DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

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Additional Reporting Requirements Concerning Physician Ownership and Investment in Hospitals

Provider Types Affected

This MLN Matters® Special Edition Article is intended for hospitals that have physician ownership or investment interests, and seek to avail themselves of the whole hospital or rural provider exception to the physician self-referral law. In this article, we refer to hospitals with physician owners or investors as "physician-owned hospitals."

What You Need to Know

Under Section 1877 of the Social Security Act (the Act), also known as the physician self-referral law, a physician may not refer a Medicare patient for certain designated health services (DHS) to an entity with which the physician (or an immediate family member of the physician) has a financial relationship, unless an exception applies, and the entity may not present or cause to be presented a claim to Medicare (or bill another individual, entity, or third party payor) for those referred services.

The Centers for Medicare & Medicaid Services (CMS) issues this article to address the additional reporting requirements imposed by Section 6001 of the Affordable Care Act on physician-owned hospitals seeking to available themselves of the whole hospital or rural provider exception to the

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physician self-referral law. This article does not address other additional requirements imposed by Section 6001 of the Affordable Care Act.

Background

Two exceptions to the physician self-referral law for ownership or investment interests are the whole hospital and rural provider exceptions. Section 1877(i)(1)(C)(i) of the Act requires physician-owned hospitals submit to CMS an annual report containing ownership and investment information to qualify for either exception. This reporting requirement is implemented in the physician self-referral regulations at 42 CFR 411.362(b)(3)(i). (This regulation is available at http://www.gpo.gov/fdsys/search/pagedetails.action?granuleId=CFR-2011-title42-vol2-sec411-362&packageId=CFR-2011-title42-vol2.)

Physician-owned hospitals that report ownership and investment information by following the instructions set forth in the Medicare Enrollment Application Form CMS-855A (CMS-855A) for reporting physician-owned hospital ownership and investment information satisfy the above reporting requirement. Please note that this reporting requirement is not mandatory for Medicare enrollment and does not ensure Medicare enrollment.

Physician-owned hospitals seeking to avail themselves of the whole hospital or rural provider exception must report ownership and investment information following the above process by December 1, 2013. Physician-owned hospitals that submitted this information on or after December 1, 2012, consistent with the above process, will be considered to have met the December 1, 2013 deadline. Hospitals must either update their information or verify that the relevant ownership and investment information in the Medicare Provider Enrollment, Chain, and Ownership System is correct on an annual basis to continue to meet the reporting requirement.

We remind hospitals that information submitted under this process may be published on the CMS website pursuant to Section 1877(i)(2) of the Act. If a hospital reports ownership or investment information under this process but is not seeking to use the whole hospital or rural provider exception, the hospital may request that CMS either not publish or remove its information from the website by emailing POHExceptions@cms.hhs.gov.

Additional Information

For more information about provisions affecting physician-owned hospitals under the physician self-referral law, visit the Physician Self-Referral Physician-Owned Hospitals webpage at http://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/Physician_Owned_Hospitals.html on the CMS website.

For more information about Medicare enrollment, visit the Medicare Provider-Supplier Enrollment webpage at http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/MedicareProviderSupEnroll/index.html on the CMS website.

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