

Long-Term Care Survey Alert

What Do You Think?

Question: What do government authorities consider to be "plan steering" under Part D and is it against the law or survey regulations?

Facilities that steer residents to a particular prescription drug plan are violating the law, says **Harvey Tettlebaum**, an attorney with **Husch & Eppenberger** in Jefferson City, MO. "Which particular law depends on whether the facility receives something of value for steering residents to a particular facility, which would be an anti-kickback law violation," he adds.

In addition, a facility could violate residents' rights by not allowing them to choose from PDPs that meet the **Centers for Medicare & Medicaid Services'** criteria, according to Tettlebaum.

Facilities are free to educate residents about the various plan options, but cannot direct the person to sign up for a particular plan.

Know the List of Don'ts:

According to Tettlebaum, facilities should not engage in these actions:

- (1) accept compensation from a PDP, MA-PD or long-term care pharmacy to enroll residents into a particular plan or set of plans;
- (2) state directly that residents must choose one plan;
- (3) accept a completed Part D enrollment application and put it in the mail for the resident; or
- (4) push the send button on an electronic application.