



National Health Council

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National Patient Organizations Ask for Exemption under Physician Sunshine Act

Washington, DC (September 11, 2014) – Sixty-four patient advocacy organizations, spearheaded by the National Health Council (NHC), have asked the Centers for Medicare and Medicaid Services (CMS) to create an exclusion under the physician Open Payments Program (commonly called the Sunshine Act) that would exempt reporting for indirect payments to patient organizations, also known as voluntary health agencies (VHAs).

The Physician Payments Sunshine Act, which was included in the Affordable Care Act, requires drug, biologic, and device companies to report transfers of value in excess of \$10 to doctors. This includes research grants, travel expenses, or even meals. This also includes indirect payments to doctors through a third party such as VHAs.

The challenge for patient organizations is the lack of clarity about whether the disclosure requirements apply to indirect payments to VHAs to support research programs, continuing medical education, and other activities - even if companies are unaware of which doctors will receive the funding. As such, companies are requesting, as a condition of funding, the names of all doctors who participate in the sponsored activities.

As the patient organizations point out in their collective letter, VHAs often pool funding from a variety of sources, including, but not limited to, manufacturers. Revenue from a particular corporate grant or sponsorship is indistinguishable from revenue provided from other sources, such as individual donors. Additionally, VHAs maintain full discretion in how the funding is allocated. Without an exclusion, patient organizations must restructure their programs to distinguish money that comes from companies and report the names of the doctors who receive the money, and in which proportional amount – or else forgo these funds.

The NHC and the patient advocacy community are calling on CMS to clarify that indirect payments to VHAs are exempt under the Sunshine Act in cases where a company grants full and independent discretion to VHAs in selecting recipients of funding.

Additional Resources:

- Joint sign-on letter from 64 patient organizations – <http://ow.ly/Bo9Qs>
- CMS Sunshine Act Fact Sheet – <http://ow.ly/BnXuS>

About the National Health Council:

Founded in 1920, the National Health Council (NHC) is the only organization that brings together all segments of the health community to provide a united voice for the more than 133 million people living with chronic diseases and disabilities and their family caregivers. To learn more about the NHC, visit www.nationalhealthcouncil.org.

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