Physician Recruitment
Agreements

Managing Compliance
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Director of Physician Compliance

“Financial relationships between hospitals and physicians are apparently the most neglected area of compliance oversight despite the growing number of Stark and anti-kickback settlements…”

Physician Recruitment Process

- Recruitment **without** Income Guarantee
  - Relocation expenses
  - Signing bonus
  - Start-up expenses
  - Housing assistance
  - Student loan assistance
- Recruitment **with** Income Guarantee
  - All the above plus the income guarantee

Who May Be Recruited?

- Stark exception for recruitment
  - Physician must move his/her practice at least 25 miles; or
  - The physician’s new practice must derive at least 75% of revenues from patients not seen or treated in previous three years.
  - Residents and physicians with < one year in practice are exempt from the relocation rule but must establish practice within hospital’s geographic service area.
Conditions for Recruitment Payment

- Recruit establishes practice in hospital’s geographic service area
- Arrangement is in writing & signed by all parties
- Arrangement is not conditioned on physician’s referral of patients to the hospital
- The payment is not based on the value or volume of actual or anticipated referrals
- The recruited physician may establish hospital privileges with any other hospital and make referrals to any other entities

Joining an Existing Practice

- Except for actual costs incurred by the physician or the practice, the remuneration is passed directly through to or remains with the recruited physician.
- Costs allocated to the recruit by the practice cannot exceed the actual additional incremental costs to the practice. An exception for a replacement physician in a HPSA
- Physician must join the hospital medical staff
- The practice may not impose additional restrictions except those dealing with quality issues. This eliminates “non-compete” clauses.
**Recruitment Payments**

- Most payments are structured as loans that must be repaid with interest or forgiven if certain conditions apply.
- Relocation payments must be reasonable and documented for reimbursement.
- Payments for housing assistance or student loan assistance may be made but must be considered as part of the total compensation package.
- The total compensation package must be at a Fair Market Value (FMV).

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**Fair Market Value**

- Total compensation must be based on the FMV as determined through surveys that reflect real compensation currently being paid to similar physicians in similar markets.
- Compensation should reflect productivity which can be measured by charges, collections or work RVUs.
  - Payments at the 90th percentile and productivity at the 20th percentile raise a red-flag.
- An absence of FMV can create potential problems with AKB, Stark or even the non-profit status of the hospital.
Basic Contract Elements

- Income calculation of guarantee
  - Monthly Income Guarantee
  - Plus: incremental expenses (may be capped)
  - Less: actual collections
  - Equals: Net payment from the hospital

Example:

<table>
<thead>
<tr>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Income Guarantee: $15,000</td>
</tr>
<tr>
<td>Incremental Expenses: $3,000</td>
</tr>
<tr>
<td>Actual Collections: $10,000</td>
</tr>
<tr>
<td>Payment from hospital: $8,000</td>
</tr>
</tbody>
</table>

Note: $8,000 is added to the outstanding loan balance

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Basic Contract Elements

- Income calculation may result in a “negative” meaning physician pays the hospital

Example:

<table>
<thead>
<tr>
<th>Value</th>
</tr>
</thead>
<tbody>
<tr>
<td>Monthly Income Guarantee: $15,000</td>
</tr>
<tr>
<td>Incremental Expenses: $2,000</td>
</tr>
<tr>
<td>Actual Collections: $20,000</td>
</tr>
<tr>
<td>Payment from physician: $3,000</td>
</tr>
</tbody>
</table>

Note: $3,000 is subtracted from the outstanding loan balance. If there is no outstanding balance the physician does not make a payment.
Loan Forgiveness

- The hospital may forgive the loan over a period of time up to three years beyond the assistance period provided:
  - The physician remains in practice within the hospital’s geographic service area
  - The physician maintains privileges with the hospital
  - The loan terms are made at commercially equivalent rates
- The hospital may not make any terms conditioned or based on value or volume of referrals and may not restrict the physician’s use of other entities.

Auditing and Compliance

- Goals:
  - Ensure a compliant contract.
    - Focus is on FMV for any payments
    - No conditions based on value or volume of referrals
    - No restrictions on ability to practice in the community
  - Ensure all parties understand the agreements
  - Ensure any payments made comply with the contract
    - Documentation of expenses, earnings bearing on the guarantee
  - Ensure full compliance with provisions for loan forgiveness
    - Properly executed loan documents
    - 1099 issued to parties who received loan proceeds
### Contract Checklist

- All parties properly identified
- Compensation determined based on FMV
- Expenses are explicitly identified as incremental expenses and direct physician expenses
- Formula for calculating payments by any party are explicit and compliant
- Term of assistance and loan repayment/forgiveness are explicit
- Terms are compliant with all state and federal laws

### Audit Recruitment Assistance

- Income reconciliation
  - Payments for professional services including call pay
- Expense reconciliation
  - Documentation of all incremental expenses charged
- Invoice audit
  - Invoice details tie back to Income and Expense reconciliation. Timely submission.
- Payment audit
  - Actual payment ties back to invoice. Timely payment.
- Verification of any under or over payments
  - Document any explanation of payments that do not tie back to source documents.
Review of Loan Documents

- Promissory note
  - Documentation of properly signed and dated note
- Amortization schedule
  - Documentation of loan terms including schedule of payments for principle and interest
- Security Agreement
  - Documentation of hospital’s secured interest in assets of the physician practice to collateralize the note
- UCC-1 filing
  - Uniform Commercial Code filing of secured interest
  

Stakeholder Interviews

Purpose: To verify a common understanding of all terms and conditions

- Recruited physician
- Physician representative for the group
- Practice manager and accountant
- Hospital contracting officer
Audit Calendar

- Prior to contract signing
  - Audit contract terms for compliance. If using a compliant template check for any changes.
  - Ensure stakeholders have common understanding of terms
- 3-4 months in to assistance period
  - Audit invoices and payments
  - Audit expense and income documentation
  - Stakeholder interviews
- Post Assistance Period
  - Same as above at completion of assistance
  - Review loan repayment/forgiveness annually

Sample Revenue & Expense Tracking Spreadsheet for a New Physician Recruit
Physician Recruitment Agreements

Physician Practice/Clinic Compliance Conference

OCTOBER 16-18, 2011
PHILADELPHIA, PA
Doubletree by Hilton Hotel Philadelphia City Center

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