

# Another DOJ False Claims Act Settlement - Two Cardiovascular Disease Testing Labs to Pay \$48.5M to Resolve Allegations of Kickbacks and Unnecessary Testing

AUTHOR: SANDBERG PHOENIX

The OIG has made it clear that laboratory payments to referring physicians are suspect as another False Claims Act (FCA) settlement was announced. The \$48.5M settlement involves Health Diagnostics Laboratory, Inc. (HDL) and Singulex Inc. and resolves allegations they violated the FCA by paying remuneration to physicians in exchange for patient referrals and billing federal health care programs for medically unnecessary testing. Allegedly HDL and Singulex induced physicians to refer patients to them for blood tests by paying them processing and handling fees between \$10 and \$17 per referral and routinely waiving patient co-pays and deductibles.

This settlement comes after a recent Advisory Opinion 15-04 was issued on March 18, 2015 and posted March 25, 2015 setting forth an opinion that a laboratory's proposal to enter agreements with physician practices to provide services to the physicians' patients and waive all fees for those patients who are enrollees of certain insurance plans that required the patients to use other labs. The OIG concluded that the proposed arrangement could potentially result in prohibited remuneration under the anti-kickback law. The advisory opinion indicated such prohibited remuneration could result in administrative sanctions under the anti-kickback law as well as provide grounds for permissive exclusion from government programs.

Last summer, on June 25, 2014, the OIG issued a Special Fraud Alert concerning compensation paid by laboratories to referring physicians and physician group practices. In that Alert, the OIG emphasized that transfers of value from laboratories to physicians represent a substantial risk of fraud and abuse under the anti-kickback statute. Arrangement involving payments by labs to physicians to collect, process, and package patients' specimens was considered suspect because of the possibility of the physician receiving double payments, providing evidence of unlawful intent.

Our clients need to be aware of the potential for significant penalties from prohibited remuneration related to referrals for lab services. We are here to answer their questions. Please let us know if we can help.

Links to the Special Fraud Alert, Advisory Opinion 15-04, and the announcement of the \$48.5M False Claims Act settlement are listed below:

[Special Fraud Alert: Laboratory Payments to Referring Physicians](#)

[OIG Advisory Opinion No. 15-04](#)

[Two Cardiovascular Disease Testing Laboratories to Pay \\$48.5 Million to Settle Claims of Paying Kickbacks and Conducting Unnecessary Testing](#)