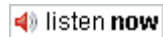# HealthBlawg

David Harlow's Health Care Law Blog

September 07, 2010

OIG: Imaging pre-authorization may be handled by hospital for referring docs and patients

🔊 listen now

The OIG released an advisory opinion at the end of last month OK'ing a hospital's proposal to provide insurance pre-authorization srevices free of charge to patients and physicians. This is an issue that has long vexed folks in the imaging world. Clearly, this is a free service provided to referral sources (to the extent they are obligated by contract with third party payors to obtain the pre-authorization before referring a patient for an MRI, for example), so why is the OIG OK with it? In the opinion, the OIG blesses the arrangement for four reasons:

- The arrangement doesn't target specific referring docs, so the pre-authorization service will be provided for patients of docs who are contractually bound to handle it themselves, as well as for patients of those who aren't, and thus the risk of using the arrangement to reward referrals is low
- The hospital will not pay the docs under the arrangement and will not guarantee to docs that the pre-authorizations will be forthcoming (the OIG also notes -- not sure why -- that the hospital will collect and pass on only such personal health information as may be necessary to secure a finding of medical necessity for the pre-authorization)
- The hospital staff will be transparent with payors and referring docs, and will have little influence on steering volume, because they get involved only after the hospital has been selected (other situations are distinguished, e.g., where referral seekers provide referral sources with staff like discharge planners)
- The hospital has an interest in being paid for its services, and thus in ensuring that the pre-authorization process is conducted properly, thus "lower[ing] the risk that the … [a]rrangement is a stalking horse for illicit payments to [the hospital's] referral sources"

Well, the reasoning here doesn't really cut it, as far as I'm concerned. Referring docs and their staffs hate having to deal with the pre-authorization process, and if a hospital takes on that headache, that's a real benefit (remuneration, in the language of the anti-kickback statute). If there are two hospitals in town, and -- all other things being equal -- one provides pre-authorization services and the other doesn't, guess where all the docs will refer their patients? It doesn't really matter that the service is provided to all docs, for all payors. It is still clearly an inducement. If, on the other hand, all hospitals take on this added cost of doing business, then nobody gains a competitive advantage. Finally, to the extent physician networks are more and more tightly tied to particular hospital systems (whether through employment or other relationships, post health reform), the potential for steering volume is negligible at best.

Bottom line: I agree with the outcome, but not the reasoning.

David Harlow
The Harlow Group LLC
Health Care Law and Consulting

Email this • Add to del.icio.us • AddThis! • Sphere: Related Content • Digg This! • Share on Facebook • Stumble It! • Twit This!

You might also like:

- Contractual joint ventures: the OIG hangs tough

- Imaging measures: We're from the government and we'd like your help
- Another cardiac surgery gainsharing opinion from the OIG

September 07, 2010 at 02:18 PM in <u>Anti-Kickback Statute</u>, <u>Diagnostic Imaging</u>, <u>Fraud and Abuse</u>, <u>Health care policy</u>, <u>Health Law</u>, <u>Hospitals</u>, <u>Medicare</u>, <u>OIG</u>, <u>Physicians</u>, <u>Privacy</u> | <u>Permalink</u> <u>ShareThis</u>

☆ Favorite

<u>Reblog (0)</u> | | <u>Digg This</u> | <u>Save to del.icio.us</u> | <u>Tweet This!</u> |

Like

TrackBack

TrackBack URL for this entry:

http://www.typepad.com/services/trackback/6a00d83451d52c69e2013487111fd7970c

Listed below are links to weblogs that reference <u>OIG: Imaging pre-authorization may be handled by hospital for referring docs and patients</u>:

Comments

Comment below or sign in with <u>TypePad</u> <u>Facebook</u> <u>Twitter</u> and <u>more...</u>