

HEALTH LAW

Update

NEWS FOR THE CLIENTS AND FRIENDS OF BASS, BERRY & SIMS PLC

Too Many Surprises in the New Anti-Markup Rule? CMS Has Now Delayed Implementation

December 31, 2007

A brief update for our clients and friends: On December 28, 2007, the Centers for Medicare & Medicaid Services (CMS) issued an advance copy of a final rule delaying until January 1, 2009, the applicability of the new anti markup provisions,¹ **except** with respect to (1) the technical component of a purchased diagnostic test, and (2) any anatomic pathology diagnostic testing services furnished in a space that qualifies as a physician group practice's "centralized building" under the Stark regulations but that does not qualify as a "same building" under those regulations. The final rule delaying the implementation of the new anti-markup rule (except as just mentioned) is effective January 1, 2008 and will be published in the January 3, 2008 Federal Register.

If you have any questions about the delay in the anti-markup provisions mentioned in this Health Law Update, please contact any of the attorneys in our Healthcare Industry Practice Area, listed on the following page.

¹ For a full description of the new anti-markup provisions, see our earlier Health Law Update, "The Surprising Anti-Markup Rule: CMS Ends a Busy Year with a Bang," December 20, 2007, available at www.bassberry.com.

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