

2020 CPI-U and DHS Code List Updates Posted on CMS Website

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by Alissa Smith and Laura B. Morgan

The Centers for Medicare & Medicaid Services (“CMS”) recently posted two annual updates related to the physician self-referral law (“Stark Law” or “Stark”) on its Stark website: (1) CPI-U updates related to the nonmonetary compensation exception and medical staff incidental benefits exception; and (2) CPT/HCPCS codes used to identify certain categories of Stark designated health services (or “DHS”). These updates are important for stakeholders to be aware of as they seek to ensure continued compliance with Stark Law requirements.

CPI-U Updates

As per usual, the CPI-U Updates page of the CMS Stark website, found [here](#), was updated before the end of the year to reflect the new compensation limits (based on inflation) for the nonmonetary compensation exception (at 42 C.F.R. § 411.357(k)) and medical staff incidental benefits exception (at 42 C.F.R. § 411.357(m)). For calendar year 2020, the non-monetary compensation limit is \$423 (up from \$416 for calendar year 2019) and medical staff incidental benefits must be less than \$36 per occurrence (up from \$35 in calendar year 2019).

DHS Code List Updates

As we explained in our blog post [here](#), in the calendar year 2020 Medicare physician fee schedule final rule (“PFS”), CMS finalized changes to the advisory opinion process under the Stark Law, and also included the annual update to the list of CPT/HCPCS codes used to identify certain categories of DHS (the “Code List”). As we also explained, the Stark Law regulations at 42 C.F.R. § 411.351 specify that the following four categories of

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DHS are defined by reference to the Code List: (1) clinical laboratory services; (2) physical therapy, occupational therapy, and outpatient speech-language pathology services; (3) radiology and certain other imaging services; and (4) radiation therapy services and supplies. The Code List is updated annually to reflect changes in the most recent CPT and HCPCS Level II publications.

Further, items and services that may qualify for either of two Stark Law exceptions—the exception for preventive screening tests, immunizations and vaccines at 42 C.F.R. § 411.355(h) and the exception for EPO and other dialysis-related drugs at 42 C.F.R. § 411.355(g)—are identified by reference to the Code List. The Code List included the annual updates to the codes eligible for the preventive screening tests, immunizations and vaccines exception. However, as in previous years, the Code List does not include any codes eligible for the EPO and other dialysis-related drugs exception (for reasons explained by CMS in the rule). The PFS rule includes tables showing the additions and deletions to the Code List.

As per usual, the complete Code List was posted before the end of the year to the CMS Stark website dedicated to the Code List, found [here](#). The new list is effective January 1, 2020.