



# Action Alert

October 2, 2018

## House Letter Urging CMS to Reconsider OPPS Site-neutral Cuts Now Collecting Signatures

Reps. Peter Roskam (R-Ill.), chair of the Ways and Means Health Subcommittee, and Mike Thompson (D-Calif.) are asking their House colleagues to sign on to a letter urging the Centers for Medicare & Medicaid Services (CMS) to reconsider proposals to cut payments for evaluation and management services and expand certain site-neutral payment policies to grandfathered off-campus hospital provider-based departments (PBDs).

**Please contact your representative today and urge him or her to co-sign the House letter. It is critical that we have a strong show of support as we advocate with CMS to withdraw these proposals. The Roskam and Thompson offices are collecting signatures on the letter through Oct. 10.**

More details on this issue follow and additional background and talking points are available in the [AHA factsheet](#).

### **Background:**

Section 603 of the Bipartisan Budget Act of 2015 requires that, with the exception of dedicated emergency department (ED) services, services furnished in off-campus PBDs that began billing under the outpatient prospective payment system (OPPS) on or after Nov. 2, 2015, or that cannot meet the 21st Century Cures Act's "mid-build" exception, will no longer be paid under the OPPS, but under another applicable Part B payment system. In the calendar year (CY) 2019 physician fee schedule (PFS) [proposed rule](#), the agency continues to identify the PFS as the applicable payment system for most of these non-excepted services and proposes to set payment for most non-excepted services at 40 percent of the OPPS rate.

In its OPPS [proposed rule](#) for CY 2019, citing "unnecessary" increases in the volume of clinic visits in hospital PBDs, CMS proposes to pay for clinic visits furnished in excepted off-campus PBDs at the same rate they are paid in non-excepted off-campus PBDs. Specifically, CMS proposes to pay for clinic visit (i.e., evaluation and

management) services in excepted PBDs at the "PFS-equivalent" payment rate of 40 percent of the OPSS payment amount. Further, the agency would implement this proposal in a non-budget neutral manner, which means that it is estimated to cut hospital payments under the OPSS by \$760 million in CY 2019.

Further, under current site-neutral payment policy, an excepted off-campus PBD may expand the type of services it furnishes and will receive the full OPSS rate for such services. However, in another misguided proposal, CMS expresses concern that this policy incentivizes hospitals to purchase additional physician practices and add those physicians to an existing excepted off-campus PBD, in a manner that the agency believes is inconsistent with the intent of Section 603. As a result, CMS proposes that, if an excepted off-campus PBD begins to furnish a new service from a clinical family for which it did not previously furnish and bill for during a baseline period (generally from Nov. 1, 2014 through Nov. 1, 2015), the new service would no longer be a covered outpatient department service. Instead, it would be a non-excepted service and paid under the PFS at 40 percent of the OPSS amount.

#### **Roskam-Thompson Letter:**

In their [letter](#) to CMS, Roskam and Thompson express concerns that CMS's proposals "may run contrary to actions by Congress" under Section 603.

"The agency has also proposed cutting payment to 40 percent of the current HOPD rate for grandfathered off-campus HOPDs that begin to furnish a new service from a clinical facility not offered prior to November 1, 2015 which could unfairly penalize grandfathered off-campus HOPDs that expand or diversify the critical services they offer to meet the changing needs of their patients," they write. "...The facilities impacted by this rule provide care to some of the most vulnerable patient populations in difficult to serve areas. We believe it is critically important for these patients to be able to access care and services in the appropriate setting in their communities."