# Do I have a Stark problem?

**Is a physician involved?** — No / Yes

The Stark law only applies to physicians. However, Stark may apply to physician extenders depending upon the level of supervision and direction provided by the physician. The Stark law also applies to financial relationships between the immediate family of a physician as well as a physician group.

**Is there a referral of a patient?** — No / Yes

Although the Stark law only applies to Medicare patients, there is a general prohibition in Stark law against the use of federal funds to pay for services furnished to a Medicaid patient that would not be permitted under the Medicare program. Put another way, Stark is not violated if a Medicaid patient is involved, but the Medicaid program cannot use Federal funds to pay for services provided to the Medicaid patient if those services would violate Stark. Similarly, commercial insurance companies that follow Medicare guidelines will not pay for services that would not be permitted under the Medicare program. In addition, some states have enacted Stark-like laws that apply to all payors.

**Is the referral for a designated health service (DHS)?** — No / Yes

Designated Health Services are specific to the following:
1. Clinical laboratory;
2. Physical therapy;
3. Occupational therapy;
4. Radiology services;
5. Radiation therapy;
6. DME
7. Parenteral and enteral nutrients, equipment, supplies;
8. Prosthetics, orthotics, devices, supplies;
9. Home health;
10. Outpatient prescription drugs;
11. I/P and O/P hospital services.

**Is there a financial relationship between the physician and the DHS provider?** — No / Yes

To be safe, financial relationships should be evaluated very broadly when doing a Stark analysis. A financial relationship can occur for direct and indirect payment relationships, compensation arrangements, employment, ownership interests, investment interests. Simply put, if anything of value is given by a DHS entity to a physician, physician's family, or physician's group practice, careful scrutiny of the financial relationship requirement is warranted.

**Is an exception met?** — Yes / No

There are **35** Stark exceptions by statute or regulation, including:
1. Physician services;
2. In-office ancillary services;
3. Indirect compensation;
4. Risk sharing arrangements;
5. Academic Medical Centers;
6. Publicly traded securities;
7. Space/equipment leases;
8. Bona fide employment;
9. Personal services;
10. Physician recruitment;
11. Fair market value comp;
12. Non-monetary compensation
13. Compliance training;
14. Community Health Info Sys.
15. Obstetric malpractice insurance subsidy;

**Probably not a Stark problem**

**Potential for a Stark problem**