



# Top 10 Highlights of the 2022 Hospital OPPS and ASC Payment System Proposed Rule

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**HEALTHCARE REGULATORY ROUND-UP**

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**TOP 10 HIGHLIGHTS OF THE 2022 HOSPITAL  
OPPS AND ASC PAYMENT SYSTEM  
PROPOSED RULE**

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**August 11, 2021**

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1. OPPS and ASC payment rate updates
2. Reversal of 2021 changes to the Inpatient Only list
3. Reversal of 2021 changes to the ASC Covered Procedures list
4. Penalties for non-compliance with price transparency rules
5. Clarification of rules regarding online price estimator tools
6. 340B program payment rates
7. Radiation Oncology Model timing and design
8. Payment for non-opioid pain management drugs and biologicals
9. Comment solicitation— Continuation of PHE flexibilities
10. Request for information—Rural Emergency Hospital Program

# 1. Payment Rate Updates



## Proposes 2.3 percent update to conversion factor

- Update uses 2019 claims data rather than 2020
- Rate would move to \$84.457 (currently \$82.797)
- 2.0 percent reduction for hospitals not reporting quality data

## Maintain site neutral payment at 40 percent of OPPS

## Maintain payment for 340B drugs at ASP-22.5 percent

- Proposes to extend the reduction to non-grandfathered off-campus provider-based departments
- Question of application to biosimilar drugs and other drugs purchased through 340B program but without an ASP

## ASCs would receive the same percentage payment update

## 2. Inpatient Only List

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- Proposes to *not* eliminate IPO list
  - Restores the 298 orthopedic services removed last year
  - Codify process for future services to be moved off IPO list
  - Proposes two-year exemption from medical review for those procedures removed from the IPO list on or after January 2021
    - Exempt from site-of-service claim denials and referrals to recovery audit contractors for compliance with the 2-midnight rule and patient status

### 3. Services Provided in ASCs

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- Remove back majority of services added last year
  - Reinstates 258 of the 267 procedures moved in 2021
  - Reinstates patient safety criteria for adding services to ASC covered procedures list
  - Develop nomination process for new ASC services
    - Rather than current notification methodology
    - Stakeholders would nominate procedures for addition to the ASC covered procedures list

## 4. Price Transparency Penalties



- Civil monetary penalty for non-compliance
  - Currently \$300 per day
  - Proposal based on hospital bed size –
    - Bed size determined through cost report

**TABLE 63: Proposed Application of CMP Daily Amounts for Hospital Noncompliance for CMPs Assessed in CY 2022 and Subsequent Years.**

<b>Number of Beds</b>	<b>Penalty Applied Per Day</b>	<b>Total Penalty Amount for full Calendar Year of Noncompliance</b>
30 or less	\$300 per hospital	\$109,500 per hospital
31 up to 550	\$310 - \$5,500 per hospital (number of beds times \$10)	\$113,150 - \$2,007,500 per hospital
>550	\$5,500 per hospital	\$2,007,500 per hospital

Note: In subsequent years, amounts adjusted according to 45 CFR 180.90(c)(3).

## 5. Price Transparency: Other Issues

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- Deems state forensic hospitals as having met transparency requirements
- Prohibits barriers to access of machine-readable file, including automated searches and direct downloads
- Price estimators would need to fulfill the shoppable services requirement
  - Estimate of amount expected to be paid by patient
    - Considers insurance coverage
    - Application to uninsured patients
- Request for comment related to future rulemaking
  - Expectations for plain language descriptions of shoppable services
  - Best practices for cost estimators
  - Recognizing “exemplar” hospitals
  - Standardization of machine-readable files



## 6. 340B Program Payment Rates

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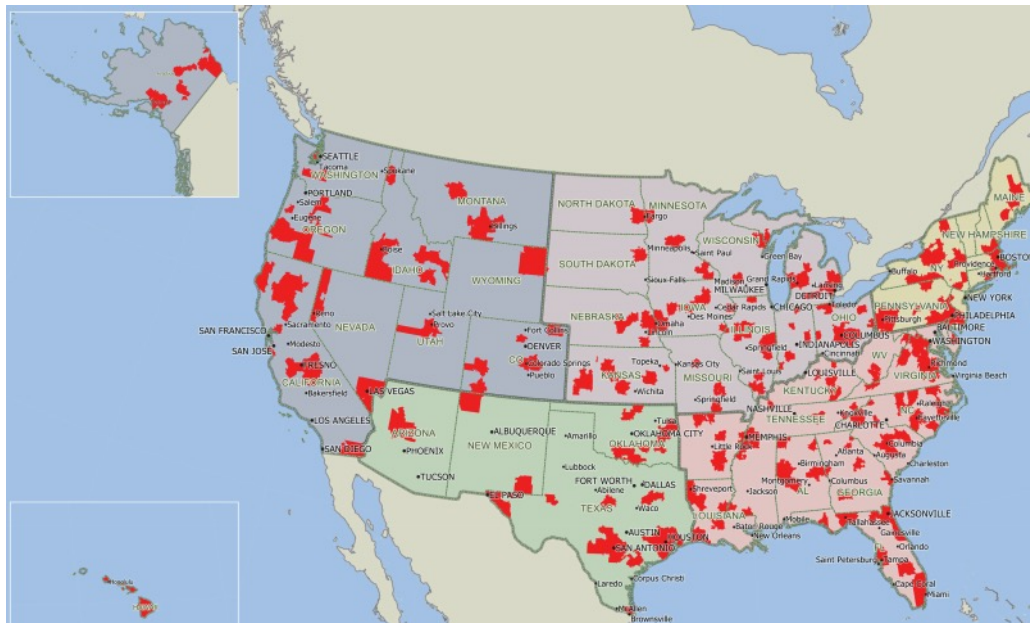


- Before 2018: Average Sale Price (ASP) + 6% for drugs acquired through the 340B Program
- Since 2018: ASP minus 22% - excluding:
  - Drugs with pass-through status and vaccines
  - Rural sole community hospitals, children's hospitals, and PPS-exempt cancer hospitals
- CMS proposes to maintain this payment rate for 2022

# 7. Radiation Oncology Model



- New mandatory episodic payment model now scheduled to commence **January 1, 2022**, and continue for 5 years
- All RT providers in specified zip codes will be reimbursed under alternative payment model (approximately 30% of all RT services)



# Radiation Oncology Model

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- Model tests whether making site-neutral, modality agnostic, prospective episode-based payments impacts cost and quality
- Episodic payment split between PC and TC; 50% at initiation, 50% at end of 90-day episode
- Proposed changes
  - Lowers discount on participant-specific payment rates from 3.75% to 3.5% (PC) and 4.75% to 4.5% (TC)
  - Include 2% quality withhold in Year 1
  - Removes liver cancer (leaving 15 cancers)
  - Removes brachytherapy
  - Other modifications to ensure RO Model qualifies as Advanced APM for 2022

# 8. Non-Opioid Pain Management



- CMS required by law to review OPPS/ASC payments to ensure no financial incentives to use opioids rather than non-opioid alternatives for pain management
- Proposes separate payment (ASP + 6%) for ASCs for non-opioid alternatives that function as surgical supplies that –
  - Are FDA-approved
  - Have an FDA-approved indication for pain management or analgesia
  - For drugs and biologicals, have a per-day cost in excess of the OPPS drug packaging threshold (\$130 in 2022)
- Seeking comment on whether policy should extend to HOPDs

# 9. PHE Flexibilities

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- Requesting comments on making temporary regulatory flexibilities permanent
  - Providing mental health services via communication technology by hospital clinical staff member who cannot bill Medicare independently for his/her professional services
  - Providing direct supervision for pulmonary rehabilitation, cardiac rehabilitation, and intensive cardiac rehabilitation services via audio/video real-time communication technology
  - Keeping HCPCS code C9803 (hospital outpatient clinic visit specimen collection for COVID-19) + related OPPS payment (APC 5731 - Level 1 Minor Procedure with Q1 status indicator) active beyond the conclusion of the COVID–19 PHE

# 10. Rural Emergency Hospital

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- Consolidated Appropriations Act requires CMS to launch REH program by January 1, 2023
  - Eliminate inpatient beds
  - Reimbursed at 105% OPPS + annual support payment
- Seeking input on 29 questions relating to REH program operations
  1. Type and scope of services offered
  2. Health and safety standards
  3. Health equity
  4. Collaboration and care coordination
  5. Quality measurement
  6. Payment provisions
  7. Enrollment process

# Comments

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- Due by September 17
- Submit electronically through [www.regulations.gov](http://www.regulations.gov)

Questions:

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