FAVORABLE

OIG WATCH

09-06

Hospital paying physician groups 50% of cost savings from product standardization

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What OIG Said

OIG said cost-savings payments to physicians can work if they're tied to specific, identifiable actions with objective quality monitoring, transparent documentation, and reasonable limitations on amount and duration.

- ✓ A hospital paid cardiology, interventional radiology, and vascular surgery groups 50% of savings from standardizing cardiac catheterization devices and supplies. Savings were calculated by comparing base-year costs to contract-year costs for specific products used in specific procedures.

- ✓ OIG acknowledged this "could constitute an improper payment" and "could potentially generate prohibited remuneration" under both the Civil Monetary Penalty statute and Anti-Kickback statute, but blessed it because of comprehensive safeguards.

- ✓ OIG's key requirements: (1) specific cost-saving actions clearly identified (not vague "general savings"), (2) savings tied to actual, verifiable costs, (3) quality monitored through objective measures (ACC quality indicators), (4) physicians retained full clinical judgment and device selection, and (5) payments were capped, time-limited (one year), and documented.

- ✓ Critical distinction: OIG said this is "markedly different from 'gainsharing' plans that purport to pay physicians a percentage of generalized cost savings not tied to specific, identifiable cost-lowering activities." Transparency allows assessment of quality impact and ensures identified actions actually caused the savings.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Document every specific action that generates savings or performance payments. Buyers will ask: can you show exactly what clinical or operational changes physicians made to earn this compensation, or is it just a vague "savings sharing" formula?
- ✓ Prove you're monitoring quality through objective, action-specific measures, not just isolated outcome data. OIG required ACC quality indicators that could correlate outcomes with specific procedure changes, and required no payment if quality declined.
- ✓ Show that physician clinical judgment wasn't compromised. OIG emphasized physicians retained "the same selection of devices and supplies after implementation" and made "patient-by-patient determination of the most appropriate device."
- ✓ Limit duration and cap amounts. OIG noted the one-year term and aggregate caps "reasonably limited" the financial incentives. Multi-year or uncapped arrangements would require "additional or different safeguards."
- ✓ Have transparent payment formulas calculated on actual costs (not accounting conventions) with separate tracking for each physician group and each cost-saving action. No shifting of savings between groups or activities.

If your physician incentive program pays based on vague "hospital savings" without tying payments to specific, documented actions with quality monitoring, that's exactly the profile OIG said presents "substantial risks for both patient and program abuse."

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Structure not diligence-ready?

Cabra Consulting helps healthcare organizations make sure compensation and transaction structures are independently valued, clearly scoped, and defensible in diligence.

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