

Part B Insider (Multispecialty) Coding Alert

COMPLIANCE: Comments On Stark Rules Split Between Pro And Con

Brace yourself for a world of legal muddles if proposals go through

A controversial plan to slash your deals with hospitals and other doctors- offices could become a reality in January.

The **Centers for Medicare & Medicaid Services** (CMS) wants to make sweeping changes to the Stark rules which govern your doctor's referrals to partly-owned entities. The rules would prevent your doctor from marking up the cost of purchased tests, receiving payments for equipment on a -per-click- basis, and sending patients to the doctors- own joint ventures. (See The Insider, Vol. 8, No. 22.)

Many legal experts say these changes could decimate many arrangements that your doctors have set up. But the comments on CMS- proposed rule went both ways. Some doctors protested the proposals:

-We presently lease a lithotripter from a company in which local urologists are owners,- writes **David Hall**, a physician with **St. Vincent Health System**. -If we and the other hospital in town are prevented from leasing the equipment on a per-case basis, we may have trouble providing the service because of scarce capital.- Also, if both hospitals have to buy their own machines, it will drive up the cost of providing this service in the community.

Some providers also wrote to protest a proposal that would make it more difficult to bill for part-time therapists who work out of a doctor's office. -It only benefits the profession of occupational therapy to be in a physician central office,- wrote occupational therapist **Stacey Huffman**. -The physician will often call with questions,- such as how a therapist can help with a patient's home safety, community mobility and wheelchair evaluations.

But other providers wrote to encourage CMS to close what they saw as loopholes:

-I am aware of arrangements in my practice area that give physician groups a share of the revenues from the pathology services ordered and performed for the groups- patients,- says a form letter that many pathologists sent to CMS. These pathologists support CMS- moves to prevent these non-pathologists from making a profit on pathology services, by banning markups on purchased pathology tests.

-The -in-office ancillary exception- should not allow a non-specialist physician to ... refer patients for specialized services that will be performed on equipment owned by the non-specialist physician,- insisted **Michael Langenberg** with **University Radiology**. -Physicians who are allowed to self-refer have been proven to order anywhere from two to nine times more studies than those who do not self-refer.-