

Background

While most health care providers, suppliers, and practitioners are honest, a small minority commit health care fraud and abuse that costs the Medicare program a lot of money every year. The Centers for Medicare & Medicaid Services (CMS) works with other government agencies and law enforcement organizations to protect the Medicare program from fraud and abuse.

This Resource Reference directs you to a number of sources of information pertaining to Medicare fraud and abuse and helps you understand what to do if you suspect or become aware of incidents of potential Medicare fraud or abuse.

Internet Resources about Medicare Fraud and Abuse

OIG Website

The Department of Health & Human Services (HHS) Office of Inspector General's (OIG) website (www.oig.hhs.gov) offers a wealth of information regarding fraud and abuse prevention, detection, and reporting. For example, the OIG's website includes links to:

- Fraud alerts, bulletins, and other guidance that alert the public and providers about fraudulent and abusive schemes;
- Model compliance programs for a wide array of health care providers and suppliers;
- "Open Letters" to the health care provider community discussing major initiatives;
- Voluntary self-disclosure protocols to disclose instances of improper billing;
- Safe harbor provisions under the anti-kickback statute;
- Advisory opinions on the application of the anti-kickback statute and other OIG fraud and abuse authorities;
- Exclusion information;
- Links to the National Practitioner Data Bank and the Healthcare Integrity and Protection Data Bank, which are limited-access databases that contain information on various licensure, malpractice, and legal actions taken against physicians and dentists and, in some cases, other health care providers; and

- A free e-mail “listserv” that informs subscribers of new additions to the OIG’s website. For more information visit <http://oig.hhs.gov/maillinglist.html> on the Internet.

CMS Website

CMS’ website (www.cms.hhs.gov) offers a vast amount of information pertaining to Medicare program rules and requirements, including:

- The Medicare Learning Network (MLN), which includes informative articles and training modules. For more information visit <http://www.cms.hhs.gov/MLNGenInfo/> on the CMS website.
- Part D prescription drug benefit compliance guidance;
- Information on the physician self-referral prohibition;
- Medicare coverage information and policies;
- Information and guidance on billing and coding issues;
- Provider enrollment and certification information;
- Information regarding CMS forms;
- Information about coordination of benefits and Medicare as secondary payer;
- Subscription to electronic mailing list service for those interested in receiving news from CMS. To subscribe, go to <http://www.cms.hhs.gov/apps/maillinglists/> on the CMS Website.

Kickbacks and Self-Referrals

The anti-kickback statute and the physician self-referral law are two important fraud and abuse authorities. Violations of these laws can result in nonpayment of claims, civil monetary penalties, exclusion from the Medicare program, and liability for the submission of false claims to the government. Violation of the anti-kickback statute may additionally result in imprisonment and criminal fines.

The **Anti-Kickback Statute**, set forth at § 1128B of the Social Security Act, (42 U.S.C. § 1320a-7b), makes it a criminal offense knowingly and willfully to offer, pay, solicit, or receive any remuneration to induce or reward



referrals of items or services reimbursable by a Federal health care program. Where remuneration is paid purposefully to induce or reward referrals of items or services payable by a Federal health care program, the anti-kickback statute is violated. By its terms, the statute ascribes criminal liability to parties on both sides of an impermissible “kickback” transaction. For purposes of the anti-kickback statute, “remuneration” includes the transfer of anything of value, directly or indirectly, overtly or covertly, in cash or in kind. For more information see <http://oig.hhs.gov/fraud.html> on the Internet.

The **Physician Self-Referral Prohibition Statute**, commonly referred to as the “Stark Law,” is set forth at § 1877 of the Social Security Act, (42 U.S.C. § 1395nn). This statute prohibits physicians from referring Medicare patients for certain designated health services (DHS) to an entity with which the physician or a member of the physician’s immediate family has a financial relationship—unless an exception applies. It also prohibits an entity from presenting or causing to be presented a bill or claim to anyone for a DHS furnished as a result of a prohibited referral. For more information see www.cms.hhs.gov/PhysicianSelfReferral on the CMS website.

Advisory Opinions

In certain situations, upon formal request, the HHS Office of Inspector General may issue an **advisory opinion** with respect to the anti-kickback statute or OIG's other fraud and abuse authorities, while CMS may issue an advisory opinion with respect to the physician self-referral prohibition. Advisory opinions are legal opinions issued to one or more requesting parties about the application to a party's existing or proposed business arrangements of either the fraud and abuse provisions within the OIG's scope

of authority or the physician self-referral prohibition within CMS' scope of authority. A CMS or OIG advisory opinion is legally binding on HHS and the requesting party or parties, but no person or entity can rely on an advisory opinion issued to another party. A party that receives a favorable advisory opinion is protected from CMS or OIG administrative sanctions, as the case may be, so long as the arrangement at issue is conducted in accordance with the facts submitted to the CMS or OIG.

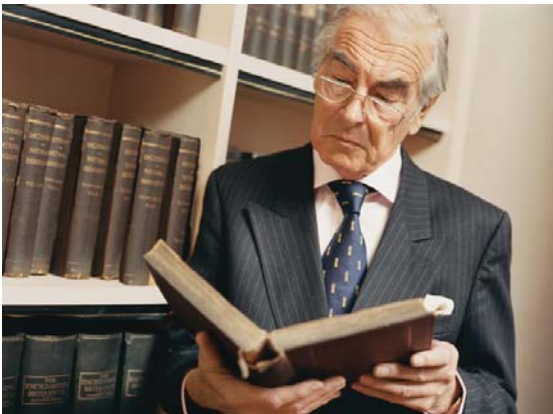
For more information on OIG advisory opinions, see:

<http://oig.hhs.gov/fraud/advisoryopinions.html>

For more information on CMS advisory opinions, see:

http://www.cms.hhs.gov/PhysicianSelfReferral/07_advisory_opinions.asp

Exclusions and Debarments



What is the effect of an exclusion?

If you are participating in or billing a Federal health care program, you generally may not employ or contract with an **excluded** or **debarred** individual or entity. No payment will be made by any Federal health care program for any items or services furnished, ordered, or prescribed, directly or indirectly, by an excluded or debarred individual or entity. Federal health care programs include Medicare, Medicaid, and all other plans and programs that provide health benefits funded directly or indirectly by the United States (other than the Federal Employees Health Benefits Plan).

OIG Website

The HHS Office of Inspector General is responsible for excluding individuals who have participated or engaged in certain impermissible, inappropriate, or illegal conduct. The OIG's List of Excluded Individuals and Entities (LEIE) provides information on all individuals and entities currently excluded from participation in the Medicare, Medicaid, and all other Federal health care programs. The LEIE, along with other information pertaining to OIG exclusions, may be accessed at <http://oig.hhs.gov/fraud/exclusions.html> via the Internet.

General Services Administration (GSA) Website

The GSA is responsible for maintaining an index of individuals and entities that have been excluded throughout the U.S. Government from receiving Federal contracts or certain subcontracts and from certain types of Federal financial and non-financial assistance and benefits. The GSA maintains the Excluded Parties List System (EPLS), which may be accessed at <http://epls.arnet.gov> via the Internet.

Helpful Telephone Numbers:

U.S. Department of Health and Human Services (HHS) Office of Inspector General (OIG)

If you have identified billing practices that cause you to suspect potential fraud or abuse, you may call the **OIG's National Hotline at 1-800-HHS-TIPS (1-800-447-8477)** to report the activity.

Contacting the HHS OIG Hotline

By Phone: 1-800-HHS-TIPS (1-800-447-8477)

By Fax: 1-800-223-8164

By E-Mail: HHSTips@oig.hhs.gov

By TTY: 1-800-377-4950

By Mail:

Office of Inspector General
Department of Health and Human Services
Attn: HOTLINE
330 Independence Ave., SW
Washington, DC 20201

Centers for Medicare & Medicaid Services (CMS)

Suspicious of fraud or abuse may also be reported to Medicare's Customer Service Center at **1-800-MEDICARE (1-800-633-4227)**.

For questions about billing procedures, billing errors, or questionable billing practices contact your Medicare Contractor.

You can find FI and Carrier contact information, including toll-free telephone numbers, at <http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.

Web Resources

OIG Website

<http://www.oig.hhs.gov>

OIG ListServ

<http://oig.hhs.gov/maillinglist.html>

CMS Website

<http://www.cms.hhs.gov>

MLN Website

<http://www.cms.hhs.gov/MLNGenInfo/>

CMS Mailing Lists

<http://www.cms.hhs.gov/apps/maillinglists/>

Anti-Kickback Statute

<http://oig.hhs.gov/fraud.html>

Physician Self-Referral Prohibition Statute

<http://www.cms.hhs.gov/PhysicianSelfReferral>

OIG Advisory Opinions

<http://oig.hhs.gov/fraud/advisoryopinions.html>

CMS Advisory Opinion

http://www.cms.hhs.gov/PhysicianSelfReferral/07_advisory_opinions.asp

OIG Exclusions

<http://oig.hhs.gov/fraud/exclusions.html>

Excluded Parties List System (EPLS)

<http://epls.arnet.gov>

FI and Carrier Contact Information

<http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip>



■ The Medicare Learning Network (MLN) is the brand name for official CMS educational products and information for Medicare Fee-For-Service providers. For additional information visit the Medicare Learning Network's web page at www.cms.hhs.gov/MLNGenInfo on the CMS website.

■ This resource reference was prepared as a service to the public and is not intended to grant rights or impose obligations. This reference may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.

ICN: 006827