

Rural Emergency Hospitals – CY 2023 OPPS Final Rule Includes Additional Information on New Medicare Provider Type

Article By:

Shannon K. DeBra

Allen R. Killworth

David M. Johnston

Announced in the Consolidated Appropriations Act of 2021, Rural Emergency Hospitals (REHs) will be a new type of Medicare provider starting January 1, 2023. REHs are meant to help address the stressed health care system of rural providers by providing an option to closure for distressed critical access hospitals (CAHs) and small rural hospitals.

Existing CAHs and rural hospitals with fewer than 50 beds will be eligible to convert to an REH. CMS is streamlining this process so that this conversion to be an REH can be accomplished through a change of information on an existing Medicare 855A enrollment rather than through a new provider application, which carries potentially significant delays and potential gaps in payment. REHs are designed to provide primarily emergency department, observation, and outpatient services. Because REHs will not provide inpatient care, an area that often creates a significant financial and operational burden on CAHs and small rural hospitals, REHs will allow locally-delivered healthcare to continue to be furnished by existing providers.

In the 2023 Outpatient Prospective Payment System Final Rule (OPPS Final Rule), released in pre-publication form on November 1, 2022, the Centers for Medicare and Medicaid Services (CMS) adopts final regulations governing REHs. Under the OPPS Final Rule, REHs will be paid both on a per-service basis at an OPPS +5% rate and a monthly facility payment. This monthly facility payment will increase after CY 2023 at the hospital market basket percentage increase.

The OPPS Final Rule also establishes conditions of participation that are closely aligned to the CAH conditions of participation with some exceptions related to the nature of services at REHs and rules creating the Rural Emergency Hospital Quality Reporting Program and requiring quality reporting by REHs. CMS also finalized proposed revisions to certain existing Physician Self-Referral (Stark) Law exceptions to make them applicable to compensation arrangements to which an REH is a party. Specifically, CMS revised the exceptions for physician recruitment, obstetrical malpractice insurance subsidies, retention payments in underserved areas, electronic prescribing items and services,

assistance to compensate a nonphysician practitioner, and timeshare arrangements to also permit an REH to provide remuneration to a physician (or an immediate family member of a physician) if all requirements of the applicable exception are satisfied. CMS did not finalize the proposed exception for ownership or investment interests in an REH.

For an additional summary of details regarding REHs, see the [CMS Fact Sheet](#) published on November 1, 2022.

Jenny Nelson Carney also contributed to this article.

©2024 Epstein Becker & Green, P.C. All rights reserved.

National Law Review, Volumess XII, Number 306

Source URL: <https://natlawreview.com/article/rural-emergency-hospitals-cy-2023-opps-final-rule-includes-additional-information>