

OASIS Alert

Risk Management: DON'T LET CONSULTANTS LAND YOU IN HOT WATER

7 tips to protect you from bad advice.

Faulty guidance can bring down the feds' wrath - and penalties - on your agency.

As OASIS and the prospective payment system begin to attract more enforcement attention, providers often look to consultants to navigate the complex rules and regulations.

Warning: If you act on bad advice from a consultant, you can be held responsible for results of that advice, be they false claims or other compliance breaches.

Protect yourself: To help ensure you're getting solid advice, ask for the source of the consultant's information, counsels attorney **Rob Wanerman** with **Epstein Becker & Green** in Washington. The primary source should be publicly available information, such as files from the **Centers for Medicare & Medicaid Services**, which the consultant is digesting for you, he says.

Tip: An item published in the Federal Register is very solid, whereas a letter from a CMS staffer could prove very flimsy, if challenged.

Here are some steps you can take to ensure that "reliance on bad advice does not lead to False Claims Act liability," according to a Law Watch from the law firm **Foley & Lardner**:

1. Do not predetermine the reimbursement strategy based on economic factors.
2. Seek advice of the consultant before submitting the claims at issue or making a change in reimbursement methodology.
3. Check the consultant's references to make sure the consultant selected is recognized as an expert in the field and has substantial experience in the particular reimbursement matter under consideration.
4. Clearly define the consultant's role.
5. Present the consultant with all material information including additional facts learned after the commencement of the consultant's work.
6. Get the consultant's advice in writing.
7. Strictly follow the consultant's advice, as long as it is not obviously unsound.