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Date: March 29, 2013

Two New Settlements under Stark Self-Referral Disclosure Protocol; CMS Forecasts a Busy 2013 for SRDPs

By Jennifer Hutchens and Kelly Koeninger*

Two New Settlements under the Self-Referral Disclosure Protocol

In late February and early March, the Centers for Medicare & Medicaid Services (CMS) announced two settlements under the Voluntary Self-Referral Disclosure Protocol (SRDP). The first new settlement, announced by CMS on February 21, involved violations of the federal physician self-referral statute (commonly known as the Stark Law) by a South Carolina hospital (South Carolina Hospital).

Under the SRDP, the South Carolina Hospital disclosed that it violated the Stark Law because some of its arrangements with physicians and physician groups failed to meet the requirements of: (1) the personal services exception; (2) the rental of office space exception; and (3) the fair market value compensation exception under the Stark Law. The South Carolina Hospital's violations were settled for \$256,000.

Then on March 7, CMS announced another new settlement under the SRDP. Here, an acute care hospital located in Massachusetts (Massachusetts Hospital) disclosed under the SRDP that certain of its relationships with physicians failed to satisfy, under the Stark Law: (1) the rental of office space exception; (2) the personal service arrangements exception (in connection with the provision of certain medical director services, electrocardiogram interpretation services, and other professional services); and (3) the definition of "entity." The Massachusetts Hospital's disclosed violations were settled for \$199,400.

CMS provides a [list](#) of "select" self-disclosures resolved under the SRDP, including these settlements.

CMS Forecasts a Busy 2013 for SRDPs

At AHLA's Institute on Medicare and Medicaid Payment Issues earlier this month, Troy Barsky, director of CMS' Division of Technical Payment Policy, said that CMS expects approximately 100 disclosure submissions this year, with 18 submissions already catalogued in the first three months of 2013. According to Barsky, the SRDP has been "wildly more popular than CMS anticipated." Since the SRDP's inception in 2010, CMS has received 258 disclosures, with 19 settlements issued to date.

**We would like to thank Jennifer C. Hutchens, Esquire, and Kelly A. Koeninger, Esquire (Robinson Bradshaw & Hinson PA, Charlotte, NC), for authoring this email alert.*

Member benefit educational opportunity:
Participate in [Part III](#) of the 2013 healthcare fraud and abuse bootcamp webinar series: federal Anti-Kickback Statute (April 10).
