

Part B Insider (Multispecialty) Coding Alert

RADIOLOGY: Bar 'Self-Referrals' of Imaging Tests, ACR Urges CMS

Can the **Centers of Medicare & Medicare Services** staunch the flood of imaging services ordered by physicians who aren't radiologists?

The **American College of Radiology** thinks so. The ACR urged CMS and the **HHS Office of Inspector General** to interpret the Stark II physician self-referral law more narrowly in regulations and their enforcement. If CMS agrees, it could publish new regulations that would quickly cut off many physicians from billing for imaging scans.

In its late June comments on CMS' recent Stark II interim final rule, the ACR disagrees with CMS' decision to leave "services such as nuclear medicine" out of the category of designated health services (DHS) covered by the Stark law. Even though the Stark law is "broad and ambiguous," it's clear that "Congress intended that DHS categories cover services like nuclear medicine prone to abusive utilization," the ACR insists.

As manufacturers perfect techniques that fuse positron emission tomography and CT imaging, the costs of combined PET/CT scans will skyrocket because providers will need to cover the costs of new equipment, the ACR predicts. So the ACR calls on CMS to stick PET scans and other nuclear medicine procedures back in the radiology category of designated health services.

Also, the ACR warns that physicians are taking advantage of the broad "in-office ancillary services exception," which lets doctors refer to themselves for some services they provide in their own offices, including imaging tests. In the latest Stark II regs, which take effect July 26, CMS said that physicians could bill for imaging tests as long as they were performed in the same building as the physicians' offices.

CMS set up three ways that physicians' imaging tests could qualify under this "same-building" test, according to attorney **John Knapp** with **Duane Morris** in Philadelphia, PA:

- 1) The referring physician or group practice has an office in the building that is open to patients at least 35 hours a week and the referring physician or one or more members of the group regularly furnishes medicine at least 30 hours per week. Some of the physician services provided in that building must be unrelated to designated health services.
- 2) The office in the building must be open at least eight hours per week, and the referring physician regularly furnishes medicine at least six hours per week.
- 3) The referring physician is present and orders the DHS during a patient visit on the premises, and the office meets all the criteria in number 2.

The ACR insists that CMS has drawn this "same building" test much too broadly and turned on the money faucet for self-referring practices.

The **American College of Physicians** co-sponsored a successful resolution sponsored by the **American College of Cardiology** that reaffirmed the **American Medical Association's** support for keeping the more liberal Stark II policy in place, notes the ACP's director of policy analysis and research, **Jack Ginsburg**.

"We think it's a real issue of patient quality and patient convenience," Ginsburg insists. "It's particularly an issue for internists and cardiologists to be able to offer inpatient diagnostic imaging services." The ACP opposes both regulatory and legislative actions to bar nonradiologists from offering diagnostic imaging services.

"Most physicians felt it was an integral part of physician practices, and that it was in the best interest of patients" to obtain an imaging test quickly rather than waiting for an outside radiologist to do it, Ginsburg adds. Often, patients face imminent danger and need a test to identify a "life-threatening" condition in time.