



New OIG Advisory Opinions Regarding Financial Assistance Programs

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The HHS Office of Inspector General issued a couple of Advisory Opinions that relate to charitable organizations seeking to provide financial assistance to patients receiving expensive treatment for specific diseases. The OIG has addressed this type of situation previously, so it has provided a variety of features that can help guide such patient assistance programs on a course towards compliance. The principal concern is that the charitable program could improperly serve as a veiled effort to provide financial incentives for patients to receive care from specific healthcare providers or follow a specific pharmaceutical manufacturer's drug regimen in violation of the Anti-Kickback Statute and civil monetary penalties law.

Some of the features of such financial assistance programs that have been favorably noted by the OIG include:

1. Patient choice in selecting a provider and course of treatment;
2. Determining eligibility for beneficiaries under the assistance program based upon objective and uniform criteria relating to financial need;
3. Assuring independence for the charitable organization from the sources of donations (e.g. health systems or pharmaceutical manufacturers); and
4. Limiting information about the program so that donors are unable to calibrate the amount of their donations tied to the amount of its services or drugs being utilized by the patient.

These Advisory Opinions, along with others addressing similar assistance programs, highlight the caution that healthcare providers must exercise in establishing or operating various sliding scale or financial assistance programs for their patients. The provider may



believe that the assistance program is serving an important mission that makes an essential service available to a deserving group. However, that assistance can easily be viewed and characterized as an unlawful incentive to utilize a specific provider or receive services that might not otherwise be provided (even medically necessary services). The OIG approved these recent financial programs. However, it noted the presence of issues of concern before concluding that there were insufficient grounds for the imposition of sanctions or penalties. Thus, even a program with the best of intentions must be carefully structured to assure compliance in this area.