



ANTI-KICKBACK ENFORCEMENT UPDATE BASED ON SELF-REFERRAL BLANKET WAIVERS

April 9, 2020

On April 3, 2020, the Office of the Inspector General (OIG) released a statement announcing a change in enforcement policy related to Section 1128B(b) of the Social Security Act (the “Anti-Kickback Statute” or “AKS”). In its statement, the OIG highlighted the announcement from the Department of Health and Human Services (DHHS) of blanket waivers, effective March 1, 2020, related to the prohibitions on physician self-referrals under Section 1877(g) of the Social Security Act (the “Stark Law”). As the OIG acknowledged, “ordinarily, some financial relationships that implicate the physician self-referral law also may implicate, and potentially violate, the Federal anti-kickback statute.” However, as the OIG highlighted, administrative sanctions would not be imposed for conduct covered by DHHS’s blanket waivers, including “remuneration that relates to referrals for services furnished to all Federal health care program beneficiaries pursuant to” an arrangement “covered by a Blanket Waiver.” The OIG further clarified that the change in policy would have no bearing on enforcement actions for arrangements implicating AKS to the extent that they are not covered by a blanket waiver. A copy of OIG’s policy statement is available here: <https://oig.hhs.gov/coronavirus/OIG-Policy-Statement-4.3.20.pdf>. Additionally, DHHS’s announcement related to blanket waivers of prohibitions against physician self-referral is available here: <https://www.cms.gov/files/document/covid-19-blanket-waivers-section-1877g.pdf>

If you have any questions or need further guidance regarding the blanket waivers above, please contact a member of Hancock Daniel’s [Fraud & Abuse](#) team.

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