

## CMS proposes to implement Balanced Budget Act's site-neutral payments for new off-campus provider-based departments

July 8, 2016

On July 6, 2016, the Centers for Medicare & Medicaid Services (CMS) released the Calendar Year 2017 Hospital Outpatient Prospective Payment System (OPPS) Proposed Rule ([the Proposed Rule](#)), including proposed regulations to implement the site-neutral payment provisions of Section 603 of the Balanced Budget Act ([the Budget Act](#)) enacted last November, which requires that services furnished in off-campus provider-based departments other than dedicated emergency departments (off-campus PBDs) that began billing under OPPS on or after November 2, 2015, will not be paid under OPPS after 2016, instead, they will be paid under other Part B payment systems.

In an apparent effort to thwart the growth in hospital-based locations, CMS proposes that:

- Beginning January 1, 2017, the Medicare Physician Fee Schedule at the non-facility rate would be the applicable payment system for most services furnished in new off-campus PBDs.
- Existing off-campus PBDs that add services in new clinical families on or after November 2, 2015, would receive the site-neutral payments for those services beginning in 2017.
- Existing off-campus PBDs that relocate after November 2, 2015, would lose their excepted status (*i.e.*, would no longer be grandfathered and permitted to bill under OPPS) and would receive the site-neutral payments.
- Existing PBDs that undergo a "change of ownership" after November 2, 2015, would keep their excepted status only if the new owner assumes the Medicare provider agreement from the prior owner.

Many hospitals and other industry stakeholders had been hopeful that CMS would offer some relief from the dramatic payment changes for off-campus PBDs in the Budget Act, particularly for existing off-campus PBDs that relocate or add or change services in an existing location.

Interested parties can submit comments on the Proposed Rule to CMS through September 6, 2016.

*Bricker & Eckler will follow up soon with a full summary of the Proposed Rule and its implications.*

# Authors

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