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### **Can Certified ESRD Facilities Furnish Acute Dialysis to Hospital Outpatients?**

Medicare defines acute dialysis as dialysis that is unrelated to a diagnosis of End Stage Renal Disease (ESRD) and therefore is not covered under the ESRD prospective payment system (PPS). Medicare pays for acute dialysis under the hospital outpatient prospective payment system (OPPS) when it is furnished to a hospital outpatient with ESRD in non-routine circumstances (as defined in the Medicare Claims Processing Manual (Pub. 100-04), Chapter 4, section 200.2), or when it is furnished to non-ESRD hospital outpatients.

ESRD facilities cannot furnish acute dialysis to hospital outpatients. The Medicare regulations provide that all therapeutic services furnished to hospital outpatients, whether directly or under arrangements, must be furnished in the hospital or in locations that qualify as provider-based departments of the hospital (42 CFR 410.27(a)(1)). Our regulations prohibit ESRD facilities from being provider-based departments of hospitals (CFR §413.65(a)), and while an ESRD facility may be located on a hospital's campus and may share certain overhead costs and administrative functions with the hospital, CMS does not consider it to be part of the hospital. Therefore, a hospital may not enter into an arrangement with an ESRD facility for the ESRD facility to provide, outside of the hospital, outpatient dialysis or any other therapeutic service for which the hospital would bill Medicare.

Hospitals may rent or lease equipment or employ the staff of an ESRD facility to furnish acute dialysis to its outpatients in the hospital, just as it may for services other than acute dialysis. A hospital may find such an arrangement to be more convenient or cost-effective than maintaining its own equipment and staff. As long as the equipment and staff are not used concurrently to provide services to patients of both the ESRD facility and the hospital, the hospital may employ these resources when they are not in use by the ESRD facility.