

Extraordinary Circumstance Relocation Exception Guidance for an Off-Campus Provider-Based Department (in accordance with regulations at 42 CFR 419.22 and 419.48).

Purpose

This document provides information on how hospitals can request from their CMS Regional Office a relocation exception for an excepted off-campus department of a provider (PBD) due to an extraordinary circumstance. This document also describes the suggested information a hospital should submit with its request.

As described in the Calendar Year (CY) 2017 OPSS and Ambulatory Surgical Center (ASC) Payment System Final Rule with Comment Period (81 FR 79704-79706), exceptions to the relocation policy will be evaluated on a case-by-case basis by the appropriate CMS Regional Office. The specific information needed to support an individual request may vary from the suggested information described in this document.

Policy Background

Effective January 1, 2017, non-excepted items and services furnished by an off-campus provider based department (PBD) are not eligible for payment under the Hospital Outpatient Prospective Payment System (OPSS) and will instead be paid under the Medicare Physician Fee Schedule. Excepted items and services furnished by an excepted PBD will continue to be paid under the OPSS. Excepted items and services are items and services furnished after January 1, 2017:

- By a dedicated emergency department;
- By an off-campus PBD that was billing for covered outpatient provider department (OPD) services furnished prior to November 2, 2015, (i.e., the date of enactment of section 603 of the Bipartisan Budget Act of 2015 (Section 603)) that has not impermissibly relocated or changed ownership;
- By an off-campus PBD that qualifies for an exception under section 16001 or 16002 of the 21st Century Cures Act*; or
- In a PBD that is “on the campus,” or within 250 yards, of the hospital or a remote location of the hospital.

In the CY 2017 OPSS and ASC Payment System final rule with comment period, CMS adopted a policy to allow an excepted off-campus PBD to relocate to a new location (either temporarily or permanently), without losing its excepted status, upon a demonstration of extraordinary circumstances outside of the hospital’s control, such as natural disasters, significant seismic building code requirements, or significant public health and public safety issues. Please refer to pages 79704 through 79706 of the CY 2017 OPSS/ASC Final Rule with Comment Period (81 FR 79562) for more information on the final relocation exception policy.

As stated in the CY 2017 OPSS/ASC final rule with comment period, CMS anticipates such relocation exceptions will be both limited and rare so as to ensure that excepted off-campus PBDs do not leverage these exceptions to subvert the intent of Section 603.

***Note:** On December 13, 2016, the 21st Century Cures Act (Pub. L. 114-255) was enacted into law. Sections 16001 and 16002 amended section 1833(t)(21) of the Social Security Act (the Act)

and provide additional criteria by which off-campus departments of a provider will be excepted from application of Section 603.

Please refer to CMS web guidance “Note Regarding Implementation of Sections 16001 and 16002 of the 21st Century Cures Act” for more information.

Relocation Exception Request Guidance – Overview

This document contain the following sections:

- ***Application review process*** provides information concerning timelines for relocation exception requests due to extraordinary circumstance and priority review for relocation exception requests related to relocations occurring prior to January 1, 2017 and recent natural disasters.
- ***Suggested Minimum Information*** describes minimum information applicants should present to their Regional Office.
- ***Regional Office staff contacts*** details specific Regional Office contacts for each of the ten CMS Regional Offices.

Application Review Process

Written requests for a relocation exception due to an extraordinary circumstance may be submitted to the appropriate CMS Regional Office at any time. However, the Regional Offices will prioritize review of relocation exception requests for off-campus PBDs that relocated between November 2, 2015 and December 31, 2016, and may exercise their discretion to prioritize other relocation exception requests given the severity or nature of the factors related to the extraordinary circumstance.

Relocation Exception Determinations

The Regional Office will respond to hospital requests in writing, approving or denying a request and will copy the hospital's Medicare Administrative Contractor on any approval letters. The Regional Office decision on a relocation exception request is final and not subject to appeal in accordance with section 1833(t)(21)(E)(ii) of the Social Security Act.

Relocation Prior to January 1, 2017 (November 2, 2015 through December 31, 2016)

For an off-campus department of a provider that relocated due to an extraordinary circumstance between November 2, 2015 and December 31, 2016, hospitals should submit a written relocation exception request with supporting documentation via email to their Regional Office no later than January 31, 2017. The Regional Office will review the request and supporting documentation and make a determination as soon as is practicable. Approvals for relocation requests related to relocations that occurred prior to January 1, 2017, that is, between November 2, 2015 and December 31, 2016, will be effective as of January 1, 2017. CMS expects hospitals with pending requests for these such relocation exception requests to report the PN modifier for non-excepted services as appropriate beginning January 1, 2017. If the applicable Regional Office subsequently approves a relocation exception request, the hospital should contact its Medicare Administrative Contractor for instructions regarding rebilling these claims.

Relocation on January 1, 2017 or later

For a relocation occurring on January 1, 2017 or later, hospitals should submit a relocation exception request no later than 30 days after the extraordinary circumstance occurred.

The applicable Regional Office will review relocation exception requests on a rolling basis for relocations that occur on or after January 1, 2017 or later. The applicable Regional Office will communicate the effective date for an approved relocation request, which will be the later of the date the relocation request was made or the date of the relocation.

Suggested Minimum Information

Described below is the minimum information the hospital should consider including in its relocation exception request. The hospital should also include any supplemental information it believes will provide the Regional Office with a greater understanding of the circumstances necessitating the relocation exception request.

Main provider's CMS Certification Number (CCN): _____

Main provider's name: _____

Main provider's address: _____

Provider Contact name, Title, Email and Phone Number _____

Current Address of Department Seeking Relocation Exception (Include bldg. no., suite/room no., etc.): _____

New Address to which Department is Seeking to Relocate or has Relocated (include **exact** address): _____

Indicate whether the department seeking relocation is currently "on campus," "within the distance of a remote location (e.g., 250 yards)," a "dedicated emergency department" or "off campus" of the main provider:

1. _____ **On campus*** of the main provider (e.g., generally located within 250 yards from the main provider building OR, if further, as approved by the appropriate Regional Office);
2. _____ **Dedicated Emergency Department*** (as described at 42 CFR 489.24(b))
3. _____ **Remote Location*** (as described at 42 CFR 413.65(a)(2));
4. _____ **PPS-Exempt Cancer Hospital Department***; OR
5. _____ **Off campus** of the main provider (generally located 250 yards or greater from the main provider building, and subject to 42 CFR 413.65(e)(3)).

* These types of departments will maintain its excepted status as long as they continue to be classified as an excepted class.

Indicate whether the department seeking relocation is moving to a location that is "on campus," "within the distance of a remote location (e.g., 250 yards)," a "dedicated emergency department" or "off campus" of the main provider:

1. _____ **On campus** of the main provider (e.g., generally located within 250 yards from the main provider building OR if further, as approved by the appropriate Regional Office);

Regional Office Staff Contacts (as of December 2016)

REFER TO THE REGIONAL OFFICE MAP ON THE CMS WEBSITE IF YOU ARE UNSURE OF THE APPROPRIATE REGIONAL OFFICE FOR YOUR LOCATION:

<https://www.cms.gov/About-CMS/Agency-Information/RegionalOffices/RegionalMap.html>

Region	Staff Contact	Email Address
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