



Alerts

Budget Act Eliminates OPPS Reimbursement for New Off-Campus Hospital Departments

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Health Law Alert

Site-neutral payment proposals have long been considered as a way to reduce Medicare Program costs without compromising quality or patient safety. In a move that received little advance attention or debate, Congress implemented a significant proposal by adopting the Bipartisan Budget Act of 2015 ("Budget Act"), which was signed into law on November 2, 2015 ("Effective Date"). The Budget Act largely eliminates hospital coverage for off-campus hospital outpatient departments. Importantly, existing off-campus outpatient departments and dedicated emergency departments are grandfathered, and on-campus hospital departments will not be affected by the exclusion.

Beginning January 1, 2017, services furnished at an off-campus outpatient department of a hospital may no longer be reimbursed under Medicare's hospital outpatient prospective payment system ("OPPS"). However, services of a hospital off-campus department that were billed to Medicare under OPSS prior to the Effective Date are grandfathered. Beginning January 1, 2017, services provided by a hospital off-campus which were not billed under OPSS prior to the Effective Date may be reimbursed under other payment systems, such as the physician fee schedule or ambulatory surgery center prospective payment system, which generally reimburse at rates less favorable than the OPSS.

The exclusion does not apply to Rural Health Clinics or to Critical Access Hospitals, which do not bill Medicare under OPSS.

The implications for this exclusion are widespread. The grandfathered status does not appear to apply to facilities under construction or which will be acquired under a current binding agreement. Decisions to construct or purchase facilities likely were in many instances based on the expectation of reimbursement under OPSS. Further, it is unclear how a hospital should bill non-emergency services provided in a visit to a dedicated off-campus emergency department, how hospitals should bill for services at non-grandfathered facilities following January 1, 2017, and whether the exclusion applies to a new off-campus hospital department within 250 yards of a remote hospital location. It is anticipated CMS will propose additional rules and guidance regarding these and other concerns which have been and will be identified. We will provide additional updates as these developments occur.

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