

## **CMS releases OPPS and Physician Fee Schedule final rules, cuts 340B Program payments**

The Centers for Medicare and Medicaid Services (CMS) released the Hospital Outpatient Prospective Payment System (OPPS) final rule for calendar year (CY) 2018, which finalized the agency's proposal to reduce 340B Drug Pricing Program payments for physician-administered drugs by about 28 percent.

Under the final rule, CMS will reduce payments for separately payable, non-pass-through drugs (other than vaccines) purchased through the 340B Program to rate of the average sales price (ASP) minus 22.5 percent from the current ASP plus 6 percent. Sole community hospitals in rural areas, PPS-exempt cancer hospitals and children's hospitals will be exempted from this policy for CY 2018. Critical Access Hospitals (CAHs) are also exempt from the Medicare 340B Program payment cut.

CMS is implementing the payment reduction in a budget-neutral manner by offsetting the estimated \$1.6 billion in reductions in drug payments by redistributing that amount to other non-drug services within the OPPS, meaning hospitals that do not participate in the 340B Program will see their Medicare rate increase slightly.

The hospital industry has said it will work with Congress to address the CMS-finalized cuts. In October 2017, 57 senators and 228 representatives wrote to CMS asking the agency not to final the 340B Program Medicare payment reduction.

Also in the OPPS final rule, CMS updated the hospital OPPS rates by 1.35 percent in CY 2018 compared to CY 2017, which is slightly lower than the 2.0 percent overall impact on pay that CMS proposed and should translate to roughly \$690 million in additional Medicare spending compared to CY 2017.

Among other changes, the OPPS final rule reinstates for CYs 2018 and 2019 the moratorium on enforcement of the direct supervision policy for outpatient therapeutic services for CAHs and small rural hospitals with 100 or fewer beds.

Additionally, CMS announced it is removing total knee arthroplasty from the inpatient-only list and is delaying implementation of the outpatient and Ambulatory Surgery Center Consumer Assessment of Healthcare Providers and Systems survey-based measures in the Outpatient Quality Reporting (OQR) program until further notice. The final rule removes six quality measures from the OQR program.

CMS released the Physician Fee Schedule (PFS) final rule, which will increase physician payment rates by about 0.41 percent for CY 2018 compared to CY 2017, after applying a 0.5 percent payment increase required by the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) and a coding adjustment required under the Achieving a Better Life Experience Act of 2014.

CMS finalized its policy to pay certain hospitals' outpatient departments at 40 percent of the OPPS rate for non-excepted services in 2018 rather than 50 percent, changing its policy for implementing the site-neutral provisions of Section 603 of the Bipartisan Budget Act of 2015. Section 603 requires that, with the exception of dedicated emergency department services, services furnished in off-campus provider-based departments that began billing under the OPPS on or after Nov. 2, 2015, or that could not meet the "mid-build" exception, will no longer be paid under the OPPS, but under another applicable Part B payment system.