PUBLICATION

Medigap Deductible Discount Proposal Approved by OIG [Ober|Kaler]

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The Office of Inspector General (OIG) recently issued Advisory Opinion 15-03 and concluded that a licensed provider (the Requestor) of Medicare Supplemental Health Insurance (Medigap) would not be sanctioned under the civil monetary prohibition against inducements to beneficiaries (CMP) or the antikickback statute (AKS) if it entered into arrangements with hospitals for discounts on Medicare Part A deductibles and passed the savings on those deductibles to its policy holders as Medigap premium credits (the Arrangement). The OIG had previously approved similar proposals most recently in Advisory Opinion 14-10 and Advisory Opinion 14-07.

The Arrangement

Similar to the earlier advisory opinions, the Requestor proposed two parts to its Arrangement. First, the Requestor would contract with a preferred hospital organization that would require network hospitals to discount the Part A deductible for the Medigap beneficiaries up to 100 percent. Absent the discount, the Requestor would have paid the hospital for the deductible on behalf of the Medigap policy holder. The Requestor would pay the preferred hospital organization a fee for its administrative services. Second, the Requestor would offer a $100 premium credit to the beneficiary's next annual Medigap premium.

The Requestor also explained that there were certain safeguards in the arrangement. The preferred hospital organization was an open network that any accredited and licensed hospital could join if they were willing to offer the deductible discount. The Medigap beneficiary's financial obligation would be the same regardless of which hospital the beneficiary was admitted to – the beneficiary did not pay the Part A deductible because the Requestor paid either all or some of it and the hospital waived the rest. Premium credit program information would be provided to Medigap beneficiaries periodically. Lastly, the beneficiaries would also be sent written information that would explain that their choice of hospital would not affect their liability for costs.

OIG Analysis

The OIG's analysis was similar to its previous advisory opinions on Medigap deductible discounts and beneficiary premium credits. The OIG concluded that the Arrangement presented a low risk of fraud of abuse for the following reasons:

1. The discounts would not materially change the Part A payment for the inpatient service.
2. The benefit to a Medigap beneficiary would be invisible and not affect the beneficiary's out of pocket costs – either the amount would be paid by the Requestor or waived by the hospital.
3. Any licensed and Medicare certified hospital could join the preferred hospital organization. This meant the Arrangement would not materially affect competition.
4. The Arrangement should not affect physician decision-making because the Arrangement did not pay money to physicians and Medigap beneficiaries were free to choose any hospital without incurring an additional expense.
5. The Arrangement would be sufficiently transparent in the information that would be provided to Medigap beneficiaries.

6. The Arrangement could result in the Requestor lowering Medigap policy costs because the savings would be reported to state insurance regulators.