



CMS to survey hospitals about acquisition costs for 340B drugs

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On September 30, 2019, the Centers for Medicare and Medicaid Services (CMS) published a [notice](#) to inform hospitals that it will be surveying hospitals to collect information regarding hospitals' acquisition costs for specified covered outpatient drugs (SCOD) under the 340B Drug Discount Program. This survey comes on the heels of a [2018 court decision](#) that found that the Department of Health and Human Services (HHS) exceeded its statutory authority to adjust payment rates under the hospital Outpatient Prospective Payment System (OPPS) when it finalized a rule changing the Medicare payment for separately payable outpatient drugs acquired by 340B-eligible hospitals from Average Sales Price (ASP) plus 6 percent to ASP minus 22.5 percent. The payment adjustment for these separately payable outpatient drugs acquired under the 340B Drug Discount Program was struck down, in part, because the court found that HHS had not collected the necessary data to set payment rates based on acquisition costs. Although CMS has appealed the [court's ruling](#), it is now collecting acquisition cost data in case the ruling is affirmed on appeal, so CMS can "set payment rates based on cost for 340B-acquired drugs when they are furnished by certain covered entity hospitals."

Hospitals can access the survey and instructions on the [CMS website](#). According to the survey instructions, "Any hospital that was enrolled in the 340B program as a



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covered entity in the last quarter of 2018 and/or the first quarter of 2019 is required to complete the survey" [emphasis added]. The survey requests that hospitals list each provider-based department of the hospital that is enrolled in the 340B program and is paid under the OPPS and provide the following information:

- HCPCS code for each SCOD
- Drug name and a short descriptor
- Dosage unit for each drug
- Average 340B price for the fourth quarter of calendar year 2018 (10/1/2018–12/31/2018)
- Average 340B price for the first quarter of calendar year 2019 (1/1/2019–3/31/2019)

The data collection period starts February 17, 2020, and ends March 16, 2020. The survey instructions note that "Completed surveys should be submitted to your Medicare Administrative Contractor no later than Monday, March 16, 2020." Comments on CMS's intention to collect this 340B acquisition price data are being accepted until November 29, 2019.