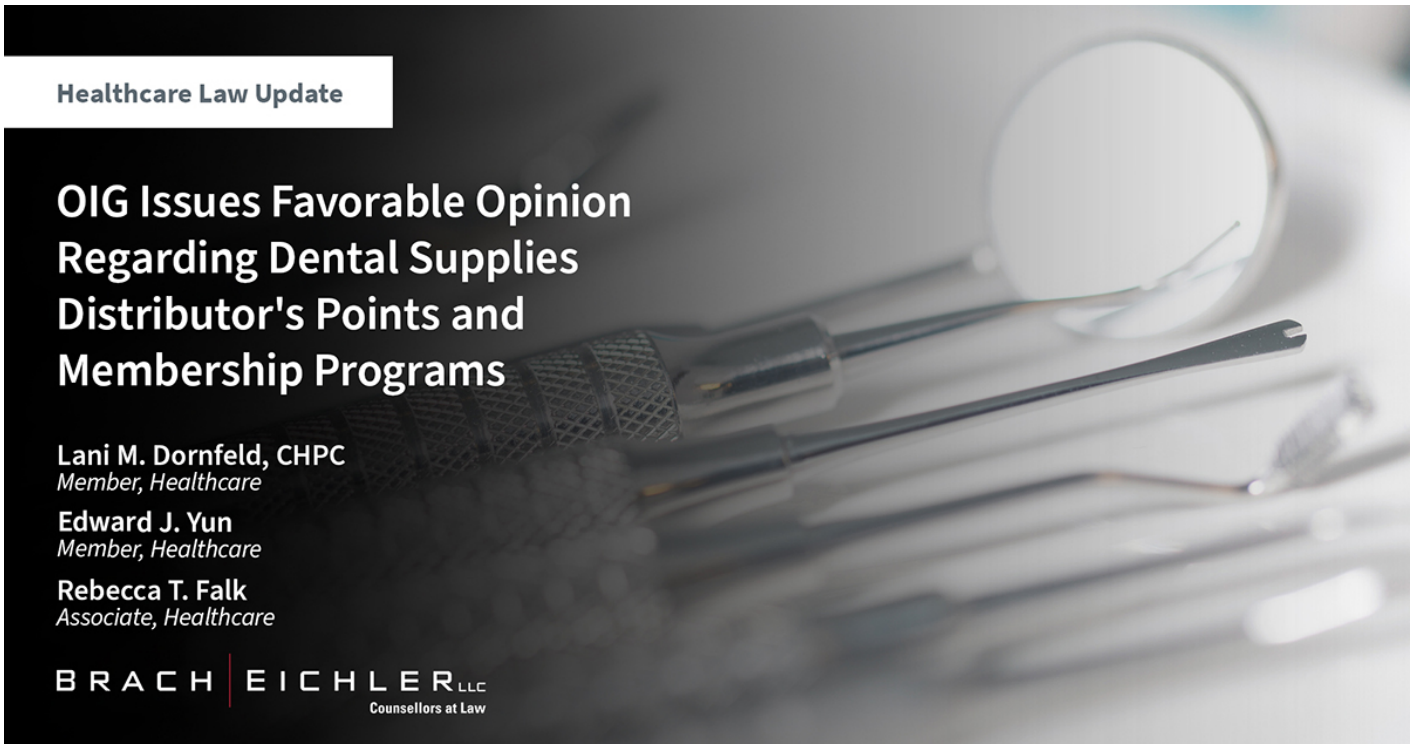
OIG Issues Favorable Opinion Regarding Dental Supplies Distributor's Points and Membership Programs



2/7/2025

On December 9, 2024, the U.S. Department of Health and Human Services, Office of Inspector General (OIG) issued a favorable Advisory Opinion in response to a medical and dental supplies distributor requesting to expand its loyalty program under which dental practitioners such as specialists and laboratories (Members) earn points on dental supplies purchases, redeem the points to reduce the cost of other dental supplies, and receive additional benefits under a tiered membership program.

The requestor and participating subsidiaries seek to offer points to Members for purchases of approximately 200,000 dental products, including federally reimbursable items and services. Members may redeem points to reduce the cost for future qualifying purchases. Additionally, the requestor and participating subsidiaries seek to provide benefits through the requestor's tiered membership program, which designates Members into a tier to receive customer support-like benefits from the requestor, based on the Members' annual spending.

Even though the points program and the tiered membership program each could, with the requisite intent, violate the Federal Anti-Kickback Statute and could result in the imposition civil monetary penalties under the Social Security Act, the OIG issued a favorable opinion for both programs, stating that the risk of fraud and abuse is sufficiently low for the following reasons:

Points Program:

1. The risk of steering Members to the requestor is mitigated because of the low dollar value of each point and the risk of steering Members to a particular product is mitigated because points are earned and redeemed the same way for each eligible product.

2. The program does not result in free items being provided in exchange for purchases because points may only cover up to 50% of the price for an eligible product.

3. Points have no value outside of the requestor's program and cannot be redeemed for cash or other remuneration.

Tiered Benefits:

1. The risk of unfair competition and improper steering is mitigated because the benefits resemble support services specific to the requestor's dental products, such as priority scheduling for service calls and extended warranties.

2. The benefits are unlikely to incentivize Members to stockpile purchases to receive the benefits because the benefits are not independently valuable.

3. Members receive benefits based on objective criteria that are consistent for all Members and are established in advance of any purchase.

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