BETTER BENEFITS – MORE CHOICES

Good News about the Medicare Prescription Drug, Improvement and Modernization Act of 2003!

MMA Modifications of Physician Referrals to Specialty Hospitals and Rural Entities

Background

- The physician self-referral law (often referred to as the "Stark rule") prohibits a physician from making referrals for designated health services to an entity with which he or she has a financial relationship, unless a statutory exception applies. Entities furnishing such services are also prohibited from billing Medicare for those services.
- Current law includes an exception that permits a referring physician to have an ownership or investment interest in a hospital if (1) the physician is authorized to perform services at the hospital, and (2) the ownership or investment interest is in the entire hospital (not merely a subdivision of the hospital). Current law also allows ownership or investment interests in an entity furnishing designated health services in a rural area if substantially all such services furnished by the entity are furnished to residents of the rural area.

New Provisions in the MMA – Specialty Hospitals

- The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) excludes certain specialty hospitals from the current "hospital ownership or investment" exemption for an 18-month period beginning on the date of enactment (December 8, 2003) unless:
  - Such hospital was in operation or under development before November 18, 2003;
  - The number of physician investors at any time on or after November 18, 2003 is no greater than on that date;
  - The categories of specialty services offered at any time on or after November 18, 2003 are no different than on that date;
  - Any increase in the number of beds occurs only in facilities on the hospital's main campus and does not exceed 50 percent of the number of beds as of November 18, 2003, or 5 beds, whichever is greater; and
  - The hospital meets other requirements the Secretary may specify.
- In this provision, a "specialty hospital" is defined as a hospital primarily or exclusively engaged in the care and treatment of one of the following categories:
  - Patients with a cardiac condition;
  - Patients with an orthopedic condition;

- Patients receiving a surgical procedure;
- Any other specialized category of services designated by the Secretary as inconsistent with the purpose of permitting physician ownership and investment interests in a hospital.

❖ A "specialty hospital" does not include psychiatric or rehabilitation hospitals, a hospital whose inpatients are primarily under 18 years old, and certain hospitals with an average inpatient length of stay greater than 20 or 25 days.

New Provisions in the MMA – Rural Entities

❖ The MMA limits the current "rural entity exception", so that physician ownership or investment in an entity furnishing designated health services in a rural area would be allowed only if:

- Substantially all of the designated health services furnished by the entity are furnished to residents of the rural area; and
- For the 18-month period beginning on the date of enactment (December 8, 2003), the entity is not a specialty hospital.

New Provisions in the MMA – Studies

❖ The MMA directs MedPAC (in consultation with GAO) to study any differences in the cost of services furnished by physician-owned specialty hospitals compared to local full-service community hospitals within specific diagnosis-related groups; the extent to which each type of hospital treats patients with certain diagnoses; the financial impact of physician-owned specialty hospitals on local full-service hospitals; how the current diagnosis-related group system should be updated to better reflect hospital costs; and the proportions of payments received, by type of payer, between specialty hospitals and local full-service hospitals.

❖ The MMA directs the Secretary to study the percentage of patients admitted to physician-owned specialty hospitals who are referred by physicians with an ownership interest; the referral patterns of physician owners; the quality of care and patient satisfaction in physician-owned specialty hospitals compared to local full-service hospitals; the differences in uncompensated care between specialty and full-service hospitals, and the relative value of tax exemptions available to such hospitals.

❖ These studies are due within 15 months after the date of enactment (December 8, 2003), including any recommendations for legislation or administrative changes.