Stark Law. Most of the exceptions prohibit the compensation paid to the referring physician from taking into account the volume or value of his or her referrals for DHS. If the financial relationship does not satisfy an exception, the Stark Law prohibits billing Medicare for the referred services.

The press release from the Department of Justice regarding the settlement stated that the government's investigation revealed that NYHC had adopted a compensation formula for its affiliated physicians with the knowledge that it could violate the Stark Law. However, in the settlement agreement, NYHC did not admit any such violation or liability. Knowingly submitting false claims to the government for payment, which includes submission of Medicare claims in violation of the Stark law, violates the federal False Claims Act, which can result in civil monetary penalties of up to \$11,000 per false claim, treble damages and, in certain cases, criminal liability.

The settlement agreement releases NYHC and its physicians from liability for any civil or administrative monetary claim related to the alleged conduct arising under the False Claims Act, the Civil Monetary Penalties law, the Program Fraud Civil Remedies Act, the civil monetary penalty provisions of the Stark Law and/or the common law theories of payment by mistake, unjust enrichment, and fraud. However, the government reserved the right to seek exclusion of NYHC from Medicare, Medicaid, and all other Federal health care programs and, further, the agreement did not release NYHC and/or its physicians from any potential liability under the Internal Revenue Code or from any potential criminal liability.

This settlement is a reminder that the Stark self-referral prohibitions apply not only to referrals of DHS to hospitals and other external entities with which a physician has a financial relationship, but also to referrals of DHS within a physician's own medical practice.

If you have any questions or would like more information on the issues discussed in this communication, please contact any of the following Hancock Estabrook attorneys:

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