

## Part B Insider (Multispecialty) Coding Alert

### COMPLIANCE: Find Out When the OIG Advisory Process Applies to Your Practice

Tip: Make request before implementing policies.

You've most likely read about one or two of the OIG's "advisory opinions" in the past, but in addition to knowing how the OIG rules on other practices' situations, it's a good idea to know when this process could help your practice -- and what the rules are.

**What is it:** If you think one of your practice's actions might be in violation of the law (such as the civil monetary penalties or Stark laws), you can ask the OIG to analyze your case and make a determination regarding the legality of your arrangement. That opinion is the Advisory Opinion, which will let you know whether you are potentially in violation of the law.

**What it doesn't cover:** The OIG will not address topics such as "model arrangements" or general questions of interpretation, among other issues, in advisory opinions, according to the OIG's Web site. **How to request one:** If you'd like to ask the OIG to issue an advisory opinion on your situation, you should gather the required materials (including two copies of your request, your contact information, and an initial \$250 fee, among other items) and submit them to the OIG's Washington office.

For a full list of required items and the address where you should send them, visit the OIG's Web site at [www.oig.hhs.gov/fraud/advisoryopinions/aofaq.asp](http://www.oig.hhs.gov/fraud/advisoryopinions/aofaq.asp).

**Prep your documents:** Before you create your advisory opinion request, you should consider asking a health care attorney for advice, says **Mark Rogers, Esq.** with The Rogers Law Firm in Boston. "The attorney should be able to provide an opinion as to whether the arrangement creates any potential fraud and abuse liability exposure for the parties involved in the arrangement," Rogers says. "Based upon the uniqueness of the arrangement, the attorney should be able to provide guidance as to whether an Advisory Opinion request is appropriate," he says.

If you do request an Advisory Opinion, the attorney "should at the very least review the request to determine that it includes the pertinent facts about the arrangement, Rogers says. "A complete description about the arrangement is necessary in order for the OIG to provide the Advisory Opinion."

**Request before implementing:** If you think your practice would benefit from an Advisory Opinion, file your request before you begin performing the questionable action.

"The advisory opinion process is designed to yield reviews of proposed arrangements," says **David C. Harlow, Esq.** with The Harlow Group in Newton, Mass.

Next week, the Insider will reveal whether or not you could face repercussions for information in Advisory Opinion requests.