

CMS, DOJ Report Settlements of Stark Law Violations

The Centers for Medicare and Medicaid Services and the Department of Justice recently reported settlements of alleged violations of the physician self-referral law, or "Stark" law. CMS recently reported four settlements that resulted from voluntary self-disclosures of potential Stark law violations under the Self-Referral Disclosure Protocol, which is a process established pursuant to the Patient Protection and Affordable Care Act that allows health care providers to voluntarily report actual or potential violations of the Stark law. The first two settlements, which were reached in January, related to violations of the Stark law by unnamed hospitals in Georgia and California for exceeding the calendar year non-monetary compensation limit for physicians. CMS settled these violations for \$4,500 and \$6,700, respectively. The other two settlements were reached in February 2011 and November 2011, and related to two hospitals' failure to meet the requirements of the personal services arrangements exception to the Stark law. The February 2011 settlement, which was with an unnamed general acute care hospital in Massachusetts, was for \$579,000. The November 2011 settlement, which was with an unnamed critical access hospital in Mississippi, was for \$130,000. Unfortunately, CMS provided few additional details regarding these settlements, including any indication of what the hospitals' liability might have been if they had not voluntarily reported the Stark violations. In the settlement reported by the Department of Justice, Bristol Hospital and Bristol Gastroenterology Associates ("BGA") of Bristol, Connecticut agreed to pay \$157,830 to settle claims that it violated the False Claims Act and the Stark law by entering into an improper leasing arrangement. According to the D.O.J. report regarding the settlement, Bristol Hospital provided space to BGA rent-free and without a written lease agreement for two years. The parties then entered into a written lease, but Bristol Hospital failed to collect rent for an additional 18 months. During the entire period in which BGA occupied the space rent-free, BGA regularly referred patients to Bristol Hospital. These settlements show the value to hospitals of carefully monitoring their financial relationships with physicians as a critical component of their compliance program.