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After Disclosing a Reportable Event Under its CIA, Hospital Settles CMP Case With OIG

By Nina Youngstrom

William Beaumont Hospital in Michigan has agreed to pay \$1.732 million in a settlement with the HHS Office of Inspector General (OIG) that had a connection to its corporate integrity agreement (CIA). The allegations centered on the hospital's physician compensation and leases under certain circumstances.

According to its civil monetary penalty settlement, which was obtained through the Freedom of Information Act, OIG alleged that William Beaumont Hospital paid physicians remuneration in two different forms: (1) excess compensation to 18 cardiologists in its cardiology reading program from Jan. 1, 2015, to Oct. 31, 2020, and (2) the free use of medical equipment and personnel by a medical group from Jan. 1, 2015, to Dec. 31, 2018. OIG alleged the hospital violated the civil monetary penalty law applicable to the Anti-Kickback Statute (AKS) and submitted Medicare claims for designated health services that resulted from prohibited referrals in violation of the Stark Law.

The settlement stems from William Beaumont Hospital's self-disclosure to OIG's Health Care Fraud Self-Disclosure Protocol (SDP). The hospital self-disclosed on June 21, 2021, and was accepted into the SDP the following month. "Also on June 21, 2021, Respondent disclosed this matter as a Reportable Event pursuant to its Corporate Integrity Agreement with OIG," the settlement stated.

William Beaumont Hospital's CIA is part of its 2018 False Claims Act (FCA) settlement of four whistleblower lawsuits alleging violations of the Stark Law and Anti-Kickback Statute.^[1] The hospital agreed to pay \$84.5 million over allegations of sweetheart deals with eight referring physicians, including above-fair-market-value compensation and below-fair-market-value rent. Its five-year CIA describes events that must be reported to OIG. Reportable events include "a statement of the Federal criminal, civil or administrative laws that are probably violated by the Reportable Event, if any."

The CIA also specifically refers to reportable events about the Stark Law. If the hospital "solely" had a Stark violation, it should report it through CMS's Self-Referral Disclosure Protocol (SRDP) and send a copy to OIG.^[2] "If WBH [William Beaumont Hospital] identifies a probable violation of the Stark Law and repays the applicable Overpayment directly to the CMS contractor, then WBH is not required by this Section III.K to submit the Reportable Event to CMS through the SRDP."

It's hard to know exactly what prompted the hospital to go the SDP route rather than the SRDP route, which tends to result in lower penalties, said attorney Larry Vernaglia, with Foley & Lardner LLP. The hospital's attorney declined to comment. Yet OIG alleged a violation of the civil monetary penalty (CMP) applicable to kickbacks.

"Sometimes when evaluating the facts of these relationships, you come across some evidence, complaints or concerns that may reflect more than Stark foot faults," Vernaglia said. In cases like these, there may be knowledge of alleged wrongdoing or a "should have known" allegation, he said. "Providers make these good-

faith judgments all the time. You're looking at the totality of the evidence and have to confront this potentially challenging evidence. To satisfy the commitments of your compliance plan, you have the obligation to do the right thing when confronted with these types of facts." CIA reportable-event requirements may not be the determining factor, Vernaglia said. "Sometimes you say these factors don't look good and you have to go beyond an overpayment return" to the Medicare administrative contractor or the SRDP program.

"Having a CIA doesn't really provide you with an alternate path to resolving violations," Vernaglia said. Providers still must use a self-disclosure protocol for resolving Stark violations, like the SRDP or SDP, he noted. "You still have the underlying violation but increased liability because of violations of the CIA. What the CIA does, however, is to allow an interaction between the OIG monitor and the provider. The monitor serves as another perspective for providers and their counsel to consider when evaluating on which side of the line a particular potential violation may fall."

FCA Case Alleged Below FMV Leases

In the FCA case, William Beaumont Hospital faced several Stark and AKS allegations. The whistleblowers were former employees of the hospital, and the allegations centered on physician financial relationships between 2004 and 2012. The whistleblower lawsuits were consolidated and DOJ intervened, but not in all the allegations.

The most complicated complaint was filed by neuroscientist David Felten, M.D., Ph.D., who was vice president of research and medical director of the Research Institute at William Beaumont Hospital. He claimed the alleged fraud at the hospital came down to ensuring physicians' loyalty so they would refer patients to the hospital. The complaint alleged "illegal incentives" for one of Beaumont's cardiology groups, Academic Heart and Vascular PLLC. The cardiologists received salaries from Beaumont as full-time employees and had an office on Beaumont grounds, paying less than fair market value for "prime office space," while also keeping their private practices and the income they generated. According to the complaint, in 2009, four of the cardiologists received Beaumont salaries that allegedly exceeded typical cardiology salaries: David Haines, M.D., was paid \$753,067; Cindy L. Grines, M.D., \$726,499; James A. Goldstein, M.D., \$702,294; and Robert D. Safian, M.D., \$702,294.

William Beaumont Hospital did not admit liability in the settlement. The cardiologists weren't named in the complaint.

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1 Nina Youngstrom, "Mich. Hospital Settles FCA Case for \$84.5M Over Physician Payments," *Report on Medicare Compliance* 27, no. 29 (August 20, 2018), <https://bit.ly/3OTSMdz>.

2 Corporate integrity agreement, United States v. William Beaumont Hospital (July 31, 2018), <https://bit.ly/3BjuK8B>.

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