

(i) An interest in an entity that arises from a retirement plan offered by that entity to the physician or immediate family member through the physician's or immediate family member's employment with that entity;

\* \* \* \* \*

(d) \* \* \*

(1) Compensation will be considered "set in advance" if the aggregate compensation, a time-based or per unit of service based (whether per-use or per-service) amount, or a specific formula for calculating the compensation is set in an agreement between the parties before the furnishing of the items or services for which the compensation is to be paid. The formula for determining the compensation must be set forth in sufficient detail so that it can be objectively verified, and the formula may not be changed or modified during the course of the agreement in any manner that reflects the volume or value of referrals or other business generated by the referring physician.

*Percentage  
Fee  
Prohibition*

Percentage-based compensation, other than compensation based on revenues directly resulting from personally performed physician services (as defined in §410.20(a)), is not considered set in advance.

\* \* \* \* \*