

# MEDICARE NEWS

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## **CMS adopts policy and payment changes for outpatient care in hospitals and ambulatory surgical centers**

The Centers for Medicare & Medicaid Services (CMS) today issued a final rule with comment period (final rule) that will update payment policies and payment rates for services furnished to Medicare beneficiaries in hospital outpatient departments (HOPDs) and ambulatory surgical centers (ASCs) beginning Jan. 1, 2012. In addition to establishing payment rates for calendar year (CY) 2012, the final rule expands the measures to be reported under the Hospital Outpatient Quality Reporting Program, creates a new quality reporting program for ASCs, and strengthens the Hospital Value-based Purchasing (Hospital VBP) program that will affect payments to hospitals for inpatient stays beginning Oct. 1 2012.

CMS projects that total payments to more than 4,000 hospitals – which includes general acute care hospitals, inpatient rehabilitation facilities, inpatient psychiatric facilities, long-term acute care hospitals, children’s hospitals, and cancer hospitals – paid under the Outpatient Prospective Payment System (OPPS) in CY 2012 will be approximately \$41.1 billion. CMS also projects that payments to approximately 5,000 Medicare-participating ASCs paid under the ASC Payment System will be approximately \$3.5 billion for CY 2012.

“The CMS is committed to the goal of improving the quality and safety of care in all settings for all patients,” said CMS Administrator Donald M. Berwick, M.D. “Using the tools made available under the Affordable Care Act, CMS is moving aggressively to reform the payment and health care delivery systems to provide better care at lower costs through improvement.”

The final rule also establishes an electronic reporting pilot that will allow additional hospitals, including critical access hospitals (CAHs), to report clinical quality measures in CY 2012 for purposes of participating in the Medicare Electronic Health Record Incentive Program.

## **Provisions affecting payments to Hospital Outpatient Departments**

The final rule will increase payment rates under the OPSS by 1.9 percent in CY 2012. This increase is based on the projected hospital inpatient market basket percentage increase of 3.0 percent for inpatient services paid under the Hospital Inpatient Prospective Payment System (IPPS) minus the multifactor productivity adjustment of 1.0 percentage points and minus a 0.1 percentage point adjustment, both of which are required by the Affordable Care Act.

The final rule also provides a payment adjustment for designated cancer hospitals as required by the Affordable Care Act. This payment adjustment is expected to increase payments to cancer hospitals by 11.3 percent (or approximately \$71 million) over what they would have otherwise been paid.

In response to concerns that Medicare's requirement for direct physician supervision of outpatient hospital therapeutic services could hinder access for beneficiaries specifically in rural areas, the final rule establishes an independent advisory review process to consider requests that specific outpatient services be subject to a level of supervision other than direct supervision. Under this process, CMS will seek recommendations from Ambulatory Payment Classification (APC) Advisory Panel about appropriate supervision requirements. This panel was created to provide technical advice and recommendations to CMS about assigning items and services furnished in hospital outpatient departments to appropriate payment classifications. CMS will add two small rural PPS hospital members and two CAH members to represent their interests to the Panel so that all hospitals subject to the supervision rules for payment of outpatient therapeutic services will be represented. Since CAHs are not paid under the OPSS, CAH representatives would not participate in deliberations about APC assignments.

“The CMS is committed to ensuring that beneficiaries who are treated in small rural hospitals have access to high quality, safe therapeutic services in outpatient departments,” said Jonathan Blum, deputy administrator and director for CMS's Center for Medicare. “We believe the process we have adopted will provide meaningful and transparent input from stakeholders to assist CMS in establishing appropriate supervision requirements.”

In other provisions, the final rule will:

- Pay for the acquisition and pharmacy overhead costs of separately payable drugs and biologicals, other than new drugs and biologicals that have pass-through status, at the average sales price (ASP) plus 4 percent.
- Pay for partial hospitalization (PHP) services in hospital-based PHPs and community mental health centers (CMHCs) based on the unique cost-structures of each type of program. For both types of providers, CMS is proposing to finalize our proposal to update the four PHP per diem payment rates based on the median costs calculated using the most recent claims data for each provider type.
- Increase the number of measures for reporting in CY 2012 and CY 2013 for purposes of the CY 2014 and CY 2015 payment determinations, and would modify the process for selecting hospitals for validating reported chart-abstracted measures that was adopted for CY 2012 in the CY 2011 OPSS rule.

### **Provisions affecting payments to Ambulatory Surgical Centers**

The final rule increases payment rates to ASCs by 1.6 percent in CY 2012. This reflects a consumer price index for all urban consumers estimated at 2.7 percent, minus a 1.1 percent productivity adjustment required by the Affordable Care Act.

The final rule also establishes a quality reporting program for ASCs and adopts five quality measures, including four outcome measures and one surgical infection control measure beginning in CY 2012 for the CY 2014 payment determination. The final rule adds two structural measures for reporting beginning in CY 2013 for the CY 2015 and CY 2016 payment determinations – one for safe surgery checklist use, and one for ASC facility volume data on selected ASC surgical procedures.

### **Provisions affecting the Hospital Value-Based Purchasing program**

The Hospital VBP, which was required by section 3001(a) of the Affordable Care Act, was initially established in a final rule published in May 2011. The final rule contained the measures, performance standards, and scoring methodology that would be used to determine the value-based incentive payments to hospitals in FY 2013. The final rule announced today addresses the program requirements for the FY 2014 program. These changes include: adding one clinical process measure to guard against infections due to urinary catheters; and, establishing the weighting, performance periods, and performance standards for the clinical process, patient experience, and outcomes measures for FY 2014.

The final rule with comment period for the OPPS and the ASC payment system can be downloaded from:

<http://www.ofr.gov/inspection.aspx?AspxAutoDetectCookieSupport=1>

It will appear in the Nov. 30, 2011, *Federal Register*. CMS will accept comments on issues open for comment by Jan. 3, 2012, and will respond to them in the CY 2013 rule.

The Addenda to the final rule for the OPPS are available at:

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

The Addenda to the final rule for the ASC payment system are available at:

<http://www.cms.gov/ASC Payment/>.

A CMS fact sheet (11/1/11) providing more details on the final rule can be found at:

<http://www.cms.gov/apps/media/press/factsheet.asp?Counter=4145>

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