

Part B Insider (Multispecialty) Coding Alert

COMPLIANCE: 'Set-In-Advance' Stark Setback Buys Physicians Time

Teaching hospitals and medical foundations bracing for a potential paperwork nightmare July 7 received a reprieve from the **Centers for Medicare & Medicaid Services**.

CMS on April 25 once again delayed the effective date of a controversial element of the Stark physician self-referral regulations - a single sentence in the Jan. 4, 2001, Stark rule that deals with percentage compensation arrangements and the definition of "set in advance."

Many of the exceptions to the Stark rule that apply to compensation arrangements can be invoked only if the amount of compensation is set in advance. CMS is grappling with whether its interpretation of "set in advance" automatically excludes percentage compensation deals from the Stark exceptions - a reading that could leave teaching hospitals, [physician practices](#) and medical foundations scrambling to rework thousands of contracts.

This is the third time CMS has delayed the rule, which is now effective Jan. 7, 2004. The agency says the "set in advance" issue will be worked out definitively in the Stark Phase II rule.

To see the notice delaying the rule, go to www.access.gpo.gov/su_docs/fedreg/a030425c.html.