

## OIG Gainsharing Opinion Facilitates P4P

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Although it has been almost a decade since the OIG has issued a gainsharing opinion, OIG Advisory Opinion No. 17-09 confirms the federal government's support of the pay for performance concept.

OIG 17-09 is the first gainsharing opinion issued since the 2015 amendment of the Civil Money Penalty statute (42 U.S.C. § 1328-7a(b)(1)). As you may recall, the CMP previously prohibited payments to induce a reward withholding medical care, but the 2015 amendment changed that to specifically limit the statute to "medically unnecessary" care. Obviously, that is a judgment call, but the intent is clearly to encourage gain sharing/pay for performance/value based purchasing.

OIG 17-09 provides a current guideline for how to implement this concept.

In a recent presentation I made at the AHHA Hospital and Physician Institute with a colleague, Robert Harrison, we noted this type of payment arrangement could well benefit from being included in the peer review process in order to maintain the confidentiality of what we might describe as the low outliers on the pay for performance spectrum. You should think twice about processes that identify deficient performance, if you define deficient performers as those that don't qualify for any performance payments or incentives.