DDHA 8600: Addressing Stark and Anti-Kickback Statutes

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Addressing Stark and Anti-Kickback Statutes

In healthcare service, like any other business, kickbacks and other corrupt deals take places that require addressing to enhance compliance leading to the delivery of fair and equitable healthcare practices. Different legal aspects govern healthcare services delivery, ensuring that everyone complies with the rules and regulations, including the Stark and anti-kickback statutes. Enhancing compliance with the stark and anti kickbacks laws prompts the ability of the health care institution to avert possible severe sanctions for non-compliance while attaining improved communication among the healthcare providers. Besides, increasing compliance among workers in healthcare institutions fosters the establishment of credibility among workers and consequent prevention and detection of unethical conduct among medical/clinical staff in health care organizations.

**Description of Stark and Anti-Kickback Statutes**

Based on CMS (2020), stark law is a healthcare statute that prohibits physicians from referring patients for selected health care services payable by Medicare if a family member or the doctor has a relationship with the institution that would offer the service. In this case, Medicare would not cater for medical expenses arising from the prohibited referral based on the stark statute. For instance, based on the stark regulation, a physician in a health institution cannot refer a patient to another institution for a specialized service payable my Medicaid/Medicare if the doctor or close family member to the physical has a financial association with the institution. On the other hand, the anti-kickback statutes prohibit the medical officers from receiving or paying remunerations, kickbacks, or anything valuable in exchange for patient referrals to receive medical treatment that the government Medicaid/ Medicare programs would pay. Nonetheless, the Stark law and anti-kickback reveals a significant variation, where the stark law applies for the physician referrals. The anti-kickback statutes apply for all referrals made by anyone and accrue to criminal punishment, including civil sanctions.

**Statutes that a Health Care Should Address from Compliance Perspective**

As a healthcare administrator, the anti-kickback statute is the regulation that I might address from a compliance perspective. Addressing the anti-kickback statute would enhance compliance by every worker in the health service organization, promoting the realization of the goals and objectives of the laws in healthcare administration. For instance, forming the foundation of the anti-corruption statute, ensuring compliance with the anti-kickback regulation would safeguard the utilization of the federal resources, increased cost, and corresponding poor quality services. Crane, Kingsbury, Lovitch, and Roll (2020) pointed out that the anti-kickback statute helps protect the beneficiaries of the federal health care program from the potential use of money to influence referrals made by the clinical staff. Enhancing compliance with the anti-kickback regulation from a health care administrator’s perspective would inhibit the possibility of the health organization’s clinical staff participating in the corruption. For instance, the statute would prevent cases where a doctor may use the money to coax the patient for a referral to another institution that the physician has contact with or relationship through a close family member, mainly in the situation that requires payment using the federal government programs.

**Statutes in addressing Safe Harbors and Relevance to HSO**

Safe harbor entails the legal provision enacted to eliminate regulatory liability in a selected situation, especially when someone or an entity meets certain conditions. Therefore, safe harbor’s primary purpose is to offer protection from possible penalties. For instance, in the healthcare organization, secure harbor compliance increases security for providers from the federal civil investigation and consequent criminal prosecutions, including civil financial penalties and barring from the participation in Medicare/Medicaid, among other federally funded health programs. Dove, Knoppers, and Zawati (2014) noted that safe harbor promotes ethics and compliance with medical regulations such as HIPAA while augmenting patient advocacy. In this case, the safe harbor concept is significantly essential in the health care organization because it will enhance the protection of the institution from possible federal investigation and consent criminal prosecution that would lead to the HSO’s possible exclusion in federal program participation.

References

CMS. (2020, November 20). *CMS Announces Historic Changes to Physician Self-Referral Regulations | CMS*. CMS.Gov. <https://www.cms.gov/newsroom/press-releases/cms-announces-historic-changes-physician-self-referral-regulations>

Crane, T. S., Kingsbury, S., Lovitch, K., & Roll, C. (2020). *What Is the Anti-Kickback Statute?* American Bar Org. <https://www.americanbar.org/groups/young_lawyers/publications/tyl/topics/health-law/what-is-anti-kickback-statute/>

Dove, E. S., Knoppers, B. M., & Zawati, M. N. H. (2014). Towards an ethics safe harbor for global biomedical research. *Journal of Law and the Biosciences*, *1*(1), 3-51.