

Stark Self-Referral Prohibitions



The Ethics in Patient Referrals Act of 1989, 42 U.S.C. § 1395nn, otherwise referred to as “Stark” [1] prohibits a physician from referring Medicare or Medicaid program patients for “**designated health services**” (DHS) to an entity with which the physician or an immediate family member has a prohibited financial relationship, unless one of the statutory or regulatory exceptions applies. If a patient referral is not for DHS or the referring physician does not have a financial relationship with the individual entity to which he or she refers a patient, then Stark does not apply. Why are Stark self-referral prohibitions necessary? The government has had a long-standing concern that in the absence of certain safeguards, a physician might refer a patient for certain medical services and / or supplies to an entity in which the physician has a financial interest. Such referrals may not be medically justified and could result in over-utilization and increased health care costs. The government further believes that improper self-referrals can cloud medical judgement, limit competition and potentially result in a decrease in the quality of health care services.

I. Stark Self-Referral Prohibitions:

The following definitions are critical to a comprehensive understanding of the Stark self-referral laws:

Designated Health Services (DHS): Stark only applies to the following specific medical services, known as Designated health services (DHS). DHS services currently include:

(a) Clinical laboratory services.

(b) Occupational, speech and physical therapy services.

(c) Radiology services, including MRIs, CAT scans, PET scans, nuclear medicine and ultrasounds.

(d) Radiation therapy services and supplies.

(e) Durable medical equipment and supplies.

(f) Parenteral and enteral nutrients, equipment and supplies.

(g) Prosthetics orthotics, prosthetic devices and supplies.

(h) Home health services.

(i) Outpatient prescription drugs.

(j) Inpatient and outpatient hospital services.

A medical service falling under any of these categories is considered a DHS even if it is bundled with other services or billed as something else.

Financial Relationship: The term financial relationship includes any ownership or compensation interests that will benefit a physician financially. There are several types of relationships: