

## Publications

### *Health Care Alert: CMS Releases Final Rule Regarding Physician Payment Sunshine Act*

#### Related Attorneys

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The Centers for Medicare and Medicaid Services (CMS) recently released a final rule on the Physician Payment Sunshine Act. The final rule imposes new reporting requirements on group purchasing organizations (GPO) and manufacturers of drugs, devices, biologicals or medical supplies for which payment is available under Medicare, Medicaid or the Children's Health Insurance Program.

#### **Reporting Payments or Transfers of Value**

The final rule requires manufacturers to report annually to CMS any direct or indirect payments or other transfers of value to covered recipients (physicians, other than those employed by the manufacturer, and teaching hospitals) and to third parties on behalf of covered recipients.

For each payment or other transfer of value, the manufacturer must report detailed information regarding:

- the covered recipient
- the payment or other transfer of value
- the covered drugs, devices, biologicals or medical supplies related to the payment or other transfer of value
- any third parties to which payment or other transfer of value was made on behalf of a covered recipient
- payments or other transfers of value to physicians (or their families) with an ownership or investment interest in the manufacturer
- additional information or context for the payment or other transfer of value

The final rule includes special provisions that address transactions related to research and continuing education programs, in addition to a number of excepted payments and transfers of value.

### **Reporting Ownership and Investment Interests**

The final rule also requires manufacturers and GPOs to report annually to CMS all ownership and investment interests in the manufacturer or GPO that were held by a physician or a physician's immediate family member. The report must include, among other things, the identity of the physician, the dollar amount invested by the physician or immediate family member and the value and terms of each ownership or investment interest held by the physician or immediate family member.

### **Process for Reporting**

CMS will create an electronic submission process for manufacturers and GPOs to submit their reports. Manufacturers and GPOs must begin collecting the required data on August 1, 2013 and report the data to CMS by March 31, 2014. Physicians and teaching hospitals have a 45-day period to review and dispute the reported information and manufacturers and GPOs have 15 days following that review period to submit corrected data. CMS will publish the initial round of data by September 30, 2014.

### **Penalties**

Manufacturers and GPOs that do not timely, accurately or completely report the necessary information may face a penalty of up to \$10,000 per payment, transfer of value, or ownership or investment interest for which reporting is deficient, up to \$150,000 per year. If manufacturers or GPOs knowingly fail to meet their reporting obligations, they may face up to \$1 million in additional penalties per year.

If you have questions regarding the Physician Payment Sunshine Act, please contact your Vorys attorney.