

## **REBATES**

### **May a physician receive a payment for referring a patient to another physician?**

No. Under Washington law, it is both a misdemeanor<sup>1</sup> and unprofessional conduct<sup>2</sup> for a physician to receive any rebate, refund, commission, unearned discount or profit or compensation for referring patients. The physician's license may even be revoked under such circumstances.<sup>3</sup> See **UNPROFESSIONAL CONDUCT**.

### **What does Washington's anti-rebate law prohibit?**

Under Washington's anti-rebate statute, it is a misdemeanor for any person or entity to pay, offer to pay, allow, request, or receive, directly or indirectly, any rebate, refund, commission, unearned discount or profit by means of a credit or other valuable consideration from a third party (someone other than the patient) in connection with:<sup>4</sup>

- The referral of patients.
- The furnishing of any medical, surgical or dental care diagnosis, treatment or service.
- The sale, rental, furnishing or supplying of:
  - Any clinical laboratory supplies or services of any kind.
  - Drugs, medications or medical supplies.
  - Any other goods, services or supplies prescribed for medical diagnosis, care or treatment.

The statute does not prevent a patient from paying a physician for services rendered or prescriptions received, nor does it prevent a physician from making a profit on the furnishing of goods or care to a patient.<sup>5</sup>

### **Are there any exceptions to Washington's anti-rebate prohibitions?**

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<sup>1</sup> RCW 19.68.010(3).

<sup>2</sup> RCW 19.68.020.

<sup>3</sup> RCW 19.68.030.

<sup>4</sup> RCW 19.68.010.

<sup>5</sup> *Wright v. Jeckle*, 158 Wn. 2d 375 (2006).

Yes. Under Washington's anti-rebate law, a physician who has an ownership interest in an entity which furnishes clinical laboratory or other diagnostic services may refer a patient to that entity, if and only if:<sup>6</sup>

- The physician affirmatively discloses to the patient, in writing, the fact that the physician has a financial interest in the entity.
- The physician provides the patient with a list of effective alternative facilities.
- The physician informs the patient that the patient has the option of using one of the alternative facilities.

The physician assures the patient that the patient will not be treated differently if the patient chooses one of the alternative facilities.

**Does compliance with the exception to Washington's anti-rebate prohibition ensure compliance with either the Medicare-Medicaid anti-kickback law or the Medicare-Medicaid physician self-referral prohibitions?**

No. See **MEDICARE-MEDICAID FRAUD AND ABUSE AND ANTI-KICKBACK PROVISIONS** and **MEDICARE-MEDICAID PHYSICIAN SELF-REFERRAL PROHIBITIONS (STARK LAWS)** for information concerning compliance with those laws.

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<sup>6</sup> RCW 19.68.010(2).