

PUBLICATION

CMS Publishes Self-Referral Disclosure Protocol Settlements [Ober|Kaler]

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The Centers for Medicare and Medicaid Services (CMS) publishes short summaries of settlements with health care providers as a result of the Self-Referral Disclosure Protocol (SRDP). The SRDP permits health care providers to voluntarily disclose violations of the federal physician self-referral law, also called the Stark law. CMS published the SRDP in September 2010. Since that time, CMS has published the following four settlements:

1. An acute care hospital located in Massachusetts settled potential violations in February 2011 involving the use of the Stark law's personal services arrangement exception (42 C.F.R. § 411.357(d)) for hospital department chiefs, medical staff leadership positions, and physician groups that provided overnight coverage at the hospital. The settlement amount was \$579,000.
2. On November 9, 2011, a Mississippi critical access hospital settled self-reported violations involving the personal services arrangement exception and certain hospital and emergency room physicians. The hospital paid \$130,000 to settle the violations.
3. CMS settled two violations self-disclosed by a California hospital that exceeded the annual non-monetary compensation limit for physicians (42 C.F.R. § 411.357(k)). A settlement amount of \$6,700 was announced January 5, 2012.
4. CMS settled another violation of the annual non-monetary compensation limit for physicians on January 5, 2012, with a hospital in Georgia. The hospital paid \$4,500 to settle violations involving two physicians.

Ober|Kaler's Comments

CMS will continue to provide information regarding SRDP settlements as required by section 6409(a)(2) of the Patient Protection and Affordable Care Act. Health care providers and their counsel should monitor the CMS website for additional settlement information. In addition, CMS is required to submit a report to Congress detailing the implementation of the SRDP and describing the number of health care providers and suppliers who make disclosures, the amounts collected, and the types of violations reported. This report is due not later than March 23, 2012.