What Is the Stark Law, and How Can You Avoid Violating It?

Key takeaways:

- The Stark Law, also known as the physician self-referral law, prohibits healthcare providers from making referrals to other organizations or medical businesses in which the provider has a financial interest. The law only applies to Medicare/MEDICAID patients seeking designated health services.
- Penalties for violation are steep — as much as $15,000 per infraction — even when the violation is deemed unintentional.
- This article isn't meant to be legal advice, so if you have legal questions, you should contact an attorney in your state.

The Physician Self-Referral Law, commonly referred to as the Stark law, prohibits physicians from referring patients to receive "designated health services" payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless an exception applies.

To protect your organization against Stark law violations, you must **ask newly-hired physicians to report any potential conflicts of interest**.

The Stark Law, also known as the physician self-referral rule, is in Section 1877 of the Social Security Act (42 U.S.C. § 1395nn). The term Stark Law refers to former U.S. Representative Pete Stark of California, who originally introduced the physician ethics bill in the late 1980s that would later evolve into this law.At that time, healthcare services were provided mostly on a fee-for-service basis, meaning that healthcare providers (HCPs) were paid a predetermined amount for each type of service performed, rather than the current value-based system that focuses more on patient outcomes. In essence, the fee-for-service healthcare delivery system encouraged physicians to focus on the number of procedures, patients, and number of claims filed versus how well the patients' health goals were being met by these services. While the Stark Law originally only applied to physician referrals for clinical laboratory services, it has since been expanded to include a variety of health services and provider types. In this article, we'll cover the basic elements of the Stark Law, notable cases, and tips to avoid violations.

Section 1903(s)(42.U.S.C. 1936b of the Social Security Act extends referral prohibition to the Medicaid program

What are the basics of the Stark Law?

The Stark Law consists of three components:

1) It prohibits healthcare providers from referring Medicare/MEDICAID patients for certain health services to a business in which the physician has a financial or familial interest.

self-pay) patient would not fall under the law's requirements.

In addition, there are several exceptions to the referral rule, including referrals to academic medical centers; for in-office ancillary services (such a providing wheelchairs and blood glucose monitors); for physician services where the physician is a member of the same group practice; and for some clinical laboratory services (preventative screening and vaccinations).

What are the penalties for violating the Stark Law?

Covered healthcare providers who violate the Stark Law are strictly liable. Strict liability is a form of legal liability in which the individual who violated the law is held responsible, even if they had no intention of doing so and the court can find no fault or specific action that the practitioner did that resulted in the violation.

Strict liability is the standard in a variety of settings — from product liability to the transportation and use of explosives. In the case of the Stark Law, proof that an improper referral was made is enough to impose liability, whether or not the physician knew of a potential financial or familial conflict.

Any HCP, healthcare system, or hospital found at fault could be required to refund all payments for the improper amounts collected; to pay up to $15,000 per improper referral; and to be excluded from all federal healthcare programs. If the violator is found to have done so intentionally, they could face civil penalties of up to $100,000 per violation.

The employing health system typically pays these large fines, but in some cases the court may extend liability to the practitioner themselves. While the practitioner may not lose their license, they could be excluded from all federal healthcare programs for a number of years.

The bottom line

The Stark Law is a public service law that prohibits practitioners from making improper referrals when there is a conflicting financial interest. The law aims to protect the Medicare/MEDICAID population from an overprescribing of unnecessary medical services. Penalties for violating this law are severe, even when the practitioner did so unknowingly or unintentionally.

By implementing effective compliance controls and drafting contracts that abide by all the components of the safe harbor provisions, HCPs can reduce and even eliminate their chances of violating this law.

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