



WHEN TO HOLD YOUR TONGUE - THE BENEFITS AND RISKS OF SELF-DISCLOSURE

WHAT IS A PHYSICIAN PRACTICE TO DO?
October 13, 2009

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Overview

- SDP – Why Established?
- Role of SDP Over Time
- Recent Changes to SDP
- SDP – Overview of Steps
- Overpayments/Errors vs. Fraudulent Claims
- Benefits of Self-Disclosure
- Risks of Self-Disclosure
- How to Disclose Stark Law Violations Now
- Compliance Programs
- How SDP has been implemented by physicians

SDP – Why Established?

- Provider Self-Disclosure Protocol published by OIG on October 30, 1998
- Play a “cooperative role in identifying and voluntarily disclosing” non-compliance with federal health care programs
- Facilitate resolution of potential violations of federal criminal, civil or administrative laws for which exclusion or CMPs are authorized

Examples of CMPs

A blue stethoscope is positioned in the upper right corner of the slide, partially overlapping the dark blue header bar. The stethoscope is oriented vertically, with the chest piece at the top and the earpieces extending downwards.

- For false or fraudulent claims, OIG may seek CMPs of up to \$10,000 for each item or service improperly claimed, up to 3x the amount improperly claimed and exclusion
- For kickbacks, OIG may seek CMPs of up to \$50,000 for each improper act, damages of up to 3x the remuneration and exclusion
- For self-referral violations, OIG may seek CMPs of \$15,000 for each improper service, up to 3x the amount improperly claimed and exclusion

Role of SDP Over Time

A blue stethoscope is positioned in the top right corner of the slide, with its chest piece and tubing extending towards the center. The background of the slide features a faint, light blue circular graphic that resembles a stylized 'S' or a similar shape.

- April 24, 2006 Open Letter
- Promote use of SDP to resolve CMP liability under the Stark Law and anti-kickback statute
- Resolve situations involving a financial benefit knowingly given to a physician by a hospital
- Settle self-disclosed violations for an amount near the lower end of the authorized CMPs

Recent Changes to SDP

A blue stethoscope is positioned in the top right corner of the slide, partially overlapping the dark blue header bar. The stethoscope is rendered in a semi-transparent, light blue style, with its chest piece and tubing visible.

- March 24, 2009 Open Letter
- Narrowed scope of SDP
- No longer accept disclosure of matters that involve only liability under the Stark Law, in the absence of a “colorable” anti-kickback statute violation

