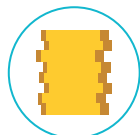
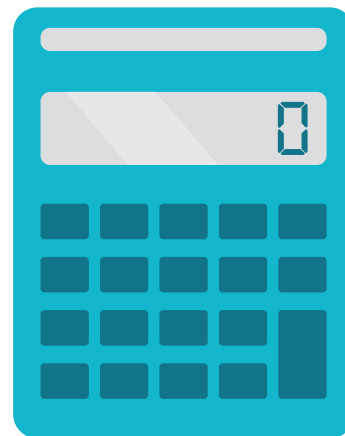


Provider Self-Disclosure Protocol: Dealing with damages

Healthcare providers and life sciences organizations face many compliance challenges. CRA shares practical insights gained working through challenges involving the Provider Self-Disclosure Protocol (SDP).



A dollar saved is \$1.50 earned

The OIG has stated that its “general practice in [civil monetary penalty] settlements of SDP matters is to require a minimum multiplier of 1.5 times the single damages.” Every dollar that single damages can appropriately be reduced will typically save the disclosing party at least \$1.50.



Prove the sample is reasonably representative

To ensure the defensibility of the damages analysis, the disclosing party should consider analyzing its statistically valid sample to demonstrate that the sampled units are reasonably representative of the population as a whole.



Pick the best approach

Disclosing parties often consider “but-for” reimbursements as an offset to estimated total damages. Governments may be open to this approach as a matter of equity as long as it is 1) disclosed and presented in a transparent manner and 2) consistent with the underlying facts and circumstances of the situation.



Keep track of underpayment

The SDP prohibits a “...reduction, or ‘netting’ for any underpayments discovered in the review.” However, if a significant number of underpayments are noted during the review process, some disclosing parties will include them in the SDP report as it may be relevant in their negotiations with the government re: penalties.



Avoid double payment

The disclosing party does not need to repay improper claims that were identified during the probe sample if 1) they were included in the study population from which a statistically valid sample was drawn and 2) repayment was made based on that sample. This would result in a double payment to the government.

Kristofer Swanson, CPA/CFF, CFE, CAMS | Vice President & Practice Leader, Forensic Services
+1-312-619-3313 | kswanson@crai.com