

## Part B Insider (Multispecialty) Coding Alert

### AMBULATORY SURGERY CENTERS: CMS Confirms ASCs Can Collect From Medicare for Brachytherapy

Just before 2007 ended, CMS offered ambulatory surgery centers a New Year's surprise--ending rampant speculation about whether ASCs can bill Medicare for brachytherapy services that their physician-owners order and that their ASC provides.

The confusion existed -because brachytherapy sources are subject to the Stark self-referral prohibition as a radiation therapy supply that, under the new ASC payment system, will be reimbursed separate from the ASC facility fee and, thus, will not be eligible for the exception to the Stark law for facility fee items and services,- according to a Dec. 20 news clarification from **Kathy Bryant**, chief executive officer of the **Ambulatory Surgery Center Association**, based in Alexandria, Va.

In addition, Bryant said, -ASCs that furnish brachytherapy services may take full advantage of expanded coverage for brachytherapy sources without any Stark law concerns.-

Medicare's decision noted that brachytherapy qualifies for a separate Stark exception for implants (such as durable medical equipment and prosthetics) that are provided in the ASC.

A new Q&A on the CMS Web site confirms that the agency is -interpreting 42 C.F.R. - 411.355(f) to include implanted brachytherapy sources,- allowing brachytherapy to qualify for an exception to the self-referral ruling in ASCs.

In addition, some ASCs were confused about whether a physician could -refer- a patient to his own ASC for radiation therapy services. But -referrals for radiation therapy services are excepted from the definition of -referral- if they are provided pursuant to a consultation requested by another physician (which requires the radiation oncologist to communicate with the referring physician regarding treatment, etc.)- says **Beth Anne Jackson, Esq.**, with **Thorp Reed & Armstrong LLP** in Pittsburgh. -Therefore, as long as they follow the rules for consultation, they can refer to an ASC that they have an ownership interest in because it is not a -referral,- - she says.