



**HAWAII HEALTH SYSTEMS**  
C O R P O R A T I O N

*"Touching Lives Every Day"*

## *COMPLIANCE ALERT 10-4*

### ***"Special Rule for Certain Arrangements involving Noncompliance with Signature Requirements"***

CMS recently implemented a change in their rules in their FY2009—IPPS Final Rule (CFR §411.353(g)). This new rule...

"...provides that a financial relationship that otherwise would be out of compliance with an exception that has a signature requirement will remain in compliance with that exception (assuming all other requirements are satisfied), provided that certain conditions are met. Specifically, in the case of non-inadvertent failures to obtain a necessary signature, the parties must obtain the missing signature within 30 days of the beginning of the financial relationship. In the case of inadvertent failures to obtain a necessary signature, the parties must obtain the necessary signatures within 90 days of the beginning of the financial relationship. In either case, new §411.353(g) may be used only once every 3 years with respect to the same referring physician" (page 1031).

**Please Note:** This is a Stark change only; this rule means that no Stark violation per se automatically kicks-in because of lack of a signature. However, HHSC policies and practices require signatures on all contracts before implementation. Consequently, although a missing signature may not incur a Stark violation, it could still be a violation of HHSC policy and the contract may not hold up under State law. Contracts using this rule as the basis to obtain a signature 'after the fact' to avoid Stark issues should still be documented on Regional Compliance Logs. Regions should, of course, work to avoid situations where a signature is not obtained at the time of contract execution and must consult with HHSC Legal Department in the event this new rule is to be used.