

CLIENT ALERT

## DHHS OIG Puts a Halt on Sanctions for Waivers of Cost-Sharing During COVID-19 Outbreak

MARCH 31, 2020

On March 17, 2020, the U.S. Department of Health and Human Services (the “DHHS”), Office of the Inspector General (the “OIG”) notified physicians and other practitioners that they **will not** be subject to administrative sanctions for reducing or waiving cost-sharing obligations federal health care program beneficiaries may owe for certain telehealth services furnished during the 2019 novel coronavirus (“COVID-19”) outbreak.

The policy statement specifies that the waivers are subject to certain conditions:

1. A physician or other practitioner reduces or waives cost-sharing obligations (i.e., coinsurance and deductibles) that a beneficiary may owe for telehealth services furnished consistently with the then-applicable coverage and payment rules; and
2. The telehealth services are furnished during the time period subject to the DHHS Secretary’s January 31, 2020 determination (pursuant to section 319 of the Public Health Service Act), that a public health emergency exists and has existed since January 27, 2020 (the “COVID-19 Declaration”).

This is significant because ordinarily routine reductions or waivers of costs owed by federal health care program beneficiaries (i.e., coinsurance and deductibles) could potentially trigger 1) the federal anti-kickback statute, 2) civil monetary penalty and exclusion laws related to kickbacks, and/or 3) the civil monetary penalty law prohibition on inducements to beneficiaries. However, in this circumstance the OIG is providing a specific exception.

Additionally, on March 24, 2020, OIG further clarified the policy with a series of [FAQs](#). Key takeaways include:

- OIG intends for the policy statement to apply to a broad category of non-face-to-face services furnished through various modalities, including telehealth visits, virtual check-in services, e-visits, monthly remote care management, and monthly remote patient monitoring; and
- The policy statement applies to a physician or other practitioner billing for services provided remotely through information or communication technology or a hospital or other eligible individual or entity billing on behalf of the physician or practitioner for such services when the physician or other practitioner has reassigned his or her right to receive payments to such individual or entity.

OIG's policy is consistent with many other measures the federal government has taken to reduce the economic burden on individuals during the COVID-19 outbreak. However, practitioners need to pay close attention to the OIG's specific parameters for providing waivers of cost-sharing relief to patients.

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