

## Part B Insider (Multispecialty) Coding Alert

### Physician Notes: Physician Practices Can Merge With Hospitals

#### Stark concerns remain unresolved

A merger between a physician practice and a hospital received a green light from the HHS Office of Inspector General on Dec. 11, despite a theoretical risk of kickback concerns.

In advisory opinion 03-15, the OIG takes the measure of the proposed reintegration of a hospital and medical practice that had split into separate corporate entities back in 1963. Under the deal, the practice would transfer its assets to the hospital in exchange for the funds necessary to satisfy all encumbrances related to the transferred assets - a less-than-fair-market-value sum - and spots on the hospital's board of directors.

In addition, the practice and the hospital would enter into a professional services agreement (PSA) under which the practice would provide services in the hospital's ER and a new outpatient clinic, serving essentially the same patient base as it did prior to the reintegration. The hospital would also buy the practice's office building and provide administrative support services at fair-market-value rates.

In assessing the kickback risks, the OIG notes that the most obvious potentially illegal remuneration "flows in the same direction as the most obvious referral pattern" - i.e., from the physicians to the hospital - and thus poses little risk. However, parts of the deal - such as the PSA, the building purchase, and the administrative services contract - could conceivably create kickback risks.

Noting, however, that the physician group would be serving basically the same patients pre- and post-reintegration and that the purchase and contracts are fair-market-value transactions, the OIG says it won't impose sanctions on the parties.

But the watchdog agency warns that the proposed deal raises potential issues under the Stark physician self-referral law, issues that the OIG remains silent on.

1. **The -WU and -ZD modifiers became obsolete** at the end of the year in Georgia, Part B carrier Cahaba GBA reminds providers in its provider bulletin.

The Centers for Medicare & Medicaid Services required carriers to phase out all unofficial Level III HCPCS codes and modifiers. Providers were using modifiers -WU and -ZD when they billed for the global or purchased portion of a diagnostic test, or [CPT Codes](#) 70000 through 90000.

Modifier -WU indicated a purchased technical service, showing that the technical or professional portion of a diagnostic test was purchased from an outside source. Modifier -ZD denoted a global diagnostic test. But claims with those modifiers started rejecting as of Jan. 1. Read all the details online at <http://www.gamedicare.com/provider/ModifierWUZD.htm>.