

Small Entity Compliance Guide

Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Price Transparency of Hospital Standard Charges; Radiation Oncology Model

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The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, Pub. Law 104-121, as amended by Pub. Law 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 interim and final rule with comment period can be found on the CMS Web site at: <http://www.cms.gov/HospitalOutpatientPPS/>.

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) 2022 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, updates Hospital Price Transparency requirements, and updates and refines the design of the Radiation Oncology Model.

We estimate that most hospitals, community mental health centers (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, the payment update factor for OPPS providers will be 2.0 percent in CY 2022, taking into consideration the hospital market basket update factor of 2.7 percent less the required productivity adjustment of 0.7 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 2022 update, resulting in an estimated payment update of 0.0 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 2.0 percent for CY 2022, based on the 2.7 percent hospital market basket update factor less a multifactor productivity adjustment of 0.7 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:

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

We have a similar Web page focusing on ASCs at: <http://www.cms.gov/ASCPayment>.