



Client Alert

Contact Attorneys Regarding
This Matter:

Jennifer Downs Bugar
404.873.8194 – direct
jennifer.bugar@agg.com

Jennifer S. Blakely
404.873.8734 – direct
jennifer.blakely@agg.com

Arnall Golden Gregory LLP
Attorneys at Law

171 17th Street NW
Suite 2100
Atlanta, GA 30363-1031

One Biscayne Tower
Suite 2690
2 South Biscayne Boulevard
Miami, FL 33131

2001 Pennsylvania Avenue NW
Suite 250
Washington DC 20006

www.agg.com

Senators Request that CMS Publish Final Rules Implementing Sunshine Act by June 2012

On April 4, 2012, Senators Charles Grassley and Herb Kohl issued a letter to Acting Administrator Marilyn Tavenner of the Centers for Medicare & Medicaid Services (CMS) pressing for details regarding implementation of the Physician Payment Sunshine Act regulations. In the letter, the Senators express their concern regarding the timeliness of the proposed regulations. The Senators specifically request that CMS publish the final rules implementing the Sunshine Act no later than June of this year so that partial data collection for 2012 can begin.

The letter also includes comments from the Senators regarding the quality and clearness of the data. The Senators urge CMS “to narrowly define precise payment categories so that all stakeholders are operating under the same assumptions” and to “consider removing the proposed ‘other’ payment category so that it does not obscure the true nature of some payments.” The Senators also urge CMS to develop mechanisms by which errors in data are corrected on a quarterly basis, as opposed to CMS’ proposal to update reporting errors once per calendar year. The Senators ask that CMS consider requiring applicable manufacturers to share the data it plans to report with covered recipients prior to submitting the data to CMS, which would reduce the number of inaccurate payments and disputes reported.

The Senators comment on CMS’ use of a public website to disclose data and state that “disclosed data should be in an easy-to-use format and with terms and product and manufacturer names recognizable to patients.” The Senators also urge CMS to increase its outreach efforts to physicians and other covered recipients to ensure proper implementation of the Sunshine Act. The Senators also request that CMS respond to specific questions relating to timeline for implementation of the Sunshine Act, resources to implement the Sunshine Act regulations and website, and CMS’ plans for outreach to the provider community.

CMS published the proposed regulations on December 14, 2011 and proposed delaying compliance with the Sunshine Act requirements until CMS releases a final rule. For more information on the proposed rule click [here](#).¹

1 <http://www.agg.com/media/interior/publications/Bugar-Blakely-CMS-Issues-Proposed-Physician-Payments-Sunshine-Act-Regulations.pdf>

Arnall Golden Gregory LLP serves the business needs of growing public and private companies, helping clients turn legal challenges into business opportunities. We don't just tell you if something is possible, we show you how to make it happen. Please visit our website for more information, www.agg.com.

This alert provides a general summary of recent legal developments. It is not intended to be, and should not be relied upon as, legal advice.