

Part B Insider (Multispecialty) Coding Alert

COMPLIANCE: CMS Proposes Self-Referral Ban For PET Scans, Nuclear Medicine

You may need to bail out of joint ventures

You could have a much harder time performing PET scans and nuclear medicine tests if a new proposal goes through.

The **Centers for Medicare & Medicaid Services** wants to make diagnostic nuclear medicine and PET scans Designated Health Services (DHS) under the Stark self-referral law, according to the 2006 Physician Fee Schedule proposed rule. Under the Stark law, physicians who examine patients can't provide DHS themselves, because that's considered DHS self-referral. Physicians will also be prohibited from sending patients to any facilities that they have an ownership interest in.

Currently, DHS includes X-rays, ultrasounds, CT, MRI and bone densitometry tests. The category doesn't include any procedures that require you to insert a needle, catheter, tube or probe into the skin or a "body orifice." But DHS hasn't included nuclear medicine and PET scans until now.

"Why nuclear medicine was carved out I'm not sure, because nuclear medicine services are very similar to X-rays and ultrasound," says **Barbara Grant**, a principal with **Gates, Moore and Company** in Atlanta.

CMS argues that nuclear medicine and PET scans "pose the same risk of abuse" as radiology and imaging services. When CMS was preparing the Stark rules, nuclear medicine procedures mostly happened in hospitals, so they were already covered under the Stark law. Also, CMS barely covered PET scans in 2000, but Medicare has started to pay for PET scans for many conditions since then. Nuclear medicine services provided to Medicare patients increased 85 percent from 1999 to 2003.

When a managed care organization stopped paying non-radiologists for some kinds of imaging but allowed them to refer to radiologists, imaging services declined 20 to 25 percent, according to a report in the Journal of Radiology. CMS says this proves physicians order more imaging tests when they make money on them. Some consultants have been encouraging physicians to get into joint ventures to buy diagnostic nuclear medicine machines because the Stark rules don't cover them, according to CMS. If the agency goes through with its proposal to include nuclear medicine in the DHS list, however, physicians will have to divest their ownership or investment, or else be unable to bill Medicare.