Health Law Daily Wrap Up, OUTPATIENT HOSPITALS—FINAL RULES: CMS extends site-neutral payment policy but increases payment under OPPS, (Nov. 26, 2018)

Total reimbursement to providers under the hospital outpatient prospective payment (OPPS) for 2019 will be $74.1 billion, an increase of approximately $5.8 billion compared to 2018, according to the OPPS and ambulatory surgical center (ASC) PPS final rule for calendar year 2019. Payments to ASCs are anticipated to increase about $200 million compared to 2018 payments (Final rule, 83 FR 58818, November 21, 2018).

OPPS update. For CY 2019, CMS increased the payment rates under the OPPS by a fee schedule increase factor of 1.35 percent, which is based on the hospital inpatient market basket percentage increase of 2.9, minus the multifactor productivity adjustment of 0.8 percentage point, and minus a 0.75 percentage point adjustment required by sec. 3401(i) of the Patient Protection and Affordable Care Act (ACA) (P.L. 111-148).

Site-neutral payment policy. The final rule applied an amount equal to the site-specific physician fee schedule payment rate for nonexcepted items and services furnished by a nonexcepted off-campus provider-based department (PBD) of a hospital for the clinic visit service (HCPCS code G0463), when provided at an off-campus PBD excepted from Soc. Sec. Act §1833(t)(21). The reduction will be phased in over two years beginning in CY 2019. This policy, said CMS, will save beneficiaries $7 per visit to an off-campus PBD in 2019.

Other drugs. For CY 2019, separately payable drugs and biologicals that do not have pass-through payment status and are not acquired under the 340B Program will be paid at wholesale acquisition cost (WAC) plus 3 percent instead of WAC plus 6 percent if ASP data is not available. If WAC data is not available for a drug, CMS will continue its policy of paying for separately payable drugs and biologicals at 95 percent of the average wholesale price (AWP).

In addition, beginning in CY 2019, CMS will make payment for nonpass-through biosimilars acquired under the 340B Program at ASP minus 22.5 percent of the biosimilar's own ASP rather than ASP minus 22.5 percent of the reference product's ASP.

ASC PPS update. Payment rates for ASCs will increase by 2.1 percent in 2019 for ASCs that meet quality reporting requirements. This increase is based on a hospital market basket percentage increase of 2.9 percent minus the 0.8 percentage point multifactor productivity adjustment. For CYs 2019 through 2023, CMS will update the ASC PPS using the hospital market basket update instead of the CPI-U.

The final rule revised the definition of "surgery" to account for "surgery-like" procedures that are assigned codes outside the Current Procedural Terminology (CPT®) surgical range. CMS also added 12 cardiac catheterization procedures and five related procedures to the ASC covered procedures list. In addition, in response to the recommendation from the President’s Commission on Combating Drug Addiction and the Opioid Crisis, for CY 2019 CMS will unpackage and pay separately at ASP plus 6 percent for the cost of non-opioid pain management drugs that function as surgical supplies when they are furnished in the ASC setting.
**Quality reporting programs.** CMS codified policies regarding the retention and removal of measures under the Hospital Outpatient Quality Reporting (OQR) program (42 C.F.R. §419.46(h)) and updated the measure factors used in the ASC Quality Reporting (ASCQR) program. CMS removed seven measures from the OQR program beginning with the CY 2021 payment determination. It also removed one measure from the ACQR beginning with the CY 2020 payment determination and one beginning with the CY 2021 payment determination.

To comply with the requirements of the SUPPORT for Patients and Communities Act (P.L. 115-271), CMS updated the Hospital Inpatient Quality Reporting (IQR) program’s Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) Survey measure by removing the Communication about Pain questions effective with October 2019 discharges for the fiscal year 2021 payment determination.