

HHS ISSUES STARK LAW BLANKET WAIVERS

On March 30, 2020, Health and Human Services Secretary Alex Azar issued blanket waivers of Section 1877(g) of the Social Security Act (the Act), also known as the Stark Law, under the authority granted by Section 1135 of the Act in connection with President Trump and the secretary's declarations under the National Emergencies Act of a Public Health Emergency related to the COVID-19 pandemic.

These blanket waivers are granted to ensure that sufficient health care services are available to individuals enrolled in Medicare, Medicaid and the Children's Health Insurance Program (CHIP), and that health care providers furnishing such services in good faith are exempted from sanctions for noncompliance. These waivers are effective retroactively to March 1, 2020.

The following are some of the waivers granted by Secretary Azar and apply so long as there is an absence of fraud or abuse:

- Remuneration from an entity to a physician that is above or below the fair market value for services personally performed by the physician to the entity.
- Rental charges paid by an entity to a physician (or vice versa) that are below fair market value for the entity's lease of office space from the physician.
- Remuneration from an entity to a physician resulting from a loan to the physician: (1) with an interest rate below fair market value; or (2) on terms that are unavailable from a lender that is not a recipient of the physician's referrals or business generated by the physician.

The blanket waivers would allow, among other things, the following:

- Payment to physicians above a prior contracted rate for services in particularly hazardous or challenging environments.
- Provision of free telehealth equipment to a physician practice to facilitate telehealth visits for patients who are observing social distancing, or are in isolation or quarantine.
- Hospital provision of meals, comfort items (for example, a change of clothing), or onsite child care with a value greater than \$36 per instance to medical staff physicians who spend long hours at the hospital during the COVID-19 outbreak.
- Provision of nonmonetary compensation to a physician in excess of the

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\$423 per year limit, such as continuing medical education related to COVID-19; supplies, food or other grocery items; isolation-related needs (for example, hotel rooms and meals); child care; or transportation.

For a complete list of the blank waivers and other examples of how they may be utilized, please [click here](#).