FAVORABLE

OIG WATCH

22-20

Hospital-provided clinical support to independent physicians: when free NP services create remuneration requiring defensibility

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What OIG Said

OIG acknowledged that providing free clinical support services to physicians constitutes remuneration, but blessed this arrangement because it included specific safeguards proving it wasn't designed to induce valuable referrals.

- ✓ A hospital deployed its employed nurse practitioners to assist independent attending physicians in two medical units by performing tasks the physicians would otherwise have to do (rounding, responding to lab results, discharge planning, real-time patient monitoring).

- ✓ OIG said this is remuneration to the physicians because it relieves them of financial obligations they'd otherwise incur, saving them time, reducing callbacks to the hospital, and potentially allowing them to perform other separately billable services instead.

- ✓ OIG applied the longstanding principle that "any remuneration flowing between hospitals and physicians should be at fair market value" and that arrangements providing "items or services for free or less than fair market value...pose significant risk."

- ✓ OIG accepted it because the hospital restricted the program to two non-surgical, non-specialty units serving predominantly primary care physicians, didn't target high-referral-volume doctors, didn't vary the support based on referral patterns, and ensured physician compensation outside the arrangement didn't reflect the NP services.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Prove your clinical support arrangements (hospitalist coverage, NP support, care coordination services) don't target or preferentially benefit high-value specialists who generate more lucrative referrals to your facility.
- ✓ Show that any free or subsidized clinical support to independent physicians is offered uniformly across service lines, not selectively deployed to surgical or specialty units where physician referrals drive higher margins.
- ✓ Have documentation demonstrating physician compensation arrangements are independent of any free support services, your employed physician contracts, or medical directorship agreements don't "reflect or take into account" the subsidized services you provide.
- ✓ Maintain written policies ensuring the hospital doesn't take into account a physician's volume or value of expected or past referrals when determining who receives free clinical support services.
- ✓ Keep audit trails showing physicians maintain full accountability for patient care, still perform daily rounding, and cannot bill for services performed by your support staff, proving the free support doesn't enable inappropriate billing.

If your hospital provides free hospitalist-type support, care coordination, or NP services to independent attending physicians without these safeguards, you're carrying the remuneration profile OIG said poses risk.

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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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