**Stark Law Blanket Waivers during COVID-19**

Section 1877 of the Social Security Act, also known as the physician self-referral law or the Stark Law: (1) prohibits a physician from making referrals for certain designated health services payable by Medicare to an entity with which he or she (or an immediate family member) has a financial relationship, unless all of the requirements of an applicable exception are satisfied; and (2) prohibits the entity from filing claims with Medicare (or billing another individual, entity, or third party payor) for designated health services furnished pursuant to a prohibited referral.

On March 30, 2020, the Centers for Medicare & Medicaid Services (“CMS”) issued [18 blanket waivers](https://www.cms.gov/files/document/covid-19-blanket-waivers-section-1877g.pdf) of the sanctions under the Stark Law. The waivers, which have a retroactive effect to March 1, 2020, will apply nationwide to financial relationships and referrals aimed at combatting the outbreak of the COVID-19 pandemic. Please note that the Stark Law blanket waivers would protect only remunerations and referrals that are solely related to "COVID-19 Purposes", which are:

* Diagnosis or medically necessary treatment of COVID-19 for any patient or individual, whether or not the patient or individual is diagnosed with a confirmed case of COVID19;
* Securing the services of physicians and other health care practitioners and professionals to furnish medically necessary patient care services, including services not related to the diagnosis and treatment of COVID-19, in response to the COVID-19 outbreak in the United States;
* Ensuring the ability of health care providers to address patient and community needs due to the COVID-19 outbreak in the United States;
* Expanding the capacity of health care providers to address patient and community needs due to the COVID-19 outbreak in the United States;
* Shifting the diagnosis and care of patients to appropriate alternative settings due to the COVID-19 outbreak in the United States; or
* Addressing medical practice or business interruption due to the COVID-19 outbreak in the United States in order to maintain the availability of medical care and related services for patients and the community.

In addition, CMS also provided some examples of how to apply the blanket waivers, such as:

* An entity provides free telehealth equipment to a physician practice to facilitate telehealth visits for patients who are observing social distancing or in isolation or quarantine.
* An entity sells personal protective equipment to a physician, or permits the physician to use space in a tent or other makeshift location, at below fair market value (or provides the items or permits the use of the premises at no charge).
* An entity provides nonmonetary compensation to a physician or an immediate family member of a physician in excess of the $423 per year limit (per physician or immediate family member), such as continuing medical education related to the COVID-19 outbreak in the United States, supplies, food, or other grocery items, isolation-related needs (for example, hotel rooms and meals), child care, or transportation.
* A physician refers a Medicare beneficiary to a home health agency owned by the immediate family member of the physician because there are no other home health agencies with capacity to provide medically necessary home health services to the beneficiary during the COVID-19 outbreak in the United States.
* A physician refers a Medicare beneficiary who resides in a rural area for physical therapy furnished by the medical practice that is owned by the physician’s spouse and located within one mile of the beneficiary’s residence.

The full lists of the Stark Law waivers and list of examples are available [here](https://www.cms.gov/files/document/covid-19-blanket-waivers-section-1877g.pdf). Please note that although providers do not need to submit documentation or notify CMS in advance, the best practice is to maintain proper documentation that justifies the proper purpose and scope of the arrangement. Parties utilizing the blanket waivers must make records relating to the use of the blanket waivers available to CMS upon request.

*Additional Guidance*

* Coronavirus Waivers and Flexibilities: <https://www.cms.gov/about-cms/emergency-preparedness-response-operations/current-emergencies/coronavirus-waivers>
* Blanket waivers of the 1877(g) of the Social Security Act (Stark Law): <https://www.cms.gov/files/document/covid-19-blanket-waivers-section-1877g.pdf>