



COMPLIANCE ALERT 13-15

OIG Issues New Self-Disclosure Protocol

EXECUTIVE SUMMARY: On April 17, 2013, The Office of Inspector General (OIG) issued an updated provider self-disclosure protocol for voluntarily identifying, disclosing, and resolving possible violations in the federal fraud and abuse laws. This is the first revision since the initial release in 1998.

CHANGES: Some of the most significant revisions include:

- Kickback-related self-disclosure submissions have a minimum settlement amount of \$50,000, and all other disclosures have a \$10,000 minimum settlement amount.
- Overpayment reporting obligations under the 60-day rule are to be suspended pending settlement, withdrawal, or removal from the self-disclosure protocol.
- There is potential mitigation of exposure under the so-called "60 day overpayment rule" which requires payment of any credit balance or balance owed to the government for a Medicare or Medicaid claim.
- Facilities have 90 days to complete their internal investigations and calculations of damages from time of initial reporting—a change from the previous protocol which was 90 days from the day of OIG's acceptance of submission.
- Billing-related disclosures now have a 100 unit minimum sample with the use of a mean point estimate in damage calculations.
- Acknowledgement of damage calculation methodologies that vary depending on the type of disclosure being resolved.
- Disclosures that are late or incomplete will be rejected.

"While the OIG recognizes the significance of the decision to disclose potential fraud, they also remind providers of the benefits to doing so. Good faith disclosures not only indicate an effective compliance program, but they generally result in lower settlement amounts and the absence of a Corporate Integrity Agreement (CIA) should the provider fully cooperate. Also emphasized is the importance of the timing involved with a disclosure and the need for specificity" (HC Healthcare Consulting LLC).

ACTION NEEDED: Any potential instances of fraud or abuse should immediately be disclosed to the Regional Compliance Officer, the Chief Compliance and Privacy Officer, and the HHSC General Counsel for follow-up and possible self-disclosure using the new OIG protocol.

Sources: HC Healthcare Consulting news alert

<http://www.dwt.com/OIG-Issues-Revised-Self-Disclosure-Protocol-04-19-2013/>

<http://oig.hhs.gov/compliance/self-disclosure-info/files/Provider-Self-Disclosure-Protocol.pdf>