

A Brief Look at Stark Law / Non-Solicitation

DEFINITIONS

- Contingent Worker: Employee of an outside temporary or contractor service provider, an intern/extern, or independent consultant who provides services
- Employee: Regular, full or part time personnel on payroll.

The Stark Law is a Medicare payment rule named after Rep. Fortney "Pete" Stark. Unless an exception applies, the Stark Law:

- Prohibits an employee/contingent worker/physician from making a referral to an entity (including the employee/contingent worker/physician's own practice) for the furnishing of certain designated health services covered by Medicare if the employee/contingent worker/physician (or an immediate family member) has a financial relationship (ownership or compensation) with the entity; and
 - A "financial relationship" between Agency/client and an employee/contingent worker/physician will be deemed to exist if an employee/contingent worker/physician (or a family member of the employee/contingent worker/physician) holds an ownership or investment interest in Agency/client or is a party to a "compensation relationship" with Agency/client. A "compensation arrangement" is defined broadly to include any arrangement involving any remuneration, directly or indirectly, overtly or covertly, in cash or in kind between an employee/contingent worker/physician (or family member) and an entity. Thus, a "financial relationship" could be created by a consulting agreement with an employee/contingent worker/physician, the sale of product to an employee/contingent worker/physician, or the provision of free goods to an employee/contingent worker/physician.
- Prohibits an entity from submitting a claim or bill to any person for a service or item furnished pursuant to a prohibited referral.

PENALTIES

All Employees are expected to report to the Compliance Officer or other appropriate individual any suspected violations of any Stark Law requirements Procedures. Failure by any Employee or Contingent Worker to comply with this policy could lead to disciplinary action, up to and including termination of employment or assignment and legal action.

- No payment may be made for a service furnished pursuant to a prohibited referral. Consequently, the billing entity is liable to the Medicare program and
- Beneficiaries for any amounts collected. Persons who submit claims or cause claims to be submitted for services furnished pursuant to a prohibited referral, or
- Who do not promptly refund amounts collected, are subject to civil monetary penalties of up to \$15,000 for each such service, and may be excluded from Federal health care programs. In addition, the U.S. Department of Justice has brought cases under the federal False Claims Act predicated on violations of the Stark Law. Often, these cases are initiated after individuals file a lawsuit under the whistleblower provisions of the False Claims Act.

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Quiz

Employee: _____ Date: _____

Graded By (RN): _____ Grade: _____

True or False (Circle One)

1. T F The Stark Law prohibits a physician from making a referral to an entity if he has a financial relationship with the entity.
2. T F A compensation arrangement is broadly defined to include an arrangement with remuneration in cash or in kind between the entity and the client.
3. T F The billing entity is liable to Medicare program for fraudulent claims.
4. T F There is no civil monetary penalties for fraudulent claims.