

Small Entity Compliance Guide

Medicare Program; CY 2024 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates

Federal Register 88 FR 81540 through 82185

42 CFR Parts 405, 410, 416, 419, 424, 485, 488, and 489

[CMS-1786-FC]

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The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. L. 104-121, as amended by Pub. 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: <https://www.cms.gov/medicare/payment/prospective-payment-systems/hospital-outpatient>.

This final rule with comment period revises the Medicare hospital outpatient prospective payment system (OPPS) and the Medicare ambulatory surgical center (ASC) payment system for calendar year (CY) 2024 based on our continuing experience with these systems. In this final rule with comment period, we describe the changes to the amounts and factors used to determine the payment rates for Medicare services paid under the OPPS and those paid under the ASC payment system.

In addition, this final rule with comment period updates and refines the requirements for the Hospital Outpatient Quality Reporting (OQR) Program and the ASC Quality Reporting (ASCQR) Program, and updates Hospital Price Transparency requirements.

We estimate that many hospitals, and most community health centers 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, the payment update factor for OPPS providers will be 3.1 percent in CY 2024, taking into consideration the hospital market basket update factor of 3.3 percent less the required productivity adjustment of 0.2 percentage points.

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 for the full CY 2024 update, resulting in an estimated payment update of 1.1 percent for those hospitals. Because effects will vary from hospital to hospital, this final rule with comment period 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 updating ASC rates by 3.1 percent for CY 2022, based on the 3.3 percent hospital market basket update factor less a multifactor productivity adjustment of 0.2 percentage points.

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:

<https://www.cms.gov/medicare/payment/prospective-payment-systems/hospital-outpatient>.

We have a similar Web page focusing on ASCs at:

<https://www.cms.gov/medicare/payment/prospective-payment-systems/ambulatory-surgical-center-asc>.