

Does Stark Law Apply to Medicaid Patients?

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By Michael H. Cohen

The Stark Law, also known as the Physician Self-Referral Law, is a federal statute that prohibits physicians from referring patients for certain designated health services (DHS) payable by Medicare to an entity with which the physician or an immediate family member has a financial relationship, unless an exception applies. The law is designed to prevent conflicts of interest, overutilization of healthcare services, and unnecessary costs to federal healthcare programs.

Generally, the Stark Law specifically applies to services billed to Medicare, not Medicaid. However, providers should note that other federal and state regulations, such as the federal Anti-Kickback Statute and state-level Medicaid fraud laws, can still apply to Medicaid patient referrals and financial relationships. In many states, similar self-referral laws mirror Stark provisions and do cover Medicaid.

In this blog, you will get a clear explanation of the Stark Law and its intent. Furthermore, you will learn who the Stark Law applies to and how healthcare providers can stay compliant.

What Is the Stark Law?

Formally known as the Physician Self-Referral Law, the Stark Law is a federal statute under the [Social Security Act](#) that prohibits physicians from referring patients to receive certain designated health services (DHS) payable by [Medicare](#) from entities with which the physician or their immediate family member has a financial relationship, unless an exception applies. This law is commonly referred to as Stark I and Stark II, depending on the version and its scope of application. The Stark Law is a strict liability statute, meaning a physician can be held liable even without specific intent to violate the law.

The purpose of the Stark Law is to protect federal programs and patients by preventing conflicts of interest, fraud, and unnecessary or excessive services in Medicare referrals. It is designed to stop physicians from making referral arrangements that are motivated by financial incentives rather than patient care needs.

Key restrictions of the Stark Law involve compensation arrangements, ownership interests, and referring physicians who may stand to gain from the healthcare services they recommend. These laws cover DHS, such as clinical laboratory services, outpatient hospital services, home health services, durable medical equipment, occupational therapy services, physical therapy services, radiation therapy services, imaging services, prosthetic devices, parenteral and enteral nutrients, and outpatient prescription drugs. Any compensation agreement involved must meet certain criteria, including being commercially reasonable, reflecting fair market value, and avoiding payment based on the volume or value of referrals.

Additionally, failure to comply with the Stark Law can result in severe penalties, including liability under the [False Claims Act](#), exclusion from Medicare and Medicaid programs, and repayment of all Medicare funds received under the tainted referrals.

These violations are taken seriously, even in cases of temporary noncompliance. Healthcare providers are expected to maintain contemporaneous documents and contracts proving adherence to the Stark Law exceptions.

Who Does the Stark Law Traditionally Apply To?

The Stark Law traditionally applies to healthcare providers operating within the Medicare and Medicare Advantage programs. It is designed to govern how physicians refer patients for certain designated health services reimbursable by Medicare, not Medicaid.

This means that Medicaid services are generally not subject to the Stark Law restrictions. However, that does not mean referrals within the Medicaid program are unregulated. In fact, state-level Medicaid fraud laws, as well as the federal Anti-Kickback Statute, may still apply and carry similar restrictions regarding improper financial arrangements and referring physicians.

Under the Stark Law, covered entities include hospitals, home health agencies, clinical laboratories, imaging centers, and suppliers of durable medical equipment and prosthetic devices. The types of services most commonly subject to Stark restrictions are those defined by the Centers for Medicare & Medicaid Services (CMS) as DHS. These include physical therapy, occupational therapy, radiation therapy, clinical laboratory services, outpatient hospital services, and certain other imaging services.

Does Stark Law Apply to Medicaid Patients?

According to statutory language and regulatory guidance, the Stark Law applies exclusively to Medicare, not Medicaid. Therefore, referrals for Medicaid patients are generally excluded from the Stark Law enforcement, even when they involve designated health services such as clinical laboratory services, outpatient hospital services, durable medical equipment, home health services, occupational therapy services, physical therapy services, radiation therapy services, and outpatient prescription drugs.

The rationale behind this exclusion lies in how Medicare reimbursement and claims are processed under federal oversight, while Medicaid services are largely administered by individual states with varying rules. That said, certain state Medicaid programs have adopted laws or regulations that mirror the Stark Law or integrate Stark-like provisions into their own Medicaid fraud enforcement efforts.

While the federal Stark Law itself does not apply to Medicaid, these state-level statutes may impose similar limitations on referring physicians and financial arrangements involving healthcare providers who serve Medicaid patients. Additionally, states operating under Medicaid waivers or managed care models may introduce further nuances or enforcement mechanisms that align with general market value and fair market value requirements.

Related Laws That May Affect Medicaid Referrals

Even though the Stark Law does not apply directly to the Medicaid program, other federal and state laws can impose strict oversight on financial relationships and referral arrangements involving Medicaid services.

They include:

- **Federal Anti-Kickback Statute (AKS):** Unlike the Stark Law, the Anti-Kickback Statute applies to both Medicare and Medicaid. It is broader in scope and criminal in nature, making it illegal to offer, solicit, or receive any form of remuneration in exchange for referrals involving federal healthcare programs. Violations of AKS can lead to criminal penalties, false claims, exclusion from federal programs, and civil monetary fines.
- **State Medicaid Fraud Laws:** Some states have adopted statutes that expand on federal prohibitions, applying rules that restrict physician self-referral for Medicaid even if the Stark Law wouldn't normally apply. For example, some states closely monitor compensation arrangements, free rent or office space, or referral arrangements that are not commercially

reasonable or that exceed fair market compensation. In such states, healthcare services tied to financial incentives, even if aimed at Medicaid patients, may be flagged for improper conduct. These statutes also work in conjunction with False Claims Act provisions when providers submit Medicaid claims tainted by improper referrals.

What Are the Penalties for Violating the Anti-kickback Rules With Medicaid?

Violating the Anti-Kickback Statute (AKS) in connection with Medicaid services can result in severe legal and financial consequences for healthcare providers. These penalties are far-reaching and can affect the future viability of a healthcare practice or organization.

Typically, **civil penalties for Anti-Kickback violations can include fines of up to \$50,000 per violation, along with treble damages.** This means triple the amount of any remuneration involved in the improper referral. This includes cash, gifts, inflated lease agreements, and anything of value that may improperly influence a referring physician.

In addition to civil penalties, there are criminal penalties for willful violations of the AKS. **These include criminal fines and up to 10 years of imprisonment per violation.** Furthermore, individuals and entities found guilty can **face exclusion from participation in federal healthcare programs, including Medicare and Medicaid.** This exclusion can be devastating for practices that rely on federal reimbursements to stay operational.

Improper referrals that result in the submission of false or fraudulent claims to Medicaid may also **trigger liability under the False Claims Act.** This statute allows for significant financial recovery by the government and whistleblowers, including penalties for each false claim submitted.

Violating the Anti-Kickback Statute also exposes providers to **reputational damage** and a **loss of trust** among patients, payers, and referral partners. Additionally, violations significantly **increase the risk of audits and investigations** by state Medicaid Fraud Control Units, the Office of Inspector General (OIG), and other federal authorities. Providers found in violation are often required to **repay all Medicaid funds** received through improper referral arrangements, adding an additional financial burden.

To avoid these costly and common healthcare compliance mistakes, healthcare providers must ensure that all financial relationships, compensation agreements, and referral arrangements are compliant with AKS and state-level laws. Even unintentional missteps can result in penalties due to the broad nature of the law.

How Can Healthcare Providers Stay Compliant With Medicaid?

To stay compliant with Medicaid services regulations, providers should **implement clear referral policies that are specifically tailored to Medicaid patients**, ensuring that all referral arrangements are ethical and free from inducements. This is especially important when making referrals for services that are commonly referred to and susceptible to scrutiny under federal programs.

Maintaining thorough documentation for every financial or referral agreement is another essential compliance measure. These documents should outline the general market value, terms of the compensation agreement, and any relevant exceptions of the Stark Law, even if Stark doesn't directly apply. These records become crucial in defending against allegations of false claims, particularly if improper referrals lead to the submission of claims that could violate the False Claims Act.

Healthcare providers must also **regularly train staff on Medicaid compliance requirements, including how the physician self-referral law differs from Medicaid regulations.** Because state Medicaid laws often vary, organizations should closely monitor final rules, waivers, and updates that may impact what is considered compliant within their specific state Medicaid program. In some cases, separating Medicare reimbursement processes from Medicaid billing and referrals may help reduce confusion and the risk of a Stark Law violation or AKS issue.

Conducting periodic audits is another critical strategy. These audits should evaluate all **financial arrangements, value-**

based arrangements, and any incentives offered that could be interpreted as **patient abuse** or fraud. Identifying and correcting **temporary noncompliance** early can prevent larger issues down the line.

Most importantly, healthcare providers should **consult with experienced healthcare attorneys** who understand the complexities of Medicaid fraud, self-referral, and the intersection of Stark II, AKS, and state laws. Legal counsel can help providers design compliant practices, document referral arrangements, and respond appropriately to investigations or audits.

Need Expert Legal Guidance on Stark Law Compliance?

While the Stark Law does not apply to Medicaid patients, that doesn't mean providers are free from regulatory oversight when it comes to Medicaid referrals. Instead, healthcare providers must stay vigilant and compliant with other applicable laws, including the federal Anti-Kickback Statute, False Claims Act, and state Medicaid fraud laws that often mirror or expand upon Stark's intent.

FAQ

Below are answers to common questions about Medicaid referrals and the laws that govern them:

Does The Stark Law Apply to Medicaid Managed Care?

No, the Stark Law applies only to Medicare and does not cover Medicaid managed care. However, other laws like the Anti-Kickback Statute may still apply.

Can Medicaid Referrals Ever Be Subject to The Stark Law Restrictions?

Generally, the Stark Law does not apply to Medicaid referrals. But if the referral also involves Medicare services, Stark restrictions may come into play.

What Laws Protect Medicaid Patients From Improper Referrals?

The Anti-Kickback Statute and various state Medicaid fraud laws protect Medicaid patients by prohibiting referrals made in exchange for financial incentives.

How Do State Laws Impact Medicaid Referrals Differently?

State laws vary but may impose Stark-like restrictions or additional requirements that apply specifically to Medicaid services and providers within the state.