



Senate passes 21st Century Cures Act – Provider-based mid-build exception one step closer

December 7, 2016

Earlier today, the U.S. Senate passed H.R. 34, the 21st Century Cures Act (Cures Act), by a vote of 94-5. H.R. 34 passed the House of Representatives on November 30, 2016, and the Cures Act may be signed into law yet this week by President Obama. Notably for healthcare providers, the Cures Act would create a mid-build exception to the Bipartisan Budget Act of 2015's elimination of OPPS reimbursement for non-expected off-campus provider-based locations. Ever since the enactment of the Bipartisan Budget Act of 2015, the healthcare provider community has been seeking such a mid-build exception.

The exception would be available for hospital locations currently under construction that had a binding written agreement with an outside, unrelated party for the actual construction of the new off-campus provider-based location as of the date of enactment of the Budget Act November 2, 2015. A hospital seeking to use the exception must file an attestation by December 31, 2016, or within 60 days of enactment of the act. A certification from the hospital's CEO/COO that the hospital met the mid-build exception requirements must also be filed within 60 days of enactment of the law. The location must also be added to the hospital's Medicare enrollment form. The exception would allow a location in mid-build to continue to use OPPS reimbursement after January 1, 2018. In addition, there is a separate portion of the Cures Act that creates an exception for off-campus locations of cancer hospitals that applies starting January 1, 2017. The Cures Act provides that any hospital making use of either exception should expect an audit of the location in question.

This exception provides a welcome opportunity for hospitals in the midst of building a new provider-based location, but hospitals desiring to avail themselves of the mid-build exception will need to organize rapidly in order to meet the attestation and certification deadlines to qualify.

Authors

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