FAVORABLE

OIG WATCH

13-02

Podiatrist-owned LLC selling orthotics to employers, overlapping with a Medicare-billing clinic

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What OIG Said

OIG said this employer-paid orthotics model can be acceptable if pricing and compensation are FMV, arm's-length, and not a backdoor discount for referrals to a related clinic.

- ✓ OIG reviewed a podiatrist-owned LLC that provided orthotics and related services to employers, including scanning, fitting, and delivery.
- ✓ The LLC shared personnel and leased a foot scanner from the podiatrist's Medicare-billing clinic, creating potential referral concerns.
- ✓ OIG accepted the arrangement because the LLC: (a) only billed employers directly, (b) charged FMV prices in arm's-length contracts, and (c) certified that compensation did not vary with referrals or volume.
- ✓ OIG noted that LLC employees (including the podiatrist) were not allowed to refer workers to the clinic, even if needs outside the LLC's scope arose, mitigating inducement risk.

Diligence Checklist

What you need to be ready to show in diligence

- ✓ Have a third-party FMV opinion covering both the LLC's charges to employers and compensation to shared employees.
- ✓ Prove all compensation and pricing is arm's-length and does not vary with referrals, collections, or volume.
- ✓ Keep clear separation of scope between LLC services and clinic services, with documentation showing no internal referrals.
- ✓ Document lease terms for shared equipment and certify they meet FMV equipment rental safe harbor standards.
- ✓ Maintain separate billing, LLC bills employers only, and no payer claims are filed for those services.

If you can't show arm's-length FMV and referral-neutral structure, this kind of overlap creates clear kickback exposure.

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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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