

## Part B Insider (Multispecialty) Coding Alert

### COMPLIANCE: Don't Roll Into Trouble With The Feds

#### Free local transportation may raise warning flags unless you're careful

Some larger multi-specialty physician groups may feel tempted to spend money on a van service to transport patients with mobility issues to and from office visits. But before you start piling people into your ride, it's important to cover your legal bases.

The **HHS Office of Inspector General** came out with one advisory opinion in 2000 setting ground rules for free transportation. And the OIG has addressed the issue in a couple of other documents, including one suggesting that it may create an anti-kickback safe harbor for free transportation, say attorneys.

But for now, the issue remains a bit of a gray area, says **Paul Gillan** with **Iseman, Cunningham, Riestler & Hyde** in Albany, NY. Here are some tips to help you navigate the maze.

- **Don't accept transport from elsewhere.** It's one thing to bring patients to your office in a car or van. But if your local hospital brings patients to you in a van, then the hospital is providing you with a free service, and that's a kickback, says Washington, DC-based attorney **Kevin McAnaney**, who wrote some of the OIG's guidance on transportation when he was an official there. Even if the hospital is only across the street, it's not allowed to drive patients to your door.
- **Provide transport only to existing patients.** Don't use a van service to bring in patients who've never been to your office before, or it will look like you're using the transportation to increase your patient population, says McAnaney. If you send a van to a senior center and bring in all those patients for a screening, it will definitely raise some eyebrows at the OIG, he adds.
- **You can't advertise** your van service or other transportation, adds McAnaney.
- **Don't bus patients in for a specific service**, advises Gillan. If you drive patients in to your office, it must be for all of the services your office offers, not just for one big-ticket service. "In some areas you may have physicians who are setting up more profitable lines of business," such as using MRI machines, Gillan notes. "So their first thought is, 'Gee, if I get a van, I can bring the patients in and I can give them an MRI while they're here.'" But this won't look good to the feds, he warns.
- **Offer transportation to every area you serve.** You can't simply offer a van service to one neighborhood or population, Gillan warns.
- **The transport can't be a limo service** or otherwise luxurious, warns **Robert Wade**, a partner with Baker & Daniels in South Bend, IN.
- **You can't transport patients** for a service you wouldn't normally provide, Wade adds.
- **The transportation must be truly local.** If you've got a satellite office at the other end of your state and a patient wants to come into the main office for a test or second opinion, the patient will have to pay for a Greyhound bus herself, Wade says.