Codify
BY AAPC

Part B Insider (Multispecialty) Coding Alert

COMPLIANCE: If The Stock Can't Go Up, It Can't Corrupt, CMS Says

Non-profit physician group's stock plan wins CMS blessing

Stock plans without financial benefits may succeed in avoiding legal scrutiny under federal self-referral laws, judging from one advisory opinion from the **Centers for Medicare & Medicaid Services.**

A non-profit group of 700 physicians asked CMS whether its stock plan could be considered a financial relationship. Various laws, including the Stark self-referral law, restrict physicians' referrals and Medicare claims when the physicians have a financial relationship with providers they do business with.

The group allows doctors to become shareholders after practicing for two years. Each shareholder can buy one share for $1,000, and then when the shareholder leaves the practice, he or she must sell the share back for $1,000. The shares don't increase in value or accrue interest. Shareholders are allowed to vote on matters relating to the practice.

Shareholders sign an agreement stating that they have no right to the assets of the practice, except for receiving their $1,000 back when they leave. And if the practice dissolves, it will distribute all its assets to charitable or scientific organizations.

CMS ruled that the "shares" in the non-profit physician group don't have any of the usual characteristics of investments, including financial benefits or risks. Shares are non-transferrable and just give physicians a vote. And physicians have no incentive to enhance the value of their stock by driving up referrals.

So the shares don't constitute a "financial relationship" or ownership interest, CMS concluded, and the self-referral laws don't apply. The CMS opinion only applies to the group that requested it, the agency cautions.