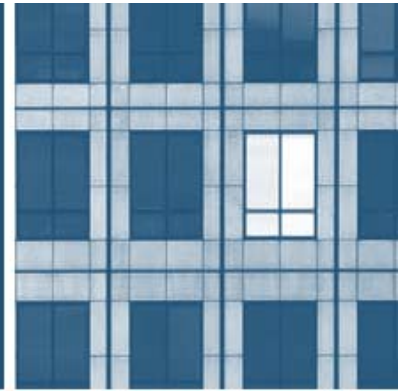


On the Subject



Health Industry Advisory

September 20, 2010

On October 5, 2010, the FTC, CMS and OIG will host a public workshop featuring a listening session on various legal issues related to ACOs, including antitrust, physician self-referral, anti-kickback and civil monetary penalty laws. Registration for the workshop is currently closed, but the listening session is available to all

- Whether (and if so, how) the requirements of the antitrust, physician self-referral, anti-kickback and civil monetary penalty laws should be addressed in the regulations under development for the Medicare Shared Savings Program
- To what extent, if at all, any safe harbors, exceptions, exemptions or waivers from the aforementioned laws may be warranted

Accountable Care Organizations: FTC, CMS, OIG Hosting Public Workshop on October 5, 2010

Physicians, physician associations, hospitals, health systems and consumers should consider participating in a listening session that is part of a workshop on accountable care organizations (ACOs), to be hosted on October 5, 2010, by the Federal Trade Commission (FTC), the Centers for Medicare and Medicaid Services (CMS), and the Office of the Inspector General (OIG) of the Department of Health and Human Services. Registration for the workshop filled immediately after being announced, but the afternoon listening session is open to all. The workshop will be held from 9 am to 4:30 pm EDT in the main auditorium of the Central Building of CMS at 7500 Security Boulevard in Baltimore, Maryland. Interested parties may participate via teleconference and web conference; log-in details will be posted on the CMS website prior to the workshop.

The workshop will feature panel discussions and a listening session on various legal issues related to ACOs, including antitrust, physician self-referral, anti-kickback and civil monetary penalty laws. In particular, the FTC, CMS and OIG wish to receive industry feedback on the following issues:

- How various ACO structures in different health care markets could affect the cost and quality of health care delivered to privately insured consumers and Medicare and Medicaid beneficiaries

In the morning, two moderated panel discussions will cover antitrust issues. Panelists include health care providers with integration efforts planned or in progress, payers and experts in health care policy. In the afternoon, two sessions will explore how ACOs will interact with the physician self-referral prohibition, the anti-kickback statute and the civil monetary penalty law, in order to better inform the decision-making of CMS and OIG regarding the application of these laws to ACOs. The first session will be a moderated panel of industry stakeholders. The second session is the listening session that is available to all interested parties, in which attendees may briefly comment on the topics discussed, either in person or via teleconference.

Registration is currently closed, with no word on a wait list. However, the afternoon listening session is open to all. Participants wishing to make a statement during the listening session are encouraged to submit comments in advance to acolegalissues@cms.hhs.gov, or by mail to the following address:

Attn: ACO Legal Issues
Mail Stop C5-15-12
Centers for Medicare & Medicaid Services,
7500 Security Boulevard
Baltimore, MD 21244-1850

For assistance preparing for the listening session, or if you have questions regarding ACOs, please contact McDermott partner Peter Rich (jpriech@mwe.com or +1 310 551 9310) or your regular McDermott lawyer

For more information, please contact your regular McDermott lawyer, or:

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