

## OIG Issues Special Fraud Alert Regarding Medicare Advantage Marketing Practices



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On December 11, 2024, the U.S. Department of Health and Human Services Office of Inspector General (OIG) published a [Special Fraud Alert](#) titled “Suspect Payments in Marketing Arrangements Related to Medicare Advantage and Providers.” In the Alert, the OIG warns Medicare Advantage Organizations (MAOs) and healthcare providers about certain fraud and abuse risks associated with marketing Medicare Advantage (MA) plans. The Alert discusses the OIG’s concerns with these arrangements and provides a list of suspect characteristics that may suggest an arrangement presents a heightened risk of fraud and abuse.

The first arrangement that the Alert focuses on is payments from MAOs to providers. The OIG explains that while providers are permitted to do a limited amount of marketing for MAOs, compensation is not permitted. The second arrangement the Alert focuses on is payments from providers to agents or brokers of MA plans. The OIG explains that this practice can mislead enrollees into selecting providers and/or MA plans that do not fit their needs and can lead to unfair competition. Both arrangements can trigger the federal anti-kickback statute.

The Alert identifies a list of suspect characteristics that may indicate a heightened risk of fraud and abuse, including for example:

- MAOs, agents, brokers, or any other individual or entity offering or paying providers remuneration (such as bonuses or gift cards) in exchange for referring or recommending patients to a particular MAO or MA plan.

- Providers paying remuneration to an agent, broker, or other third party that is contingent upon or varies based on the demographics or health status of individuals enrolled or referred for enrollment in an MA plan.

The OIG recommends that MAOs and providers scrutinize these relationships to ensure they do not implicate fraud and abuse laws.

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