Part B Insider (Multispecialty) Coding Alert

HEARINGS: Specialty Hospital Moratorium Bill Could Be DOA

Influential congressman promises to keep bill from leaving committee

A new bill could forbid doctors from referring Medicare or Medicaid patients to specialty hospitals in which the doctors have an ownership interest.

The Hospital Fair Competition Act of 2005 would bar such so-called "self-referrals." The bill's sponsors, Senate Finance Committee Chairman **Chuck Grassley** (R-IA) and ranking Democrat **Max Baucus** (D-MT), cite recent studies that show physicians only treat the least sick, and most profitable, patients in their own specialty hospitals (See PBI, Vol. 6, No. 18.).

But the bill would "grandfather" existing specialty hospitals and allow them to operate under the current rules. The existing hospitals wouldn't be allowed to increase their physician investors or the percentage of each physician's individual investments, scope of services or number of beds or operating rooms.

The bill also would instruct the **Department of Health and Human Services** to set rules for so-called "gainsharing" arrangements, where hospitals reward physicians for delivering care more efficiently. Congress' current moratorium on physician-owned specialty hospitals is set to expire on June 8, and the bill would take effect on that date.

The **Centers for Medicare and Medicaid Services** opposes extending the current moratorium. But CMS agreed to halt approvals of new specialty hospitals for another six months while it studies payment options.

And at least one powerful legislator has called the Grassley-Baucus bill DOA. House Energy & Commerce Committee Chairman **Joe Barton** (R-TX) said he won't even mark up the bill, in a May 12 hearing on specialty hospitals.

As required by law, HHS issued its recommendations on reforming payments to specialty hospitals. HHS recommended:

1. reforming the DRG system to make it less tempting for physicians to game the system between specialty hospitals and outpatient departments;

2. reforming ambulatory surgery center payment rates to refine the "crude" nine-tier price structure and remove undue price differentials;

3. looking more closely at whether new specialty hospitals really meet the definition of a hospital; and

4. examining whether specialty hospitals are meeting all the Medicare requirements for hospitals, including the conditions of participation.

HHS expects to have revised its policies around specialty hospitals by January 2006.

CMS Issues Report

CMS also issued a study on specialty hospitals that Congress required in the Medicare Modernization Act. CMS said that cardiac hospitals are much closer to full-service hospitals than orthopedic or surgery hospitals, because of their greater number of beds, emergency departments and community outreach programs. Orthopedic/surgery hospitals more closely resemble ASCs.

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CMS found the physician-owned cardiac specialty hospitals tended to treat less-sick patients than their competitors, but they did deliver a comparable quality of care. The specialty hospitals provided less uncompensated care than community hospitals, but made up for it by paying taxes, CMS said.

"Our current payment system may not provide appropriate incentives for maximizing quality and costs for our overall beneficiary population," CMS Administrator **Mark McClellan** told the May 12 hearing, according to Associated Press.

"Physician-owned specialty hospitals have not harmed general hospitals financially," the **American Medical Association** told the hearing. "They have improved care for Medicare beneficiaries and other patients, and patient satisfaction with these hospitals is extremely high."

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