

Small Entity Compliance Guide

Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment; Ambulatory Surgical Center Payment; Hospital Value-Based Purchasing Program; Physician Self-Referral; and Provider Agreement Regulations on Patient Notification Requirements.

Federal Register 76 FR 74122

42 CFR Parts 410, 411, 416, 419, 489 and 495

[CMS-1589-FC]

RIN 0938-AR10

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.gov/HospitalOutpatientPPS/>

This final 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. In this final rule, we describe the finalized changes to the amounts and factors used to determine the payment rates for Medicare hospital outpatient services paid under the prospective payment system for CY 2013, including payments to community mental health centers (CMHCs) and hospitals for partial hospitalization services and to policies addressing the basis for receiving payment. The final rule provisions include OPPS provisions, such as changes to the wage index and market basket update. These provisions also update and refine the requirements for the Hospital Outpatient Quality Reporting (OQR) Program, the ASC Quality Reporting (ASCQR) Program, and the Inpatient Rehabilitation Facility (IRF) Quality Reporting Program. Also, this final rule revises the electronic reporting pilot for the Electronic Health Record (EHR) Incentive Program, and the various regulations governing Quality Improvement Organizations (QIOs), including the secure transmittal of electronic medical information, beneficiary complaint resolution and notification processes, and technical changes.

In addition, this final 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 and other pertinent rate setting information for the CY 2013 ASC payment system.

We estimate that most hospitals, CMHCs and 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 OPPTS will increase by about 1.8 percent on average in CY 2013, taking into consideration the hospital market basket update factor of 2.6 percent less the required productivity adjustment of 0.7 percentage points and less the 0.1 percentage point reduction required under the Affordable Care Act. Also, as required by the statute, we will further reduce the update by 2.0 percentage points for hospitals that are required to report hospital quality data for outpatient services but that did not report quality data for outpatient services or that did not report the quality data successfully in CY 2012 for the full CY 2013 update, resulting in a negative 0.2 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 will depend in large part on the mix of services ASCs provide. We are providing ASCs with a 0.6 percent update for CY 2013, based on the 1.4 percent estimated Consumer Price Index for All Urban Consumers applicable to the ASC payment system less a multifactor productivity adjustment of 0.8 percent required under the Affordable Care Act.

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.gov/HospitalOutpatientPPS/>.

We have a similar Web page focusing on ASCs at:

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