

## Part B Insider (Multispecialty) Coding Alert

### Joint Ventures: 'Under Arrangement' Deals Offer Better Payment, Fewer Fraud Risks

**But don't pay docs more than their share of what the business is worth**

**Warning:** Don't rush into a full-fledged joint venture with your local hospital without considering the alternatives.

Often, physicians want to provide a particular technical service, such as lithotripsy or MRIs, to their local hospitals. One approach is for the physicians and the hospital to form a company together to provide that service to the hospital. But these deals can raise fraud and abuse concerns.

Luckily, there's an alternative. Instead of forming an equity partnership with the hospital, the physicians can form their own company and provide the services "under arrangement" to the hospital. The hospital buys the technical component of the service from the physician venture. And the rules are very different when the physicians own 100 percent of a company instead of a partial ownership, say attorneys.

If physicians own 100 percent of a venture, then they can refer patients to the hospital that in turn uses the services of that venture, says attorney **Alice Gosfield** in Philadelphia. The hospital should pay "per-click" to lease the equipment from the physician-owned venture, rather than a blanket payment, she adds.

If a hospital leases equipment from a physician-owned company and then bills Medicare for using the equipment, the hospital owns the equipment according to the Stark law, says attorney **David Glaser** with **Fredrickson & Byron** in Minneapolis. Although the physicians actually own the equipment, because they're not billing Medicare, the Stark law views the hospital as the real owner.

Physicians providing services "under arrangement" have a compensation relationship - rather than an ownership relationship - with the hospital under the Stark law. And the exceptions that a physician must meet are somewhat easier for a compensation relationship than for an ownership relationship, Glaser explains.

One of the main benefits of the "under arrangement" model is the hospital gets to bill for the services it leases as hospital services, says Glaser. Often, Medicare will pay more for a service in the hospital than the program would in a Part B clinic.

**But watch out:** The physicians' earnings shouldn't depend on how much business they send to their "under arrangement" venture, says Gosfield. For example, if a physician owns a 20 percent share of an imaging company but is responsible for 50 percent of the company's patients, that doctor should still only receive 20 percent of the venture's income.