

To: Hospitals and Health Systems and Fraud and Abuse
Practice Group Members

From: Hospitals and Health Systems Practice Group Leadership
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HHS Report to Congress on SRDP; March 2012 SRDP Settlements

By Jennifer HutchensSM

On March 23, the U.S. Department of Health and Human Services (HHS) issued its [report](#) to Congress (Report), mandated by statute, describing the application and operation of the Voluntary Self-Referral Disclosure Protocol (SRDP). The SRDP was authorized by the Patient Protection and Affordable Care Act of 2010, which directed HHS to develop a process for healthcare providers and suppliers to self-report violations of the physician self-referral statute (Stark Law) in return for potentially reduced liability. The Report summarizes: (1) the number of SRDP disclosure submissions received to date; (2) the types of parties who have made submissions; (3) the number of resolutions; and (4) the amounts collected through the SRDP process since it was rolled out on September 23, 2010. In the Report, the Centers for Medicare & Medicaid Services (CMS) also give commentary on trends in the current submissions and factors that may have compromised CMS' ability to bring certain pending submissions to resolution. The Report also provides insight for those who may be current participants in the SRDP or may be considering a submission.

Also in March, CMS announced two new settlements under the SRDP. On March 9, CMS announced its settlement of violations of the Stark Law disclosed by a physician group practice in Iowa (Practice) under the SRDP. The Practice disclosed under the SRDP that it violated the Stark Law because the compensation methodology for certain employed physicians did not satisfy the requirements of the Stark Law's bona fide employment relationships exception. The Practice's violations were settled for \$74,000. Additionally, on March 20, CMS announced its settlement of a violation of the Stark Law disclosed by an acute care hospital in Arizona (Hospital) under the SRDP. The Hospital disclosed under the SRDP that it violated the Stark Law by not satisfying the requirements of the Stark Law's personal service arrangements exception for an arrangement with a physician for the provision of *locum tenens* hospitalist services. The Hospital's violations were settled for \$22,000. [CMS Quarterly](#) provides a list of select self-disclosures resolved under the SRDP, including these two settlements.

**We would like to thank Jennifer C. Hutchens, Esquire (Robinson Bradshaw & Hinson PA, Charlotte, NC), for authoring this email alert. We would also like to thank the Hospitals and Health Systems Practice Group leadership for sharing this email alert with the Fraud and Abuse Practice Group.*

Member benefit educational opportunity:

Participate in [Part II](#) of the two-part webinar series on U.S. Supreme Court arguments on the constitutionality of PPACA: substantive impacts of the decision (April 4).
