FAVORABLE

OIG WATCH

23-04

Per-booking and ad fees on a patient search platform

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What OIG Said

OIG said this can be okay if fees are FMV, not tied to referrals, and the algorithm doesn't prioritize based on payment.

- ✓ A health tech company ran a marketplace where providers could pay per booking (for new patients) or for sponsored ad placements. The platform showed listings to Medicare and Medicaid beneficiaries.
- ✓ OIG said the per-booking fees and ad buys do constitute remuneration, but won't trigger enforcement if they're FMV, commercially reasonable, and not tied to referral volume.
- ✓ OIG accepted that all fees were pre-set, independently valued, payer-agnostic, and paid regardless of whether a claim was filed or collected.
- ✓ OIG flagged the importance of algorithm logic: providers who hit a spend cap can't be filtered out just because they stop paying, especially for users with government coverage.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Have a third-party FMV opinion backing both per-booking fees and ad placements (per-click and per-impression).
- ✓ Show that fees are set in advance, do not vary with referral volume, and are not linked to payer status or collections.
- ✓ Prove the algorithm logic does not deprioritize providers based on what they pay or whether they hit a spend cap.
- ✓ Keep disclosures visible: users must see when a listing is sponsored and know providers pay for new-patient bookings.
- ✓ Document and enforce safeguards to prevent filtering that favors high spenders over provider quality or access.

If you can't prove your logic is FMV-based and payer-neutral, this is the type of profile OIG says draws 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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