FAVORABLE

OIG WATCH

22-17

Health system forgives clinic debt tied to FMV lease and admin support

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What OIG Said

OIG said debt forgiveness + $0 lease + FMV support can be okay, if it's documented, defensible, and not tied to referrals.

- ✓ OIG reviewed a health system's plan to forgive a clinic's outstanding debt under a credit line that included unpaid FMV lease and service fees, then replace it with a $0 lease and a new FMV-paid MSA.
- ✓ OIG said this structure does involve remuneration, which means it could trigger Anti-Kickback risk.
- ✓ But OIG accepted it because the forgiveness was structured as a donation, the new MSA required FMV payments, and both parties certified no referral ties, fixed scopes, and annual re-evaluation based on service need.
- ✓ OIG emphasized commercial reasonableness: the deal had to show ongoing contribution to medically underserved patients, and that documentation had to be retained for review.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Show FMV support for all original payments under the forgiven debt (lease rates, admin services, etc.).
- ✓ Document that the forgiveness was structured as a one-time donation, not a reward for volume or referrals.
- ✓ Keep a written agreement for the new lease and FMV-paid MSA, with clearly defined scope and no off-book benefits.
- ✓ Prove that all future support is medically necessary, commercially reasonable, and benefits underserved populations.
- ✓ Maintain board-level documentation of re-evaluation and compliance with procurement standards for federally funded entities.

If you can't prove the donation was independent of referrals, and that new payments are FMV and supportable, this structure may not survive 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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