

Anti Kickback Statute

What You Need to Know



Anti-kickback Statute

- The Anti-kickback Statute (AKS) prohibits the purposeful payment of anything of value (i.e. remuneration) in order to induce or reward referrals
 - Almost anything of value can be a kickback (i.e. money, goods, services, meals, travel, gifts, investment interests, rebates, discounts, etc.)
 - Possible imprisonment and criminal fines
 - Exclusion from federal health care programs (Medicare, Medicaid, etc.)
 - Both parties are liable (payor and payee)

Anti-Kickback Statute, cont.

- Intent – Remuneration intended to induce referral or purchase of services
 - Not required to show intent to violate the law; only for inducing referrals
- One Purpose Test – if even one purpose of the remuneration intended to influence referral or purchase of services.
- Safe Harbor Provisions

Anti-kickback Penalties

- Violation is a felony punishable by a maximum fine of \$25,000, up to 5 years in prison, or both
- Conviction = automatic exclusion from Federal healthcare programs
- Civil Monetary Penalties

Scenario #1

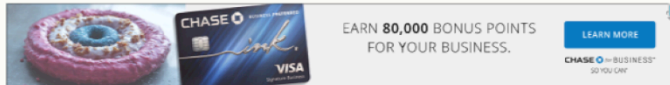
- EMS Provider Contracts with a City
- As part of the contract EMS Provider agrees to refund a percentage of profits to City above a contractual profit cap
 - Called “rebates,” “gain sharing,” and “profits in excess of cap.”
- Is this a violation?

Wednesday, May 17, 2017

Longview News-Journal

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Feds join whistleblower in suit against ETMC in kickback scheme

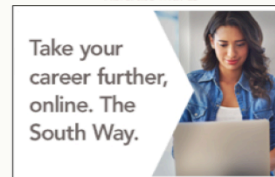
By Tyler Morning Telegraph
Jan. 24, 2017 at midnight



East Texas Medical Center and its division Paramedics Plus have been named in a lawsuit that alleges kickbacks and false claims totaling tens of millions of dollars.

That suit was brought by a whistleblower, but the U.S. Attorney's Office for the Eastern District of Texas joined in by filing a complaint Monday.

"The United States alleges the defendants created a slush fund controlled by ETMC and Paramedics Plus that was used to pay over \$20 million in kickbacks," the




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Scenario #2

- City contracts with EMS Provider for services
 - City operates central dispatch for public safety (police, fire & ems)
 - EMS Provider agrees to pay for half of all EMS related calls
-
- Is this a violation?

Scenario #3

- City contracts with EMS Provider
- In the contract, City requires EMS Provider to provide:
 - Free defibrillators in City facilities
 - Free CPR classes to City employees
- Is this a violation?

Questions?

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