

MISSOURI HEALTH SYSTEM REACHES \$9.3 MILLION SETTLEMENT WITH DOJ

On Monday, November 5, 2012, the U.S. Department of Justice ("DOJ") announced that it had reached a settlement with a Missouri-based health system ("System") arising from financial relationships between the System and some of its employed physicians. Under the terms of the [settlement agreement](#), the System agreed to pay more than \$9.3 million to settle claims that it knowingly paid these physicians in a manner that violated the Stark Law and the False Claims Act.

The Stark Law prohibits an entity from billing Medicare for certain designated health services referred by a physician that has a financial relationship with the entity. A prohibited financial relationship under the Stark Law includes an agreement between an entity and a physician that determines compensation based on the volume or value of the physician's referrals. An entity that knowingly submits a claim in violation of the Stark Law, or fails to return any reimbursement received pursuant to a prohibited financial relationship, could also be subject to liability under the False Claims Act.

Beginning in 1999, the System had entered into employment arrangements with 70 of its physicians that paid incentive compensation based, in part, on the volume and value of their referrals. In 2009, the System identified the Stark concerns regarding these compensation arrangements and self-disclosed its findings to the U.S. Attorney for the Western District of Missouri. Following this self-disclosure, the government alleged that the System knowingly compensated its physicians in a manner that violated the Stark Law by providing incentive pay based on revenues generated by the physicians' referrals for diagnostic tests and other services performed.

The System agreed to pay \$9,316,139 to resolve the government's allegations. The settlement did not require the execution of a corporate integrity agreement or subject the System to any ongoing government oversight. The government did require that the names of all 70 physicians at issue be identified in an exhibit to the settlement agreement. The System did not admit liability under either the Stark Law or the False Claims Act in the settlement agreement.

This settlement is an example of the increased coordination of government enforcement to combat perceived health care fraud and represents another recovery for the 2009 Health Care Fraud and Enforcement Action Team ("HEAT") initiative, a joint effort by the DOJ and the Department of Health and Human Services to fight health care fraud. The False Claims Act has been one of the most powerful tools used in this joint anti-fraud initiative. The DOJ noted in its [press release](#) that the False Claims Act has been used to recover \$10.1 billion since January 2009 in cases involving fraud against federal health care programs.

If you have any questions about compliance with the False Claims Act and Stark Law or the self-disclosure process, please contact Scott Taebel at 414.721.0445 or staebel@hallrender.com, Joe Wolfe at 414.721.0482 or jwolfe@hallrender.com or your regular Hall Render attorney.