

## MDS Alert

### Medicare Legislation: 6 Payment-Related Provisions In The New Medicare Reform Law You Won't Want To Miss

The mammoth Medicare reform law contains some good news for nursing facilities on the payment front that your facility can use to its advantage.

The most heralded change, of course, is relief from the Part B rehab caps that went into effect Sept. 1. Effective Dec. 8, the **Medicare Prescription Drug, Improvement, and Modernization Act of 2003** imposes a two-year moratorium on the onerous annual limits. The law also directs the **General Accounting Office** to report to Congress by Oct. 1, 2004, about which conditions and diseases should be waived from the therapy cap.

Other key payment provisions include the following:

**Increased Medicare reimbursement for AIDS patients.** A provision in Title V increases RUGs reimbursement by 128 percent for SNF AIDS patients. "The law doesn't spell out how that would work, however," says **Barbara Gay**, director of information for the **American Association of Homes & Services for the Aging**.

**A drug benefit.** The Act establishes a drug prescription benefit under a new Part D, effective starting Jan. 1, 2006. How that might play out for non Part A-stay residents in nursing homes is unknown at this point, Gay says. Dually eligible Medicare/Medicaid beneficiaries residing in institutional settings, such as nursing homes, would not have to ante up the drug copayment.

**An escape hatch if the facility relies on bad advice from its FI.** Providers that rely on inaccurate written guidance by Medicare or its contractors won't be hit with penalty and interest on their overpayments. "That doesn't mean the facility doesn't have to pay the money back, however," cautions **Howard Sollins**, attorney with **Ober/Kaler** in Baltimore. **Tip:** Pay attention to how you communicate and document discussions with intermediaries and carriers, he suggests.

**Authorization for providers to pursue appeals for deceased residents.** SNFs will be able to appeal coverage denials in cases where a resident dies and there is no one to pursue the appeal.

**Potential for more managed care.** Remember the days when Medicare HMOs held promise as a viable payment alternative to fee-for-service? The reform law just might put managed care back in the game. New Medicare Advantage plans will replace the current Medicare+Choice program beginning in 2006. "If the Medicare Advantage plans become popular, it will affect how facilities contract for business," Sollins adds.