

Can the MSO Management Fee be More Than 90% of the Revenue of the Medical Practice?

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The anti-kickback laws require these fees to be fair market value and not take into consideration the referral of any patients that might come from the MSO to the medical practice.

It so happens these days that a lot of MSOs will provide marketing services for the medical practice. And depending on your state law, it could open the door to interpretations that there are patient referrals and that part of that fee may be in consideration for the volume or value of the patient referrals.

There's no one answer, what is fair market value? 90%, just kind of my gut reaction to it, is that's way too high for a management company to be charging. And I always tell clients, at the end of the day, put yourself in the position where you're defending this fee, and if you're in court and you see the person up there in the black robes and you're trying to justify this fee, it might look a little strange that the lion's share of the practice is going to a lay business, the management company. And so that would raise a number of alarm bells to most judges, to most enforcement agencies out there.

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