

Physician-Owned Enterprise Enters Into \$7.3 Million Civil Monetary Penalty Settlement With OIG to Resolve Kickback Allegations

On July 8, 2010, the Office of the Medicaid Inspector General (OIG) for the U.S. Department of Health and Human Services entered into a Civil Monetary Penalty settlement agreement with a group of physician-owned enterprises – – United Shockwave Services, United Prostate Centers and United Urology Centers (collectively “United”). The OIG alleged that United and its physician owners referred patients to hospitals in Illinois, Indiana and Iowa in exchange for contract business from those hospitals and in violation of Federal anti-kickback laws. Additionally, the OIG alleged that United caused certain hospitals to submit improper claims for designated health services, resulting in prohibited referrals in violation of the Federal Physician Self-Referral Law (“ Stark Law”).

United provided hospitals with lithotripsy and laser services as well as equipment used for urology procedures. The OIG reiterated its long-standing concern over companies which “link investment opportunities to the ability to generate business” and which promise a “returns on investments which are disproportionate to the business risk.”

In addition to the financial settlement, United entered into a five year Corporate Integrity Agreement wherein it is required to hire an independent review organization. The independent reviewer will be responsible for monitoring lithotripsy and laser arrangements between United and any hospital in Illinois, Iowa and Indiana that receives referrals from United or its physician- investors. United is also required to create a comprehensive training program to educate its employees and corporate members on Stark Law and anti-kickback issues.

This settlement highlights the importance of (1) implementing a comprehensive corporate compliance program prior to the initiation of a government audit; and (2) having experienced healthcare counsel scrutinize any arrangements you have in place, or contemplate putting into place, with healthcare providers to whom you refer patients or who refer patients to you. For any questions pertaining to fraud and abuse, please contact your attorney contact in our firm.