FAVORABLE

OIG WATCH

20-06

SNF-paid Medicaid application support services at below FMV

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What OIG Said

OIG said sub-FMV patient assistance can be okay if it promotes access and isn't used to steer care or boost referrals.

- ✓ OIG reviewed a setup where SNFs paid a management company to help referred patients apply for Medicaid, and patients often received the help for free.
- ✓ OIG said this does count as "remuneration," especially when the service is priced below FMV or paid by the SNF on the patient's behalf.
- ✓ But OIG allowed it under the "promotes access to care" safe harbor, because the services weren't tied to referrals, were offered consistently, and helped eligible patients navigate Medicaid enrollment.
- ✓ Importantly, OIG noted the costs were sometimes included in Medicare cost reports, but the reimbursement was minimal, and that didn't flip the analysis.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Document the scope and pricing of enrollment support services and show how/why the rates are below FMV.
- ✓ Prove that support is offered based on need, not as an inducement to select or stay with your facility.
- ✓ Show that SNF-paid services are consistently applied and don't vary based on patient type, referral source, or payer status.
- ✓ Be able to explain cost report treatment and whether any federal reimbursement is tied to those services.
- ✓ Keep clear documentation showing services are non-clinical and don't influence clinical decision making.

If your below-FMV services are used selectively or can't be tied to commercial necessity and defensibility, this is the kind of structure that could draw 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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