§ 411.387 Parties affected by advisory opinions.

An advisory opinion issued by CMS does not apply in any way to any individual or entity that does not join in the request for the opinion. Individuals or entities other than the requestor(s) may not rely on an advisory opinion.

[63 FR 1658, Jan. 9, 1998]

§ 411.388 When advisory opinions are not admissible evidence.

The failure of a party to seek or to receive an advisory opinion may not be introduced into evidence to prove that the party either intended or did not intend to violate the provisions of sections 1128, 1128A or 1128B of the Act.

[63 FR 1658, Jan. 9, 1998]

§ 411.389 Range of the advisory opinion.

(a) An advisory opinion states only CMS’s opinion regarding the subject matter of the request. If the subject of an advisory opinion is an arrangement that must be approved by or is regulated by any other agency, CMS’s advisory opinion cannot be read to indicate CMS’s views on the legal or factual issues that may be raised before that agency.

(b) An advisory opinion that CMS issues under this part does not bind or obligate any agency other than the Department. It does not affect the requestor’s, or anyone else’s, obligations to any other agency, or under any statutory or regulatory provision other than that which is the specific subject matter of the advisory opinion.

[63 FR 1658, Jan. 9, 1998]