

Amy Kearbey Discusses HHS-OIG Advisory Opinion on Physician Retirement Offer with Law360

JANUARY 4, 2024

Winston & Strawn partner Amy Kearbey spoke with Law360 about a recent advisory opinion by the Office of Inspector General (OIG) stating that an entity that owns and operates certain hospitals that makes voluntary offers to all physician partners at the age of 67 to purchase their partnership units if they stop practicing medicine does not breach the federal Anti-Kickback Statute. According to the opinion, a physician who accepts the offer would agree to retire from practicing within six months of receiving the first of three payments, and the repurchased partnerships will be offered to existing or new physician partners. Amy stated that the opinion is a practical one and includes helpful guideposts for entities managing physician retirement.

“OIG is recognizing some of the real world challenges that organizations face in managing cash flow, and they’ve approved an approach that offers flexibility to address economic uncertainty when dealing with retiring physicians,” she said.

Amy noted a key reason the entity received the favorable opinion is the fact that partner physicians must agree to stop making referrals if they accept the offer.

“So that’s something I think that entities would need to be mindful of if they’re considering structuring an arrangement that is similar to the one described in this advisory opinion,” she said.

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