

STARK REGULATIONS AMENDED
“Rent-A-Lab” Plans Face Tighter Scrutiny
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Confronted with scores of provider leases that it considered to be contrary to the spirit, if not letter, of the Stark law, the federal government has promulgated new rules that severely limit the ability of physicians to enter into part-time leases for designated health services such as clinical laboratories and MRIs.

Until July 26 of this year, it was common for a physician or group to rent a clinical laboratory and its technical staff for a few hours per week. Such an arrangement allowed the physician to perform a clinical laboratory test and bill globally for the service under the “in-office ancillary” exception to the Stark prohibition on self-referrals. Under the new regulations, however, such leases will not be eligible for the in-office ancillary exception unless they meet one of the following three criteria:

The referring physician or his/group practice has an office that is normally open to patients at least 35 hours per week and the physician or practice provides patient services in that office at least 30 hours per week, at least some of which are not related to the designated health service;

The patient receives unrelated services from the physician or group practice, the rented office is open at least 8 hours per week to patients, and the physician or group actually is present at least 6 hours per week, including at least some time providing patient services unrelated to the designated health service; or

The physician present and orders the designated health service during a patient visit, the rented office is open at least 8 hours per week to patients, and the physician or group actually is present at least 6 hours per week, including at least some time providing patient services unrelated to the designated health service.

The common element in all three scenarios is that the rented space must allow the physician or group to actually see patients at the site for a minimum of 6 hours per week, and at least some of those patient encounters must involve services unrelated to the provision of designated health services.

Because the new regulations do not “grandfather” existing leases, physicians are urged to re-examine their existing operations and to make necessary adjustments in order to comply with the new law. Those members having questions may contact the General Counsel’s office at nulandlaw@aol.com. ❖