FAVORABLE

OIG WATCH

12-22

Hospital paying cardiology group with fixed fee + performance bonuses for quality, patient satisfaction, and cost savings

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What OIG Said

OIG said this can work if total compensation is fair market value, doesn't increase with referral volume, and you have monitoring to prevent stinting on care or patient cherry-picking.

- ✓ A rural hospital paid a cardiology group a guaranteed fixed fee plus potential annual performance bonuses (up to 100% of the fixed fee) based on employee satisfaction, patient satisfaction, quality measures using national standards, and cost savings from product standardization.

- ✓ OIG acknowledged this is remuneration that could trigger Anti-Kickback and could be an inducement to limit services, but said they won't impose sanctions because of specific safeguards in the structure.

- ✓ Critical protection: compensation didn't vary with patient volume or referrals. More patients didn't mean more payment to the physicians, which breaks the "paying for referrals" inference.

- ✓ The hospital obtained an independent third-party FMV valuation covering both the fixed fee and the performance bonus potential, and OIG relied on the certification that both components were fair market value and commercially reasonable.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Have an independent third-party FMV opinion covering the total compensation package, both guaranteed payments and the maximum potential performance payments combined.
- ✓ Prove your compensation structure doesn't vary with referral volume or number of patients treated. Payment must be for documented services and quality improvements, not for steering more cases.
- ✓ Base performance measures on nationally recognized clinical standards (Joint Commission, CMS, specialty society guidelines) with specific, objective benchmarks that reflect actual quality improvement, not status quo performance.
- ✓ Show rigorous monitoring: board oversight, internal audits, independent third-party utilization review, peer review committees tracking that physicians aren't stinting on care, cherry-picking healthy patients, or accelerating discharges.
- ✓ Keep a written agreement with defined scope of management/co-management services, limited term (3-5 years), and explicit prohibition against reducing care quality or inappropriate referral practices.

If your incentive comp program can't prove it's paying for documented quality improvements rather than patient volume, you're potentially at risk of scrutiny.

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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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