

January 15, 2021

CMS to Reprocess 2019 Clinic Visit Payments in Excepted Off-campus Provider-based Departments due to Court Ruling

The Centers for Medicare & Medicaid Services (CMS) yesterday [announced](#) that, as a result of a July 17, 2020 U.S. Court of Appeals ruling in its favor, it will begin reprocessing claims for outpatient clinic visits furnished in calendar year (CY) 2019 from excepted off-campus provider-based departments (PBDs) to reduce payment for clinic visits from 100% to 70% of the full outpatient prospective payment system (OPPS) rates.

AHA Take: AHA is disappointed by CMS' decision to begin to reprocess these CY 2019 claims. We continue to believe that the payment cut for hospital outpatient clinic visits in excepted off-campus PBDs threatens to impede access to care, especially in rural and other vulnerable communities and that CMS' policy undermines clear congressional intent and exceeds its legal authority. While the full U.S. Court of Appeals for the District of Columbia Circuit recently denied our request for a re-hearing of the July 31 decision overturning a lower court's ruling in favor of AHA and hospitals, we will ask the U.S. Supreme Court to review the appeals court decision.

Highlights of CMS' announcement follow.

HIGHLIGHTS OF CMS ANNOUNCEMENT TO REPROCESS CERTAIN 2019 CLAIMS

CMS yesterday announced that by July 1, 2021, it will begin reprocessing CY 2019 claims for outpatient clinic visit services furnished in excepted off-campus PBDs so they are paid at 70% of the OPPS rate, the same rate that non-excepted off-campus PBDs were paid for those services in 2019.

Background: In the CY 2019 OPPS final rule, CMS established a policy to pay for outpatient clinic visits furnished in excepted off-campus PBDs at 40% of the OPPS

Key Takeaways

- Due to a U.S. Court of Appeals decision, CMS has announced it will reprocess 2019 claims furnished in excepted off-campus PBDs to reduce payment for clinic visits from 100% to 70% of the full OPPS rate.
- The reduction will be automatic – hospitals do not need to do anything.
- Hospitals should be aware that they may owe Medicare money as result of this claims reprocessing.
- AHA will ask the U.S. Supreme Court to review of the appeals court decision.

payment rate, the same rate that these services are paid in non-excepted off-campus PBDs. The agency phased-in the policy over two years, reducing payment to 70% of the OPPS rate in 2019 and 40% of the OPPS rate in 2020.

In December 2018, the AHA, joined by the Association of American Medical Colleges and several member hospitals, filed a lawsuit against the Department of Health and Human Services challenging these payment reductions as violating the Administrative Procedure Act and as exceeding the agency's statutory authority. A federal district court judge in September 2019 sided with AHA and other hospital organizations that challenged the cut, ruling that CMS exceeded its statutory authority when it reduced payments for hospital outpatient clinic visit services provided in off-campus PBDs excepted under the Social Security Act. As a result, CMS reprocessed the 2019 claims to pay them at 100% of the full OPPS rate. However, in July 2020, the appeals court reversed the district court ruling, upholding CMS' clinic visit cuts. AHA will ask the U.S. Supreme Court to review the appeals court decision.

NEXT STEPS

As the reprocessing of claims will be conducted automatically, starting sometime before July 1, CMS notes that hospitals do not need to take any actions. However, hospitals with excepted off-campus PBDs that billed clinic visits in 2019 should be aware that they may owe Medicare money as result of this claims reprocessing.

If you have further questions, contact Roslyne Schulman, AHA director of policy, at rschulman@aha.org.