

*Upon Request:*

*OIG Issues Advisory Opinion on Storing Portable Oxygen Systems at  
Hospitals and Physicians' Offices*

The U.S. Health and Human Services Department's Office of Inspector General stated in a recent advisory opinion that distributing portable oxygen systems on-site at hospitals and physicians' offices to departing patients may not violate anti-kickback laws.

**OIG issued the opinion upon request of the following outlined scenario--referred to in the document as "Company A"--this opinion applies only to Company A. "This opinion may not be relied on by any persons other than Company A, the requestor,"** OIG said.

Like other oxygen providers nationwide, the requesting supplier supplies and delivers home oxygen systems, and other DME, to patients within a specific service area. But recently Company A has arranged to place an inventory of its oxygen equipment on-site at referral sources' offices, clinics and hospitals, to allow patients who choose Company A's equipment to take the equipment home right away.

The Inspector General was asked whether such an arrangement would constitute a violation of anti-kickback laws. Based on the specific arrangement that the requesting company described--which included signed contracts between company A and referral sources, the promise that Company A would not reward referral sources for acting as a distributor and the certification that patients would retain a choice of oxygen providers--OIG determined that such an arrangement would not violate anti-kickback laws.

"We conclude that the proposed arrangement would not generate prohibited remuneration under the anti-kickback statute and, therefore, the proposed arrangement would not constitute grounds for the OIG to impose administrative sanctions on Company A under [sections of the Social Security Act]," OIG said.

To ensure that the arrangement does not compromise patients' freedom of choice, each referral source is provided with a list of local DME suppliers and is "encouraged to provide the list to its patients."

This advisory opinion is available at

<http://oig.hhs.gov/fraud/docs/advisoryopinions/2002/02-4.pdf>