

Small Entity Compliance Guide

Medicare Program: Changes to the Hospital Outpatient Prospective Payment System and CY 2010 Payment Rates; Changes to the Ambulatory Surgical Center Payment System and CY 2010 Payment Rates

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The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, P.L. 104-121, as amended by P.L. 110-28, May 25, 2007) contains requirements for issuance of “small entity compliance guides.” Guides are to explain what actions affected entities must take to comply with agency rules. Such guides must be prepared when agencies issue final rules for which agencies were required to prepare a Final Regulatory Flexibility Analysis under the Regulatory Flexibility Act.

The complete text of this final rule with comment period can be found on the CMS Web site at: <http://www.cms.hhs.gov/HospitalOutpatientPPS/>

This rule revises the Medicare hospital outpatient prospective payment system (OPPS) to implement applicable statutory requirements and changes arising from our continuing experience with this system, and to implement a number of changes made by the Medicare Improvement for Patients and Providers Act of 2008 (MIPPA). In this rule we describe the changes to the amounts and factors used to determine the payment rates for Medicare hospital outpatient services paid under the prospective payment system. These changes are applicable to services furnished on or after January 1, 2010. Furthermore, this rule implements payment provisions of MIPPA that extend Medicare coverage to chronic kidney disease education services furnished by rural hospitals, and intensive cardiac rehabilitation and pulmonary rehabilitation services furnished by hospitals beginning January 1, 2010. Finally, this rule revises and further defines requirements for the practitioner supervision of hospital outpatient diagnostic and therapeutic services, consistent with ensuring safe, high quality care for Medicare beneficiaries.

In addition, this rule updates the revised Medicare ambulatory surgical center (ASC) payment system to implement applicable statutory requirements and changes arising from our continuing experience with this system. In this rule we set forth the applicable relative payment weights and amounts for services furnished in ASCs, specific Healthcare Common Procedure Coding System (HCPCS) codes to which these changes apply, and other pertinent ratesetting information for the CY 2010 ASC payment system.

Approximately 40 percent of the hospitals and 75 percent of the ASCs that participate in Medicare are small entities, either because their revenues fall below the Small Business

Administration's size standards for small businesses, or because they are nonprofit, or both.

The effects of this final rule with comment period vary considerably by type of hospital, location, bed size, and other variables, as well as by type of ambulatory surgical center, location, patient population, and types of surgical procedures provided, among other factors.

With respect to payment for hospital outpatient services, overall we estimate that payments to hospitals under the OPps will increase by about 1.9 percent on average in CY 2010, taking into consideration the hospital market basket update factor of 2.1 percent. Also, as required by the statute, we will reduce the update by 2.0 percentage points for hospitals required to participate but that did not participate in quality data reporting for outpatient services or did not report the quality data successfully in CY 2009 for the full CY 2010 update, resulting in a 0.1 percent update for those hospitals. Because effects will vary from hospital to hospital, this rule may have a significant impact on a substantial number of small entities. Effects on ASCs will be more complex and depend in large part on the mix of services ASCs provide. We are providing ASCs with a 1.2 percent update for CY 2010, based on the Consumer Price Index for All Urban Consumers. The overall effects of this final rule with comment period on CY 2010 Medicare ASC payment system and OPps payment are intended to be budget neutral.

This rule imposes no direct Federal compliance requirements on hospitals or ASCs. In order to assist hospitals in understanding and adapting to changes in Medicare billing and payment for procedures, we have developed a Web page for hospital outpatient services that includes substantial downloadable explanatory materials at:

<http://www.cms.hhs.gov/HospitalOutpatientPPS/>.

We have a similar Web page focusing on ASCs at:

<http://www.cms.hhs.gov/ASCPayment>