



Disclosure of Physician Ownership in Hospitals – JA6306

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Implementation Date: June 8, 2009

Key Words MM6306, CR6306, R58GI, Physician, Hospital, Ownership, Disclosure

Contractors Affected

- Part A/B Medicare Administrative Contractors (A/B MACs)
- Medicare Carriers
- Fiscal Intermediaries (FIs)

Provider Types Affected Physician-owned hospitals and physicians with hospital ownership interests who bill Medicare FIs, carriers, or A/B MACs for services provided to Medicare beneficiaries in those physician-owned hospitals



The Centers for Medicare & Medicaid Services (CMS) is announcing the adoption of a disclosure requirement that would require both hospitals and physicians to disclose to patients if the hospital is physician-owned, and if the referring physician is a physician owner of the hospital.

Provider Needs to Know...

- Hospitals must furnish written notice to each patient at the beginning of their hospital stay, or outpatient visit, that the hospital is physician-owned.
- The notice must disclose the fact that the hospital meets the federal definition of a physician-owned hospital, and that the list of physician owners or their immediate family members (who have an ownership or investment interest in the hospital) is available upon request and must be provided to the patient at the time of the request.

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- Each physician who is a member of the hospital's medical staff is required to agree (as a condition of continued medical staff membership or admitting privileges), to disclose to all patients that he or she refers to the hospital (in writing at the time of the referral), any ownership or investment interest that he/she, or an immediate family member, holds in the hospital.
 - **If a physician-owned hospital fails to disclose physician ownership information as required, it may lose its provider agreement to participate in the Medicare program.**
 - **If a physician fails to disclose his/her hospital ownership or investment information, he or she may lose hospital medical staff membership.**
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Background

- The Code of Federal Regulations Title 42, Volume 3, Section 489.3 defines a **physician-owned hospital** as any participating hospital (as defined in Section 489.24) in which a physician, or their immediate family member, has an ownership or investment interest.
 - Pursuant to Section 489.3, hospitals that do not have any physician owners who refer patients to the hospital are exempt from these disclosure requirements.
 - Section 5006 of the Deficit Reduction Act of 2005, enacted on February 8, 2006, required the Secretary of Health and Human Services to develop a "strategic and implementing plan" to address certain issues related to physician investment in specialty hospitals.
 - In the August 8, 2006, final report to Congress on this requirement, the Centers for Medicare & Medicaid Services (CMS) stated the adoption of a disclosure requirement that would require both hospitals and physicians to disclose to patients whether the hospital is physician-owned and if the referring physician is a physician owner of the hospital.
 - This ownership disclosure requirement allows patients to make informed decisions, regarding their treatment and to decide if the existence of a hospital-related financial relationship suggests a conflict of interest that may not be in their best interest
 - Specifically, the Fiscal Year (FY) 2008 and FY 2009 Inpatient Prospective Payment System regulations require hospitals to disclose to patients whether they are physician-owned, and if so, to disclose the physician owners' names.
 - This ownership or investment interest may be through equity, debt, or other means (including an interest in the entity that holds an ownership or investment interest in the hospital.)
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Operational Impact	N/A
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Reference
Materials

The related MLN Matters article can be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM6306.pdf> on the CMS website.

The official instruction (CR6306) issued regarding this change may be viewed at <http://www.cms.hhs.gov/Transmittals/downloads/R58Gl.pdf> on the CMS website.
