

CMS Announces Plans for Interagency Group to Review Stark Law

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Earlier this year, the Centers for Medicare and Medicaid Services (CMS) announced that it was forming an interagency group to review potential changes to the federal Stark (or physician self-referral) Law. The federal Stark Law generally prohibits a physician from referring certain designated health services to an entity with which the physician, (or an immediate family member of the physician), has a financial relationship.

First passed into law in 1989 to address Congress' concern related to physician-owned laboratories and the potential for overutilization due to the physician-owner's financial incentive to send more business to the laboratory, the purview of the Stark Law has grown tremendously to cover a host of other designated health services beyond laboratory services: including, but not limited to, inpatient and outpatient hospital services, as well as other non-ownership financial relationships such as compensation arrangements. Violations of the Stark Law can lead to civil and administrative penalties.

The interagency group will include CMS, HHS' Office of Inspector General, HHS' Office of General Counsel, as well as the Department of Justice. In announcing the interagency review group, CMS Administrator Seema Verma stated that concerns related to the Stark Law and the regulatory burden that it places on healthcare providers was one of the leading issues raised in response to various requests for information from stakeholders on how CMS could reduce the regulatory burdens facing healthcare providers.

According to Ms. Verma: “I think the Stark law was developed a long time ago, and given where we’re going in terms of modernizing (Medicare) and the payment systems we are operating under now, we need to bring along some of those regulations.” Ms. Verma also stated that CMS is aware that the Stark Law can slow the transition to value-based care. Ms. Verma noted that, notwithstanding the inter-agency group and CMS’ commitment to address concerns related to the Stark Law, Congress may ultimately need to intervene to effectuate full relief.

This announcement by CMS – together with recent statutory amendments to the Stark Law that make it easier to meet certain exceptions to Stark’s general prohibition – provides hope to healthcare providers that federal regulators are serious about easing the regulatory burden that the Stark Law imposes.

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