

# CMS Posts Final Medicare Physician Fee Schedule

November 5, 2007 | Publications

On November 1, 2007, the Centers for Medicare & Medicaid Services (CMS) posted to its website the Final Medicare Physician Fee Schedule (MPFS) and announced that the Final Rule should appear in the November 27 Federal Register.

In July 2007, when CMS issued the Proposed MPFS, CMS included in that proposed rule a number of proposed changes to the federal physician self-referral law, commonly known as the Stark Law. However, in the final rules, CMS finalized only one of its proposals related to physician self-referral matters -- the proposal to make certain modifications for anti-markup provisions for diagnostic tests. Specifically, CMS imposed an anti-mark-up provision on technical and professional components of diagnostic tests that are ordered by the billing physician if the technical and/or professional components are either outright purchased or are performed at a site "other than the office of the billing physician or other supplier" which for purposes of this rule is space in which the physician organization provides substantially the full range of patient care services that the physician organization generally provides.

However, with respect to the remaining issues that CMS addressed concerning the Stark Law in the Proposed MPFS (e.g., unit-of-service payments in lease arrangements; set-in-advance and percentage-based compensation arrangements; stand-in-the-shoes provisions; and alternative criteria for satisfying certain exceptions), CMS states in the preamble to the Final Rule that it intends to address these remaining issues in a separate Final Rule.

*The 2008 physician payment rule is available at the following website and the pages of the Advanced Version on the CMS Website related to this issue are from page 482-570 at <http://www.cms.hhs.gov/>*

## People



David E. Matyas  
Board of Directors / Member of  
the Firm  
Fraud and Abuse Compliance  
Counseling and Defense  
Washington, DC  
202-861-1833  
dmatyas@ebglaw.com



Carrie Valiant  
Board of Directors / Member of  
the Firm  
Fraud and Abuse Compliance  
Counseling and Defense  
Washington, DC  
202-861-1857  
cvaliant@ebglaw.com

*PhysicianFeeSched/downloads/CMS-1385-FC.pdf.*

*EBG's prior News Alert related to the Proposed MPFS can be found at: <http://www.ebghealthlaw.com/hlnews01.php?sid=196> along with a copy of the comments EBG submitted at: [http://www.ebghealthlaw.com/practices.php?p\\_id=8#STARK](http://www.ebghealthlaw.com/practices.php?p_id=8#STARK)*

*EBG also produced a Special Alert related to the separate Final Regulation that CMS published in September 2007 concerning the Stark II Phase III Regulations which can be found at: <http://www.ebghealthlaw.com/hlnews01.php?sid=208>*