



## Alabama health system and clinics to pay \$24.5 million to settle alleged diagnostic imaging scheme

September 3, 2014

On July 21, 2014, Mobile, Alabama-based Diagnostic Physicians Group, PC (DPG), IMC Diagnostic and Medical Clinic, PC (IMC Diagnostic), IMC-Northside Clinic, PC (IMC Northside), Infirmary Medical Clinics, PC (Infirmary Clinics), and Infirmary Health System, Inc. (Infirmary Health System) agreed to pay the United States Department of Justice (DOJ) \$24.5 million to [settle](#) a qui tam action alleging improper payments to physicians in violation of the federal Stark law and Anti-Kickback statute.

According to the DOJ, from 2005 to 2011 the IMC Diagnostic and IMC Northside (clinics affiliated with Infirmary Health System, the largest non-governmental health system in Alabama) paid DPG a percentage of collections, including collections from diagnostic imaging and laboratory services referred by DPG physicians that were performed and billed by the clinics to Medicare. DPG also allegedly compensated individual DPG physicians based on their referrals of diagnostic tests to these clinics, such as X-rays, ultrasounds, echocardiograms, and nuclear imaging tests, in an effort to keep DPG and its physicians affiliated with Infirmary Health System, and to keep them from affiliating with competitors. The DOJ alleged that these so-called “Stark bonuses” DPG paid to each DPG physician were correlated to the collections from referrals of Stark designated health services to IMC-DMC and IMC-Northside.

According to the DOJ complaint, DPG had been advised by outside counsel in 2010 that the payments likely violated the Stark law because the arrangements failed to comply with the Stark group practice definition and in-office ancillary services exception, but the defendants continued to make payments under the potentially noncompliant structure. The DOJ agreed alleging that the payments resulted in an improper financial relationship under the Stark law, and were also illegal kickbacks under the federal Anti-Kickback statute, resulting in over \$521 million in improper payments to DPG physicians. The settlement requires the defendants collectively to pay \$24.5 million and enter into a five year Corporate Integrity Agreement with the DOJ.

Christian M. Heesch, MD, a cardiologist formerly employed by DPG brought the whistleblower qui tam action on July 8, 2011. The DOJ later intervened on August 7, 2013. Heesch is reportedly receiving \$4.41 million of the settlement.

This recent settlement highlights the importance of carefully reviewing the structure of hospital-physician contractual arrangements and payments to physicians to ensure that they comply with the Stark law and Anti-Kickback statute. Arrangements relying on the Stark group practice definition and in-office ancillary services exception must comply with numerous detailed requirements. For that reason, these Stark rules should be relied on with caution and arrangements relying on them should be monitored carefully on an ongoing basis to ensure continued compliance.

# Authors

---