FAVORABLE

OIG WATCH

15-10

Leasing non-clinical staff + admin services at cost between related entities

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What OIG Said

OIG said this structure can work if the fees are capped at actual costs and justified under Medicare's related-party rules, even if they're not set in advance.

- ✓ A hospital system leased non-clinician employees and sold management services to a related psychiatric facility, billing only fully loaded costs (salary, benefits, overhead), with no markup or admin fee.
- ✓ OIG said this is still "remuneration," which means Anti-Kickback risk applies, but allowed it due to the Medicare cost-reporting rules for related organizations.
- ✓ OIG accepted that the services couldn't be procured more cheaply elsewhere, and that limiting fees to cost (with no FMV markup) was commercially reasonable within that context.
- ✓ Even though payments weren't set in advance or valued by a third party, OIG emphasized that the structure avoided inflated costs, avoided referral-based pay, and followed CMS's related-party principles.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Have documented proof that the service scope and staff lease were commercially necessary and not available more cheaply elsewhere.
- ✓ Show that fees were capped at fully loaded internal cost (salary + benefits + overhead), with no hidden markup or indirect bonus.
- ✓ Keep clean documentation on the related-party relationship and compliance with 42 CFR § 413.17 and Medicare cost report rules.
- ✓ Prove that payments did not vary based on referrals, collections, or business volume.
- ✓ If FMV wasn't used, be ready to defend why cost-based pricing was appropriate under Medicare rules.

If you're not using FMV, you need rock-solid cost documentation, or you're potentially exposed.

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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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