

## Report on Medicare Compliance Volume 28, Number 32. September 16, 2019 Va. Hospital Settles CMP Case Over Physician Recruitment Incentive

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Mary Washington Hospital in Fredericksburg, Virginia, has agreed to pay \$50,000 to settle a civil monetary penalty case over physician recruitment. The HHS Office of Inspector General alleged the hospital paid a medical group a recruitment incentive for a physician from January 1, 2017, through February 28, 2019, and transformed it into remuneration under the Stark Law and Anti-Kickback Statute by not recovering some of the money, according to the settlement.

Mary Washington Hospital reported the problem to the OIG and was accepted into its Self-Disclosure Protocol in March 2019. OIG contended the hospital paid remuneration, which created a financial relationship with the medical group, and then submitted claims for designated health services that resulted from prohibited referrals in violation of the Stark Law. The hospital didn't admit liability in the settlement, and its attorney didn't respond to requests for comment.

Hospitals often give physicians incentives, including loans, income guarantees and malpractice insurance subsidies, to recruit them to the service area. The Stark Law has an exception for physician recruitment incentives under certain conditions. For example, the hospital can't obligate the physician to refer all patients to the recruiting hospital or link the incentives to the volume or value of referrals. Incentives may flow through physician practices, although there are strings attached. If a recruitment arrangement takes the form of an income guarantee, the amount is limited to practice expenses that are the "actual additional incremental costs attributable to the recruited physician," according to the Stark regulations.

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