

OIG Advisory Opinion 25-02 Integrates Community Health Center Social Support Services with Primary Care Referral Programs

Healthcare Alert | 7 min read

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Background

The U.S. Department of Health and Human Services (HHS) Office of Inspector General (“OIG”) issued [Advisory Opinion No. 25-02](#) (“**Opinion**”) on April 4, 2025, regarding a Health Center proposal to link social support services to primary care referral services.

The “[Requestor](#),” a community health center (“[Health Center](#)”) designated under Section 330 of the Public Health Service Act (PHSA), is required to provide primary healthcare services to underserved populations, regardless of their ability to pay.

In addition to medical services, Health Centers may provide supplemental health services, which promote and facilitate optimal use of primary health services, and may provide certain non-medical, social, and educational services that enable individuals to access healthcare and improve health outcomes.

These “[Additional Services](#)” include child care, food banks and meals, employment and education counseling, and legal services. The Health Resources and Services Administration (“HRSA”) must formally approve and include any Additional Services furnished by a Health Center within the Health Center’s scope of project.

The Requestor Health Center was approved by the OIG to provide the following Additional Services:

- Safety support for victims of crimes, such as lock replacement (up to \$150, four times per year)
- Support for families with young children, such as diapers, books, toys, and baby gear (worth up to \$50, three times per year)

According to the Health Center, individuals in the community it serves frequently access the Requestor's Additional Services but do not seek healthcare services from the Requestor because they do not believe they have the financial means to do so or do not understand how to do so.

The Primary Care Referral Program Proposed Arrangement

Under the "primary care referral program" *Proposed Arrangement*, when individuals receive Additional Services from the Health Center, the Health Center asks each individual whether they have seen a primary care provider within the last year. If the answer is no, then the Health Center provides the individual with a list of primary care providers, which would include the Health Center.

The Health Center certified that the list would include providers other than the Health Center and that the list would be:

- (i) organized in alphabetical order; and
- (ii) drafted without promoting the Health Center (e.g., by not using bold font, underlining, or other emphasis to identify the Requestor).

In the event a community provider (e.g., Health Center, hospital, or primary care physician practice) would like to be included on the list of primary care providers offering care (presumably based on ability to pay), the Health Center would implement an "any willing provider" standard, such that the request for inclusion on the list would be honored at all times. The Health Center further certified that obtaining primary care from the Requestor would not be a requirement in order for individuals to receive Additional Services from the Health Center.

For individuals who choose to obtain primary care services from the Health Center, the Health Center would schedule an appointment for the individual. If the individual selects a provider other than the Health Center from the list, then the Health Center will make an electronic referral to the requested provider. The electronic referral to the other provider would include the prospective patient's contact information and reason for referral so that the requested provider could contact the individual and schedule the appointment for the individual.

The goal of the primary care referral program is to increase access to healthcare among the underserved population.

Legal Analysis

The OIG legal analysis examined whether the Proposed Arrangement would violate federal laws, specifically the Federal Anti-Kickback Statute and the Beneficiary Inducements Civil Monetary Penalties Law (CMP).

Federal Anti-Kickback Law

The Federal Anti-Kickback Statute makes it a criminal offense to knowingly and willfully offer, pay, solicit, or receive any remuneration to induce, or in return for, the referral of an individual to a person for the furnishing of, or arranging for the furnishing of, any item or service reimbursable under a federal healthcare program.⁸

The statute's prohibition also extends to remuneration to induce, or in return for, the purchasing, leasing, or ordering of, or arranging for or recommending the purchasing, leasing, or ordering of, any good, facility, service, or item reimbursable by a federal healthcare program.⁹ For purposes of the Federal Anti-Kickback Statute, "remuneration" includes the transfer of anything of value, directly or indirectly, overtly or covertly, in cash or in kind.

The Proposed Arrangement implicates the Federal Anti-Kickback Statute because it involves remuneration in the form of additional services that could potentially induce individuals to seek primary care services from the Health Center. However, the Office of Inspector General (OIG) determined that the risk of fraud and abuse associated with the arrangement is low due to multiple safeguards in place.

These safeguards include the use of an objective criterion to identify individuals in need of primary care services, a neutrally formatted list of primary care providers, and an "any willing provider" standard that allows community providers to be included on the list if they request it. Additionally, the Health Center certifies that individuals can continue to receive additional services without being required to select a Requestor for primary care services.

All Health Centers are required to provide primary care services to underserved populations, regardless of their financial status. Thus, the OIG concluded that the Proposed Arrangement aligns with the Health Center's designation under Section 330 of the Public Health Service Act, which mandates efforts to recruit and retain patients while offering supplementary health services that enhance access to primary care. Under the Proposed Arrangement, the Health Center would ensure that individuals receiving additional services also have access to primary care providers or are offered assistance in securing such access.

The OIG opined that the Proposed Arrangement is consistent with the statutory obligations imposed on Health Centers and promotes greater accessibility to healthcare services for vulnerable communities.

The Beneficiary Inducements CMP

The Beneficiary Inducements CMP provides for the imposition of civil monetary penalties against any person who offers or transfers remuneration to a Medicare or state healthcare program beneficiary that the person knows or should know is likely to influence the beneficiary's selection of a particular provider, practitioner, or supplier for the order or receipt of any item or service for which payment may be made, in whole or in part, by Medicare or a state healthcare program.

The Proposed Arrangement could potentially incentivize beneficiaries to choose the Health Center for primary care services, which may be reimbursed by a federal healthcare program. Given this, the arrangement does

implicate the Beneficiary Inducements CMP.

However, based on the safeguards and their alignment with health access objectives, the OIG exercised enforcement discretion and decided not to impose sanctions under the Beneficiary Inducements CMP for the Proposed Arrangement. The OIG's conclusion reflects an acknowledgment that the Proposed Arrangement supports broader healthcare accessibility goals without significant risk of fraud or abuse.

The OIG's Determination

The OIG confirmed that the proposed provision of free social support services to individuals who are referred to primary care providers if they indicate that they have not seen a primary care provider over the past year generates prohibited remuneration under federal statutes. However, due to the strong anti-steering protections, clear neutrality, and alignment with public health objectives, no sanctions will be imposed.

Key Takeaways and Implications for Health Center Marketing and Outreach

This advisory opinion is limited in scope, applying only to the Requestor Health Center and its proposed program. It cannot be relied upon by other entities, used as legal precedent, or introduced as proof of compliance in unrelated cases. Notwithstanding this, the advisory opinion provides Health Centers with guidance on how the OIG may view similar arrangements.

Community health centers provide a range of outreach services to connect underserved populations with essential healthcare and social support. Community health centers offer a variety of free social support programs to address the broader needs of their communities.

The most common types of Health Center social support programs include:

- Food Assistance and Nutrition Programs,
- Housing and Homelessness Support,
- Employment and Job Training Services,
- Legal Aid and Advocacy,
- Childcare and Family Support,
- Mental Health and Substance Abuse Support,
- Transportation Assistance, and
- Community Outreach and Education.

Health Centers also provide a variety of free educational services aimed at improving public health and empowering individuals with knowledge about their well-being.

The most common types of Health Center educational services offered include:

- Health Literacy and Disease Prevention,
- Nutrition and Fitness Programs,
- Maternal and Child Health Education,
- Mental Health and Substance Abuse Awareness,
- Sexual and Reproductive Health Education,
- School-Based Health Education, and
- Social Determinants of Health Educational Initiatives.

Takeaways

Advisory Opinion 25-02 opens a window of opportunity for Health Centers to utilize outreach services, social support services, and educational programs as patient incentives to increase access to primary healthcare in underserved communities. Yes, the marketing would need to be neutral and would have to include other primary care providers in the community who are interested in providing care to individuals based on ability to pay, but one would presume that the primary care provider list would likely only include your health center, other community health centers, free clinics, hospital-based clinics, and governmental healthcare providers located in the community.

Section 330 mandates that Health Centers must make every reasonable effort to establish and maintain collaborative relationships, including with other healthcare providers that provide care within the Health Center service area, and, to the extent possible, coordinate and integrate project activities with the activities of other federally-funded, as well as state and local, health services delivery projects and programs serving the same population. A primary care referral program, as the type approved by the OIG, could address access to care gaps while helping health centers achieve their objectives of collaboration and coordination with other healthcare providers in the community.

Health Centers that utilize patient incentives to increase access to care should consult with competent Health Center legal counsel to assist with structuring a legally compliant patient incentive program that includes safeguards to minimize federal anti-kickback law and civil monetary penalties law compliance risks.

Hinshaw attorneys have extensive experience advising federally qualified health centers, community health centers, and other clinic-based providers on healthcare regulatory law matters. For further information, please contact Hinshaw's Health Care practice team or your Hinshaw attorney.

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