

## Report on Medicare Compliance Volume 31, Number 5. February 07, 2022

### Results Are In: New Round of Mid-Build Audits Go Well for Some PBDs

---

By Nina Youngstrom

The results of CMS's do-over audit of the mid-build exception for provider-based departments (PBDs) are coming in, and a fair number of them have been favorable, attorneys said. After failing the audits last year, some of the PBDs passed this time and will be able to continue to bill for their services under the outpatient prospective payment system (OPPS).

It's a good outcome on balance, although not everyone got the audit set aside, and hospitals have no formal appeal rights, said attorney Larry Vernaglia, with Foley & Lardner LLP in Boston. But they have until Feb. 14 for an exit conference with CMS, which represents "their last best chance" to turn things around, he said. Attorneys urge hospitals to give it a shot before they permanently lose the ability to bill OPPS for certain services. If they lose, PBDs are stuck with the lower physician adjusted rate.

"The exit conference has to be accepted or passed on by the 14th," said attorney Andrew Ruskin, with K&L Gates in Washington, D.C. "Everyone should take advantage of the next process if they weren't satisfied with the response because there is nothing to lose."

This document is only available to subscribers. Please log in or purchase access.

[Purchase Login](#)