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OPPS Rule: Site-Neutral Payments, 340B Cuts May Make Provider-Based Space Less Winning

By Nina Youngstrom

Hospitals may not find a financial upside to off-campus provider-based departments after Jan. 1 because of changes in the final outpatient prospective payment system (OPPS) regulation announced Nov. 2. CMS finalized its proposal to reimburse off-campus provider-based departments the same amount for clinic visits as freestanding physician practices, which is called site neutrality (*RMC 7/30/2018, p. 1*). It's a radical change that will be phased in over two years. The final regulation also extended cuts in payments for 340B drugs to certain off-campus provider-based departments, another reason they may not be attractive anymore, although it depends on whether commercial payers continue to pay more for services performed in provider-based space, attorneys say.

"It's death by a thousand cuts," says attorney Andy Ruskin, with Morgan Lewis in Washington, D.C. Hospitals must still comply with provider-based and 340B regulatory requirements, but now they will be paid less. "I think commercial payers eventually will follow suit."

This is a big deal for hospitals, adds Boston attorney Larry Vernaglia, with Foley & Lardner LLP. "It pulls the rug out from under them."

The move to site neutrality was motivated by concerns over spending increases, CMS said. Medicare pays more for the same services when they're performed in provider-based space versus freestanding physician practices. "We believe the difference in payment for these services is a significant factor in the shift in services from the physician's office to the hospital outpatient department, thus unnecessarily increasing hospital outpatient department volume and Medicare program and beneficiary expenditures," the final regulation states.

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