**Initial Summary of the 2017 Hospital Outpatient Prospective Payment System (OPPS) / Ambulatory Surgical Center (ASC) Proposed Rule**

**American Medical Association**

On July 6, 2016, the Centers for Medicare & Medicaid Services (CMS) released the [2017 Hospital Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) proposed rule](https://www.gpo.gov/fdsys/pkg/FR-2016-07-14/pdf/2016-16098.pdf) with comment period, and on July 14, 2016 it was posted in the Federal Register. CMS also issued a [fact sheet](https://www.cms.gov/Newsroom/MediaReleaseDatabase/Fact-sheets/2016-Fact-sheets-items/2016-07-06.html) on the proposed rule. CMS is accepting comments on the proposed rule through September 6, 2016. The final rule is expected to be released in early November.

**2017 OPPS / ASC Proposed Rule**

**Site of Service Differential**

Currently, when a Medicare beneficiary receives services in an off-campus HOPD (or off-campus Provider-Based Department (PBD)), the total payment amount for the services made by Medicare is generally higher than the payment made by Medicare when the beneficiary receives those same services in a physician’s office. Medicare pays a higher amount because it pays two separate claims for these services—one under the OPPS for the institutional services and one under the MPFS for the professional services furnished by the physician.

In the Bipartisan Budget Act of 2015, Congress enacted a provision eliminating higher payments for new off-campus provider-based facilities. The provision states that, as of January 1, 2017, hospitals that set up or acquire off-campus PBDs will not be able to receive reimbursements under OPPS. The law does not specify under which applicable payment system non-excepted PBDs will now be paid. The law exempts existing off-campus outpatient departments that were providing services prior to November 2, 2015, and services furnished by dedicated emergency departments.

CMS proposes for CY 2017 to have physicians at non-excepted PBDs bill and be paid for items and services under the MPFS at the non-facility rate instead of the facility rate. Payment would be made for applicable non-excepted items and services to the physician under the MPFS at the non-facility rate because no separate facility payment would be made to the hospital. Alternatively, an off-campus PBD can choose to meet the requirements to bill and receive payment under a payment system other than OPPS by enrolling as another provider or supplier type (such as an ASC or physician group practice). The hospital can continue to bill for services that are not paid under the OPPS, such as laboratory services.

CMS’ proposal in this rule is a temporary, one-year solution. CMS does not believe under the current payment systems an off-campus PBD could be paid for its facility services under the MPFS, but CMS is actively exploring options that would allow for this beginning in CY 2018.

CMS proposes in the future to provide a mechanism for off-campus PBDs to bill and receive payments for furnishing non-excepted services under a payment system that is not OPPS. Numerous complex system changes will need to be made to allow an off-campus PBD to bill and be paid as another provider or supplier type.

For 2018, CMS seeks comments on whether an off-campus PBD should be allowed to bill non-excepted services on the professional claim and receive payment under MPFS (as Independent Diagnostic Testing Facilities or Radiation Treatment Centers currently do).

**Meaningful Use - Hardship Exception for New Participants in 2017**

In the Merit-Based Incentive Payment System (MIPS) and Alternative Payment Models (APMs) proposed rule, CMS proposed 2017 as the first MIPS performance period. 2017 is also the last year that first-time participants in the Meaningful Use (MU) Program may attest to avoid the 2018 penalty. Therefore, a new MU participant would be required to participate in both the MU program and the Advancing Care Information (ACI) performance category of MIPS in 2017 to avoid any payment adjustment, despite the significant overlap of these two programs. In this proposed rule, CMS proposes to allow physicians who have not previously demonstrated meaningful use to apply for a significant hardship exception from the 2018 payment adjustment.

To apply under CMS’ proposal, a physician would submit an application by October 1, 2017, that includes sufficient information to show they are eligible for this hardship exception. The application must also explain why, based on their particular circumstances, demonstrating meaningful use for the first time in 2017 under the MU Program and also reporting on measures for the ACI performance category under the MIPS would result in a significant hardship.

**Meaningful Use - 90-Day Reporting Period in 2016**

CMS proposes to allow physicians, hospitals, and Critical Access Hospitals (CAHs) to use a 90-day reporting period in 2016, down from a required full calendar year reporting period for returning participants.

CMS also proposes a 90-day EHR reporting period for clinical quality measures (CQMs). The rule does not make any changes to the Physician Quality Reporting System (PQRS) program reporting period, however, so physicians using CQMs to satisfy PQRS reporting will still need to report CQMs for a full calendar year in 2017.

**Meaningful Use – Changes to Measures and Threshold Reductions**

For CY 2017 and subsequent years, CMS is proposing to eliminate or reduce objectives and measures for eligible hospitals and CAHs attesting under the Medicare MU program. Some of these proposed changes would help align the hospital MU program with the proposed MIPS program.

**Hospital Value-Based Purchasing Pain Measures**

CMS proposes to remove the current pain management questions from the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) patient experience of care survey beginning in 2018 in response to stakeholder feedback that pain management questions should not be used in a program where there is a link between scoring well in the program and higher payments. CMS is developing alternative questions for the Pain Management dimension to address these concerns.

**Site-Neutral Payment Policies**

CMS proposes to continue its policy of updating the ASC conversion factor by a measure of inflation in the Consumer Price Index for all Urban Consumers (CPI-U).