

## Part B Insider (Multispecialty) Coding Alert

### COMPLIANCE: Don't Rush Into Opening A Single-Specialty Hospital

#### End of moratorium doesn't mean a ceasefire in war on doc-owned hospitals

You may have rejoiced when a Medicare moratorium on doctor-owned specialty hospitals finally dragged to an end--but the problems may just be beginning. (See PBI, Vol. 7, No. 30.)

As tempting as it might be to rush headlong into the specialty hospital field, there are a few factors that make it a less attractive investment:

**1) Scrutiny:** The **Centers for Medicare & Medicaid Services** (CMS) promised to keep a close eye on specialty hospitals to make sure they aren't providing an improper reward to physician investors, notes attorney **Charles Oppenheim** with **Foley & Lardner** in Los Angeles. CMS and the **HHS Office of Inspector General** will also be looking for signs that doctor-owned hospitals are damaging general hospitals.

**2) More changes:** Even if CMS doesn't decide to take further action against doc-owned hospitals, Con-gress may step in. Senators **Charles Grassley** (R-IA) and **Max Baucus** (D-MT) have been beating a drum on this issue for months. Most recently, they accused CMS- specialty-hospital report of soft-pedaling the problems with these hospitals and of comparing apples to oranges.

**3) New financial picture:** You can't rely on past reimbursement data to figure out if you want to invest in a specialty hospital because the inpatient rates are set to change drastically, warns **Kathy Poppitt**, a partner with **Thompson & Knight** in Austin, TX. CMS is hitting cardiology hospitals especially hard on purpose, says Poppitt. If hospitals make less money than expected, doctors will either have to accept lower payouts--or run the risk of committing fraud with payouts that aren't based on their actual investment.

**4) New competition:** In the orthopedic field, specialty hospitals will have new competition from ambulatory surgery centers, which will be able to handle more procedures soon, notes Poppitt.

**What to do:** If you do decide to invest in a specialty hospital, you should comply with all of the new disclosure and reporting regulations--and plan to be able to serve any patient who comes in with an emergency. You should also make a -bona fide- investment, meaning the physician investor puts forward a wad of cash, says Oppenheim. The doctor can't borrow his or her share or down payment from the hospital or other investor. Also, pay attention to state laws that may have their own requirements.

-You have to set it up very carefully, and with a view to the possibility that you might have to pull the plug,- warns Oppenheim. -You have to have an exit strategy going in.-