

Small Entity Compliance Guide

Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Organ Procurement Organization Reporting and Communication; Transplant Outcome Measures and Documentation Requirements; Electronic Health Record (EHR) Incentive Programs; Payment to Nonexcepted Off-Campus Provider-Based Department of a Hospital; Hospital Value-Based Purchasing (VBP) Program; Establishment of Payment Rates under the Medicare Physician Fee Schedule for Nonexcepted Items and Services Furnished by an Off-Campus Provider-Based Department of a Hospital

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The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104-121, as amended by Pub. L. 110-28, May 25, 2007) contains requirements for issuance of “small entity compliance guides.” Guides are to explain what actions affected entities must take to comply with agency rules. Such guides must be prepared when agencies issue final rules for which agencies were required to prepare a Final Regulatory Flexibility Analysis under the Regulatory Flexibility Act.

The complete text of this final rule with comment period can be found on the CMS Web site at: <http://www.cms.gov/HospitalOutpatientPPS/>

This final rule revises the Medicare hospital outpatient prospective payment system (OPPS) to implement applicable statutory requirements and changes arising from our continuing experience with this system. In this final rule, we describe the finalized changes to the amounts and factors used to determine the payment rates for Medicare hospital outpatient services paid under the OPPS for CY 2017, including payments to community mental health centers (CMHCs) and hospitals for partial hospitalization services and to policies addressing the basis for receiving payment.

The final rule provisions include OPPS provisions, such as changes to the wage index and market basket update. These provisions also update and refine the requirements for the Hospital Outpatient Quality Reporting (OQR) Program and the ASC Quality Reporting (ASCQR) Program. In addition, we are making changes to the conditions for coverage (CfCs) for organ procurement organizations (OPOs); revisions to the outcome requirements for solid organ transplant programs transplant enforcement, and for transplant documentation requirements; a technical correction to enforcement provisions for organ transplant centers; modifications to the Medicare and Medicaid Electronic Health Record (EHR) Incentive Programs to reduce hospital administrative burden and to allow hospitals to focus more on patient care; and the removal of the HCAHPS Pain Management dimension from the Hospital Value-Based Purchasing (VBP) Program.

Further, we are implementing section 603 of the Bipartisan Budget Act of 2015 relating to payment for certain items and services furnished by certain off-campus outpatient departments of a provider. In conjunction with implementation of section 603 in this final rule with comment period, we are issuing in this **Federal Register** document an interim final rule with comment period that established payment rates under the MPFS for items and services furnished by nonexcepted off-campus provider-based departments of hospitals.

In addition, this final rule updates the revised Medicare ambulatory surgical center (ASC) payment system to implement applicable statutory requirements and changes arising from our continuing experience with this system. In this rule we set forth the applicable relative payment weights and amounts for services furnished in ASCs and other pertinent rate setting information for the CY 2017 ASC payment system.

We estimate that most hospitals, CMHCs and ASCs that participate in Medicare are small entities, either because their revenues fall below the Small Business Administration's size standards for small businesses, or because they are nonprofit, or both.

The effects of this final rule with comment period vary considerably by type of hospital, location, bed size, and other variables, as well as by type of ambulatory surgical center, location, patient population, and types of surgical procedures provided, among other factors.

With respect to payment for hospital outpatient services, overall we estimate that payments to OPPS providers will increase by about 1.7 percent on average in CY 2017, taking into consideration the hospital market basket update factor of 2.7 percent less the required productivity adjustment of 0.3 percentage points, the 0.75 percentage point reduction required under the Affordable Care Act, the 0.04 percent adjustment to the conversion factor due to our policy of packaging unrelated laboratory tests into OPPS payment, and a 0.02 percentage point adjustment for the reduction in estimated pass through payments. Also, as required by the statute, we will further reduce the update by 2.0 percentage points for hospitals that are required to report hospital quality data for outpatient services but that did not report quality data for outpatient services or that did not report the quality data successfully in CY 2016 for the full CY 2017 update, resulting in an estimated decrease in payment of 0.35 percent for those hospitals. Because effects will vary from hospital to hospital, this rule may have a significant impact on a substantial number of small entities.

Effects on ASCs will be more complex and will depend in large part on the mix of services ASCs provide. We are providing ASCs with a 1.9 percent update for CY 2017, based on the 2.2 percent estimated Consumer Price Index for All Urban Consumers applicable to the ASC payment system less a multifactor productivity adjustment of 0.3 percent required under the Affordable Care Act.

In order to assist hospitals in understanding and adapting to changes in Medicare billing and payment for procedures, we have developed a Web page for hospital outpatient services that includes substantial downloadable explanatory materials at:

<http://www.cms.gov/HospitalOutpatientPPS/>.

We have a similar Web page focusing on ASCs at: <http://www.cms.gov/ASCPayment>.