

Understanding Group Purchasing Organizations and the Safe Harbor Provision

The Role of Group Purchasing Organizations: Efficiencies Result in Savings

Group Purchasing Organizations (GPOs) play an important role in helping hospitals and other health care organizations across the country save billions of dollars annually. A recent study by Dr. Eugene S. Schneller (1), entitled, 'The Value of Group Purchasing 2009: Meeting the Needs for Strategic Savings', finds that GPOs save the U.S. health care industry \$36 billion dollars annually. GPOs provide health care providers with tremendous leverage and bulk-buying power thereby enabling them to purchase products and services at a lower cost than they could realize by individually buying the identical goods and services. By using GPOs, health care providers avoid supply chain and acquisition costs and the time and money required to negotiate and execute potentially thousands of individual contracts. These savings allow hospitals and health care providers to dedicate more of their scarce financial resources directly to patient care, hiring additional doctors and nurses, purchasing more advanced products and technology, and providing a spectrum of other greater value-added, patient centered services.

Explaining Administrative Fees

The contracting services that GPOs provide to hospitals, other health care providers and product and/or service vendors are financed in part by fees paid to GPOs by vendors. Known in the industry as "administrative fees", these fees are generally based on the purchase price the healthcare provider pays for a product purchased through a GPO contract. The fee is paid only when a GPO's health care provider, member, or client utilizes a GPO contract for that vendor's product(s) or service(s), and not before. In general, administrative fees are used to support a portion of GPO operating expenses and in many instances return an efficiency dividend to member hospitals. GPOs are required to report all administrative fees to their customers.

The Purpose of the Safe Harbor Provision

The purpose of the GPO "Safe Harbor" regulation is to reduce health care costs and assist rural hospitals in their purchasing needs. Enacted by Congress in 1987, the Medicare and Medicaid Patient Protection Act 1987 allows GPOs to charge administrative fees to suppliers while providing services to hospitals. In 1991, HHS promulgated Safe Harbor regulations, reflecting Congress' intent to permit contract administration fees. Because GPOs arrange for the referral of business to health care suppliers (through negotiating contracts for the benefit of their health care provider members) and receive an administrative fee in return for these services, this situation could trigger the federal Anti-Kickback Statute. "Safe Harbor" regulations describe how health care providers are required to structure their financial transactions so that they comply with federal law.

The "Safe Harbor Provision" states: "GPOs may be allowed to provide goods or services to a hospital or health care provider as long as both of the following two standards are met – (1) The GPO must have a written agreement with each hospital or health care provider, that provides for either of the following agreements: (a) The vendor from which the hospital or health care provider will purchase goods or services will pay a fee to the GPO of 3 percent or less of the purchase price of the goods or services provided by that vendor, and (b) In the event the fee paid to the GPO is not fixed at 3 percent or less of the purchase price of the goods or services, the agreement specifies the exact percentage or amount of the fee. (2) The GPO must disclose in writing to the hospital or health care provider at least annually, the amount received from each vendor with respect to purchases made by or on behalf of the hospital or health care provider."

Why the Safe Harbor Provision Should Remain In Force

Congress should leave this Safe Harbor provision the way it is because the system is designed to ensure hospitals get the best deal possible. GPOs do not get paid their administrative fee from suppliers until a hospital buys something from them. GPOs also adhere to an industry Code of Conduct that ensures protection against conflicts of interest, access to innovative services and opportunities for small manufacturers to obtain GPO contracts, while complying with anti-kickback and anti-trust laws. This mix of regulatory rules and self-regulation requires transparency of GPO-vendor relationships and allows GPOs to respond most effectively to the needs of the health care marketplace.

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