

Intermountain Pays \$25.5 Million in Stark Violations

On April 3, 2013, the U.S. Department of Justice (DOJ) announced that Intermountain Health Care Inc. (Intermountain), a tax exempt not for profit health system, has agreed to pay a settlement of \$25.5 million to the federal government for allegations of legally impermissible physician self-referral relationships, prohibited under the Stark Statute (Stark) and False Claims Act (FCA).¹ Intermountain, the largest healthcare system in Utah, with 22 hospitals, a network of over 185 physician clinics, and 33,000 employees,² voluntarily disclosed the arrangements in 2009 after a routine review. Among the cited violations were improper financial relationships with referring physicians, including bonuses, office leases, and compensation arrangements that were prohibited under Stark provisions.³ In a statement issued by Intermountain's Chief Medical Officer, Brent Wallace, MD, it was reported that the violations were "...primarily technical in nature and involved things such as lack of proper paperwork involving leases of physician offices and service agreements", which have since been corrected.⁴

Since the inception of the Health Care Fraud Prevention and Enforcement Action Team (HEAT) in May 2009,⁵ the increased attention to healthcare fraud and abuse has netted billions in recoveries for the federal government. The Department of Health and Human Services (HHS) and DOJ reported that in 2012 alone, \$4.2 billion was recovered from health care fraud cases as part of the Health Care Fraud and Abuse Control Program.⁶ In addition to prosecuted cases of healthcare fraud, on March 23, 2010, section 6409(a) of the Patient Protection and Affordable Care Act (ACA) established a Medicare self-referral disclosure protocol (SRDP) by which providers may self-disclose potential Stark violations.⁷ The SRDP protocol was updated on May 6, 2011 to clarify submission requirements to providers.⁸ To date, the SRDP program has reached over 20 settlements with healthcare providers across the nation for self-reported Stark law and physician referral violations.⁹ For more details regarding SRDP, refer to "CMS Continues Self-Referral Disclosure Protocol (SRDP) Settlements", published in the February 2012 issue of HCC Topics.¹⁰

A statement by the acting Assistant Attorney General regarding the Intermountain settlement echoes the © HEALTH CAPITAL CONSULTANTS

mission of HEAT and other public statements in that it, "...should deter similar conduct in the future and help make health care more affordable for patients."¹¹ Corrective actions implemented by Intermountain as a result of the 2009 review findings included: a centralized process and advanced software to track physician agreements with the hospital, implementation of oversight councils; and, increased staff and training.¹² Given the continued federal vigilance and crackdowns on fraud and abuse by the federal government, hospitals should consider implementing oversight and controls to monitor their financial relationships with physicians to ensure compliance with, the Stark law and other regulatory acts.

¹ "Intermountain Health Care Inc. Pays U.S. \$25.5 Million to Settle False Claims Act Allegations", by U.S. Department of Justice Office of Public Affairs, April 3, 2013, <http://www.justice.gov/opa/pr/2013/April/13-civ-378.html> (Accessed April 7, 2013)

² "Intermountain Healthcare website", by Intermountain Healthcare, 2013, <http://intermountainhealthcare.org/Pages/home.aspx> (Accessed April 8, 2013)

³ "Intermountain Fined \$25.5M for Self-Disclosed Stark Violations", by John Commins, HealthLeaders Media, April 4, 2013, <http://www.healthleadersmedia.com/print/LED-290787/Intermo> (Accessed April 7, 2013)

⁴ "Intermountain Self-Reports Concerns to Federal Government, Will Pay Settlement for Resolution", by Brent Wallace, April 3, 2013, <http://intermountainhealthcare.org/about/overview/trustees/fortrustees/issues/Pages/issue7.aspx> (Accessed April 8, 2013)

⁵ "HEAT Task Force", U.S. Department of Health & Human Services and U.S. Department of Justice, <http://www.stopmedicarefraud.gov/aboutfraud/heatactaskforce/> (Accessed April 8, 2013)

⁶ "Health Care Fraud and Abuse Control Program Annual Report for Fiscal Year 2012", by The Department of Health and Human Services and The Department of Justice, February 2013, <https://oig.hhs.gov/publications/docs/hcfac/hcfacreport2012.pdf>

⁷ Section 6409 of the Patient Protection and Affordable Care Act, Public Law 111-148 (March 23, 2010), STAT 772

⁸ "CMS Voluntary Self-Referral Disclosure Protocol", Centers for Medicare and Medicaid Services, OMB Control Number 0938-1106, Available at

http://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/Downloads/6409_SRDP_Protocol.pdf

⁹ "Self-Referral Disclosure Protocol Settlements", Centers for Medicare and Medicaid Services, <http://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/Self-Referral-Disclosure-Protocol-Settlements.html> (Accessed April 8, 2013)

¹⁰ “CMS Continues Self-Referral Disclosure Protocol (SRDP) Settlements”, Health Capital Consultants, February 2012, Volume 5, Issue 2,
http://www.healthcapital.com/hcc/newsletter/2_12/SRDP_Settlements.pdf

¹¹ *Ibid*, U.S. Department of Justice, April 3, 2013

¹² *Ibid*, Wallace, April 3, 2013



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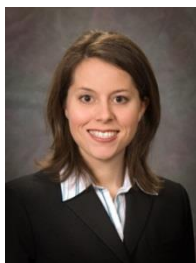
Mr. Cimasi holds a Masters in Health Administration from the University of Maryland, as well as several professional designations: Accredited Senior Appraiser (ASA – American Society of Appraisers); Fellow Royal Intuition of Chartered Surveyors (FRICS – Royal Institute of Chartered Surveyors); Master Certified Business Appraiser (MCBA – Institute of Business Appraisers); Accredited Valuation Analyst (AVA – National Association of Certified Valuators and Analysts); and, Certified Merger & Acquisition Advisor (CM&AA – Alliance of Merger & Acquisition Advisors). He has served as an expert witness on cases in numerous courts, and has provided testimony before federal and state legislative committees. He is a nationally known speaker on healthcare industry topics, the author of several books, the latest of which include: *“Accountable Care Organizations: Value Metrics and Capital Formation”* [2013 - Taylor & Francis, a division of CRC Press], *“The Adviser’s Guide to Healthcare”* – Vols. I, II & III [2010 – AICPA], and *“The U.S. Healthcare Certificate of Need Sourcebook”* [2005 - Beard Books]. His most recent book, entitled *“Healthcare Valuation: The Financial Appraisal of Enterprises, Assets, and Services”* will be published by John Wiley & Sons in the Fall of 2013.

Mr. Cimasi is the author of numerous additional chapters in anthologies; books, and legal treatises; published articles in peer reviewed and industry trade journals; research papers and case studies; and, is often quoted by healthcare industry press. In 2006, Mr. Cimasi was honored with the prestigious *“Shannon Pratt Award in Business Valuation”* conferred by the Institute of Business Appraisers. Mr. Cimasi serves on the Editorial Board of the Business Appraisals Practice of the Institute of Business Appraisers, of which he is a member of the College of Fellows. In 2011, he was named a Fellow of the Royal Institution of Chartered Surveyors (RICS).



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