MARSHALL STEVENS

LITIGATION SUPPORT

CASE STUDY

Defending Physician Compensation Arrangements

Establishing the Fair Market Value and Commercial Reasonableness of Provider Service Payments in a Federal False Claims Act Qui Tam Matter

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Challenge

One of the largest nonprofit health systems in the United States was the defendant in a qui tam action brought under the False Claims Act, alleging that payments made for provider services rendered under certain physician compensation arrangements exceeded fair market value, were not commercially reasonable, and gave rise to violations of the federal physician self-referral law (Stark Law) and the Anti-Kickback Statute. The system's outside litigation counsel, a leading international law firm, required an independent healthcare valuation expert to evaluate dozens of professional services arrangements between the health system and numerous physician and provider group counterparties, spanning a multitude of specialties (e.g., emergency medicine, cardiology, interventional radiology) and services (e.g., medical directorship, call coverage, clinical). Some arrangements were supported by existing, historical fair market value and commercial reasonableness opinions, while others had no contemporaneous valuation documentation, adding significant complexity to the analysis. The engagement required rigorous, defensible opinions capable of withstanding adversarial scrutiny in federal litigation.

Approach

Amit Payan, ABV, served as the designated healthcare valuation expert for the defense. For arrangements supported by existing fair market value opinions rendered by third-party appraisal firms, the work involved a detailed review and assessment of the underlying methodologies, assumptions, and benchmark data. For arrangements without existing documentation, Amit rendered independent, fair market value and commercial reasonableness opinions, drawing on physician compensation survey data, productivity and work RVU analyses, and established healthcare regulatory valuation frameworks. The engagement also included a critical review and rebuttal of the opposing expert's methodology, analyses, and findings. Amit's findings were documented in expert opinion and rebuttal reports, and Mr. Payan was deposed as an expert witness in the matter.

Outcome/Solution

The analyses provided counsel with an independent, well-documented record supporting the fair market value and commercial reasonableness of the arrangements at issue. The expert opinions withstood deposition scrutiny and supported the defense strategy, contributing to a resolution of the matter and a favorable settlement for the health system client. The engagement underscored the importance of rigorous, contemporaneous valuation support for physician compensation arrangements in a heightened regulatory enforcement environment.