OIG Approves Debt Forgiveness Arrangement Between Health System and Affiliated FQHC Look-Alike Clinic



On August 31, 2022, the Department of Health and Human Services, Office of Inspector General (OIG) issued Advisory Opinion No. 22-17 regarding the proposed restructuring of a financial relationship between a not-for-profit healthcare system and a clinic designated as a Federally Qualified Health Center (FQHC) Look-Alike.

The healthcare system and clinic furnish services to patients in medically underserved areas where there is a shortage of health professionals. Previously, the healthcare system collaborated with the clinic to expand access for low-income residents, reduce barriers to accessing quality healthcare services, and improve the overall health of its patients. In doing so, the healthcare system provided financial support to the clinic that the clinic has been unable to repay.

Under the proposed arrangement, the healthcare system would restructure its prior agreements and ultimately forgive the debt owed by the clinic through a donation to the clinic. The proposed arrangement would implicate the federal Anti-Kickback Statute (AKS) because it would involve remuneration from the healthcare system to the clinic that could induce the clinic to refer patients to the healthcare system. However, the OIG concluded that the proposed arrangement poses a low risk of fraud and abuse under the AKS for certain reasons, including:

• The proposed arrangement would be implemented in a manner that aligns with all requirements of the FQHC Safe Harbor (even though the clinic is an FQHC Look-Alike);

• Neither the healthcare system nor the clinic is under any obligation to make referrals to one another; and

• The remuneration provided under the proposed arrangement is a continuation of the healthcare system's longstanding support of the clinic to expand access to healthcare for low-income residents.

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