

GOT SAFE HARBOR COMMENTS?

The OIG is soliciting proposals and recommendations for additional Anti-Kickback Statute, Safe Harbors and OIG Special Fraud Alerts.¹ The Health Insurance Portability and Accountability Act requires an annual notice period to solicit these comments in order to identify and protect non-abusive arrangements from the Anti-Kickback Statute.

The Anti-Kickback Statute is a criminal law that prohibits someone from knowingly and willfully soliciting, receiving, offering or paying remuneration in exchange for or to induce federal health care program referrals or business. Because the Anti-Kickback Statute on its face is very broad, the OIG solicits these comments to calm the concern that "has been expressed for many years that relatively innocuous commercial arrangements may be subject to criminal prosecution or administrative sanction."

Comments may be targeted at modifying an existing Safe Harbor or adopting new Safe Harbors aimed at addressing current, non-abusive arrangements that health care entities are currently pursuing, such as a Safe Harbor for participation in CMS-sponsored innovation programs or other similar initiatives. Proposals and recommendations regarding new or revised Safe Harbors and Special Fraud Alerts are due to the OIG by **February 25, 2014** at 5:00 P.M. Comments may be submitted by mail, hand delivered or submitted electronically at <http://www.regulations.gov>. Commenters should reference file code "OIG-122-N" in their submissions to ensure their comments are considered.

When considering proposals for additional or modified Safe Harbor provisions, the OIG reviews how the proposal would affect an increase or decrease in:

- Access to health care services;
- Quality of health care services;
- Patient freedom of choice among health care providers;
- Competition among health care providers;
- The cost to federal health care programs;
- The potential for overutilization of health care services; and
- The ability of health care facilities to provide services in medically underserved areas or to medically underserved populations.

If you have any questions or would like assistance submitting a comment, please contact:

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- Your regular Hall Render attorney.

Please visit the Hall Render Blog at <http://blogs.hallrender.com/> for more information on topics related to health care law.

¹ For a full copy of the notice, click [here](#).