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Understanding CMS' New Guidance for Hospital Emergency Services: Preserve Your Medicare Provider Status

Part 3 – What's on the Horizon?

September 11, 2007

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FY 2008 Hospital Inpatient PPS Final Rule Issued 8/22/07

- Updates to EMTALA Regulations
  - Specifies that the sanctions that do not apply during a national emergency are those for either the inappropriate transfer of an individual who has not been stabilized or those for the direction or relocation of an individual to receive medical screening at an alternative location
  - Waiver of sanctions limited to 72 hour period upon implementation of hospital disaster protocol except for pandemic infectious disease (such as pandemic flu)

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FY 2008 Hospital Inpatient PPS Final Rule Issued 8/22/07

- Disclosure of Physician Ownership in Hospitals
  - Definition of "Physician-owned hospital" at 42 CFR §489.3 and cross references Stark Regulations and exceptions at 42 CFR §§411.356(a)-(b)
  - Patients must be given written notice that a hospital is physician-owned and that patients can request list of physician owners 42 CFR §489.20(u)
  - Failure to abide by requirements could result in denial or termination of provider agreement

FY 2008 Hospital Inpatient PPS Final Rule Issued 8/22/07

- Patient Safety Measures
  - Patients must be given written notice if a doctor is not present in the hospital 24/7 and to describe how the hospital will meet the medical needs of any patient who develops an emergency medical condition at a time when no physician is present 42 CFR §489.20(v)

Stark Law

42 USC §1395nn; 42 CFR §411.355

- MMA (2003) – limited physician ownership in “Specialty Hospitals” until June 2005
- DRA (2006) –Secretary instructed to continue suspension of enrolling new specialty hospitals until September 2006
- Reports Issued to Congress on Specialty Hospital

Reports to Congress on Specialty Hospitals August 2006 MedPAC Report

Reports to Congress on Specialty Hospitals April 2006 GAO Report

United States Government Accountability Office

GAO

Report to the Chairman, Committee on Ways and Means, House of Representatives

April 2006

GENERAL HOSPITALS

Operational and Clinical Changes Largely Unaffected by Presence of Competing Specialty Hospitals

GAO

Accountability • Integrity • Reliability

GAO-06-520

Reports to Congress on Specialty Hospitals August 2006 – CMS Final Report Strategic Plan for Specialty Hospitals

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Details for: MEDICARE ISSUES FINAL REPORT TO CONGRESS IMPLEMENTING STRATEGIC PLAN FOR SPECIALTY HOSPITALS

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For Immediate Release: Tuesday, August 08, 2006

Contact: CMS Office of Public Affairs
202-690-6145

MEDICARE ISSUES FINAL REPORT TO CONGRESS IMPLEMENTING STRATEGIC PLAN FOR SPECIALTY HOSPITALS

ACTIONS HIGHLIGHT PAYMENT ACCURACY, TRANSPARENCY, AND ENFORCEMENT

Stark III – Section 651 of Proposed Children's Health and Medicare Protection Act of 2007 (HR 3162)

- Hospital had Provider Agreement as of 7/24/07
- No expansion of operating rooms or beds
- Annual disclosure to DHHS
- Physicians do not own more than 40% of total value
- Individual physician does not own more than 2% of total value
- Physicians receive interest on similar terms as non-physicians and distributions are proportional to investment made

Stark III – Section 651 of Proposed Children's Health and Medicare Protection Act of 2007 (HR 3162)

- Hospital does not loan, finance, guarantee, subsidize or make a payment on a loan for physician owners
- Physician owners do not receive guaranteed receipt or right to purchase other hospital business (including property near hospital)
- Includes requirements to disclose to patients if a physician is not available onsite 24/7 and hospitals capabilities to treat and transfer

Stakeholders Interested in Section 651

Hospital Community

- American Hospital Association
- Rural Hospitals
- For Profit Hospitals
- Not-for-Profit Hospitals
- Specialty Hospitals

Physician Community

- American Medical Association
- Physician Specialty Societies