

OPPS Site-Neutral Payment Reductions : CMS to Address—and PAY—2019 Reductions

Article By:

Lawrence W. Vernaglia

Adria Warren

December has been a busy month for hospitals following the rollout of CMS's clinic visit site-neutrality adjustments. This policy, partially implemented in the CMS Outpatient Prospective Payment System (OPPS) FY 2019 Final Rule, expanded the cuts to OPPS rates that Congress ordered in Section 603 to the Bipartisan Budget Act of 2015 to ALL off-campus facilities, whether "excepted" (grandfathered) or not for the common G0463 clinic visit service. In a [prior edition of our blog](#), we reported on this regulatory change, and that on September 17, 2019 the U.S. District Court for the District of Columbia ruled this regulation and rate reduction was "ultra vires" or beyond the powers entrusted to CMS.

Despite the D.C. Court's clear decision, CMS implemented the second year of payment cuts for FY 2020 to be effective as of January 1, 2020. This suggested to hospitals that they would not be seeing relief from the 2019 payment cuts for some time. CMS filed a notice of appeal of the D.C. Court's September decision on December 12, 2019. And in a follow-on decision by District Court Judge Collyer on December 2019, the Court held that the FY 2020 payment cuts were beyond the authority of the Court to address at this time since no claims have yet been "presented" that resulted in a payment cut.

But almost buried in an obscure December 12, 2019 [MLNConnects CMS newsletter](#), CMS signaled that it would be repaying all hospitals for the 2019 OPPS payments that had been withheld.

"CMS installed a revised Hospital Outpatient Prospective Payment System Pricer to update the rates being applied to claim lines. The revised Pricer went into production on November 4, 2019, and applies to claims with a line item date of service of January 1, 2019, and after. Starting January 1, 2020, and over the next few months, the Medicare Administrative Contractors will automatically reprocess claims paid at the reduced rate; no provider action needed." This was published on the same day CMS noticed its appeal of the September decision.

CMS followed up in the December 19, 2019 [MLNConnects newsletter](#) that it was both reprocessing claims for 2019 and moving forward with the FY 2020 rate cuts.

Despite the court's clear mandate, we had been waiting to see how CMS would implement a solution, and this is welcome news. In the meantime, however, CMS's parallel efforts to reduce reimbursement to OCOOPs participating in the 340B program will continue in place, with no adjustments, as challenges wend their way through the courts. In recognition of the tenuous legal position, CMS has announced plans to conduct a [340B hospital survey](#) and collect drug acquisition cost data for CY 2018 and 2019. The feedback may be used in setting the Medicare payment amount for drugs acquired by 340B hospitals going forward, or to devise a remedy for 2018-2019 in the event of an adverse decision on appeal.

So where do we stand today? First, hospitals will receive a late holiday gift starting in the first quarter of 2020 in the form of additional revenue that had been withheld by CMS in 2019, but it appears that ongoing services in 2020 will be paid with the full 60% payment cuts. We will continue to monitor any changes to this payment timeline.

© 2025 Foley & Lardner LLP

National Law Review, Volume IX, Number 357

Source URL: <https://natlawreview.com/article/opps-site-neutral-payment-reductions-cms-to-address-and-pay-2019-reductions>