UNFAVORABLE

OIG WATCH

25-08

Paying a third-party billing platform to retain hospital device sales

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What OIG Said

OIG said paying for a billing portal you don't need, just to keep hospital business, raises referral and inducement risks.

- ⚠ OIG reviewed a medical device company's proposal to pay ~$1.2M annually to a vendor operating a bill-only portal used by some hospital customers.
- ⚠ OIG said the payments could constitute remuneration under Anti-Kickback, especially since the portal was redundant to the company's internal billing processes.
- ⚠ The vendor's services were marketed to hospitals, not manufacturers, and the company admitted it saw no commercial benefit and couldn't certify the fees as commercially reasonable.
- ⚠ OIG noted the structure could distort competition and steer business, since the payments enabled hospitals to use a platform that saved them money, effectively subsidizing customers in exchange for continued device purchases.

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Diligence Checklist

What you need to be ready to show in diligence

- ✓ Show that any third-party platform or vendor fees are for necessary, documented services that benefit your organization, not just your customer.
- ✓ Prove that fees paid to intermediaries are commercially reasonable and supportable with third-party FMV analysis.
- ✓ Have clear documentation showing the services provided, and that those services are not duplicative of your internal functions.
- ✓ Keep records showing the decision to engage the vendor wasn't driven solely by customer demands or referral potential.

If you're doing this and you can't prove commercial need, FMV support, and independence from referral volume, this is the profile OIG said will draw fire.

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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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