

Part B Insider (Multispecialty) Coding Alert

COMPLIANCE: Respond To Surveys--Or Face \$10,000 Per Day In Fines

Doctor-owned hospitals risk having to cough up \$12 million in penalties

Medicare finally ended a moratorium on your doctor owning a single-specialty hospital--but you still shouldn't rush into any deals.

The **Centers for Medicare & Medicaid Services** (CMS) will keep scrutinizing doctors- ownership of hospitals, CMS administrator **Mark McClellan** said at an Aug. 8 press conference.

For the past 18 months, CMS has blocked new physician-owned specialty hospitals from opening. CMS just issued a report to Congress on whether doctor-owned specialty hospitals -skim- the most expensive patients from regular hospitals. So far, CMS hasn't found any serious issues caused by physician ownership in hospitals, but CMS will do some more digging soon.

To prevent specialty hospitals from cherry-picking the most profitable patients without shouldering costs, CMS will:

- require transparency to make sure that the doctor's investment in the hospital is appropriate. CMS will also make sure the hospital isn't paying the doctor more than his or her fair share of the hospital's profits.
- require specialty hospitals to provide emergency care to any patients who need it, just as any other hospital does.
- start demonstration projects to work with general hospitals to improve their coordination with your office, so your doctor sends more specialty patients their way. These could also include -gainsharing,- where your doctor receives a share of money that the hospital saves by becoming more efficient.

Watch out: If your physician-owned hospital didn't respond to earlier surveys that CMS sent out, then it will be the first to receive a new batch of surveys from CMS. Any hospital that doesn't respond quickly to those surveys will be fined \$10,000 **per day**, McClellan said.

If CMS decides your doctor's deal with a hospital is improper, then you could face massive fines as well. **For example:** If a doctor only owns 2 percent of a hospital, but receives 5 percent of the hospital's profits, CMS will view that as a violation of the law, officials told reporters.

Already, CMS has identified four hospitals that billed inappropriately during a period when CMS had a ban on hospitals billing for services their physician owners referred. Those hospitals will face \$12 million in overpayments and fines, officials said.

Hospitals may have to disclose to patients if the patients- doctors have an ownership stake in the hospitals, McClellan added.

Also, Medicare wants to reform the inpatient hospital payment system so that some procedures aren't way more profitable than others. This could make it harder for doctors to steer only the highest-margin patients to their own hospitals, notes McClellan.

CMS is also proposing to change how it pays for services in Ambulatory Surgery Centers (ASCs) dramatically. In 2007, 14 surgical procedures will join the list of procedures which you are approved to bill in the ASC setting.

And then in 2008, every single procedure you can bill in the outpatient setting will be billable in the ASC--unless your



physician can't perform the procedure safely in the ASC setting or it requires an overnight stay. ASC payments will be based on outpatient amounts, but reduced.

Medicare will pay the same amount in the doctor's office and the ASC for procedures which doctors commonly perform in the office. CMS doesn't want your doctor to move procedures to the ASC just to make a bigger profit.