

MDS Alert

What Do You Think?: The Resident's Right To Choose Providers Under Consolidated Billing

Here's the answer to last month's question:

Can a SNF insist a resident receive oncology radiation therapy in an outpatient hospital setting (so it's excluded from the PPS rate) if the resident wants to get the therapy in a freestanding center nearer his family or for other reasons?

Attorney **Harvey Tettlebaum** believes a nursing facility that insists a resident get radiation therapy at an outpatient hospital setting (so that it would be excluded from the Part A rate) would conflict with the right of a resident to select his or her health care provider. "Of course, the facility also has a problem if the physician orders these services in a setting other than an outpatient hospital setting," Tettlebaum says, because they won't be excluded from Part A consolidated billing.

To avoid these types of dilemmas, Tettlebaum suggests facilities discuss the issue with the physician upon the resident's admission to the facility. "See what the physician will recommend to his/her patients and also explain to the physician the alternatives available and the ramifications" in terms of the impact on the facility, suggests Tettlebaum, a partner with **Husch & Eppenberger** in Jefferson City, MO.