

## **Small Entity Compliance Guide**

### **Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs**

*Federal Register* 83 FR 58818

#### **42 CFR Parts 416 and 419**

**[CMS-1695-FC]**

#### **RIN 0938–AT30**

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: <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 with comment period, we describe the finalized changes to the amounts and factors used to determine the payment rates for Medicare hospital outpatient services paid under the OPPS for CY 2019, including payments to community mental health centers (CMHCs) and hospitals for partial hospitalization services and to policies addressing the basis for receiving payment.

In addition, this final rule updates and refines the requirement for the Hospital Outpatient Quality Reporting (OQR) Program and the ASC Quality Reporting (ASCQR) Program and 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 final 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 2019 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 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 1.35 percent in CY 2019, taking into consideration the hospital market basket update factor of 2.9 percent less the required productivity adjustment of 0.8 percentage points, and the 0.75 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 2018 for the full CY 2019 update, resulting in an estimated payment update of -0.65 percent for those hospitals. Because effects will vary from hospital to hospital, this final rule may have a significant impact on a substantial number of small entities. We are also finalizing a CY 2019 policy of paying for clinic visits furnished at hospital outpatient off-campus departments at a physician fee schedule (PFS) equivalent rate rather than the OPPOS rate. We note that we are applying a 2-year transition period for this policy.

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 2.1 percent for CY 2019, based on the 2.9 percent hospital market basket update factor less a multifactor productivity adjustment of 0.8 percent required under law.

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>.