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Federal Court Upholds Centers for Medicare and Medicaid Services' (CMS) “Per Click” and “Under Arrangement” Ban

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A federal district court in the District of Columbia recently upheld the Centers for Medicare and Medicaid Services' (CMS) ban on per-click and under arrangements. [*Council for Urological Interests \(CUI\) v. Sebelius, D.D.C. No. 1:09-cv-00546-HHK \(5-24-2013\)*](#).

In *CUI v. Sebelius*, the court ruled that CMS's 2008 rulemaking barring per-click and under arrangements was within the legal bounds of the Stark Law. More specifically, the court upheld CMS regulation [42 C.F.R. §411.351](#) that redefined “furnishing” designated health services (DHS) to include an entity that billed Medicare for DHS *and* an entity that actually performed DHS. The court also upheld [40 C.F.R. §411.357\(b\)\(4\)\(ii\)\(B\)](#) which banned per-click charges for referred patients.

It is possible that this decision may be appealed by CUI.

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