

## **Policy Update: CMS Releases CY 2024 Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System Proposed Rule**

*Lewis-Burke Associates LLC – July 18, 2023*

The Centers for Medicare and Medicaid Services (CMS) released its proposed Medicare updated rates for hospital outpatient services and ambulatory surgical centers (ASC). For calendar year (CY) 2024, CMS is proposing to update outpatient prospective payment system (OPPS) rates for hospitals by 2.8 percent. This update is based on the projected hospital market basket percentage increase of 3 percent and a 0.2 percent reduction productivity adjustment. Hospitals that fail to meet hospital outpatient quality reporting requirements will still receive a 2 percent reduction in payments.

Acknowledging the continued impact of COVID-19, CMS is proposing to continue using the hospital market basket to update payments for CY 2024 and 2025 and update the ASC rates for CY 2024 by 2.8 percent. The updated ASC rate is based on the projected hospital market basket increase of 3.1 percent, reduced by a 0.4 percentage point productivity adjustment, which is required under the *Affordable Care Act*. Below are key highlights from the proposed rule.

### *Prescription Drug Shortages*

CMS is seeking input from the public on a proposal to create a payment in the inpatient and outpatient prospective payment systems for establishing and maintaining access to a buffer stock of essential medicines. Based on comments, the separate payment could be considered as early as January 1, 2024, under the inpatient prospective payment system (IPPS) and in future years for the OPSS. CMS recognizes that “[f]or pharmaceuticals, even before the COVID-19 pandemic, nearly two-thirds of hospitals reported more than 20 drug shortages at any one time.”

### *Intensive Outpatient Program*

CMS is proposing to create an Intensive Outpatient Program (IOP) under Medicare, as required under Section 4124 of the [Consolidated Appropriations Act of 2023](#). Referring to the American Society of Addiction Medicine levels of care, CMS would define IOPs as “diverse and flexible programs that can provide both a step-up and step-down level of care for the treatment of substance use disorders.” The programs could be furnished under outpatient departments, community mental health centers (CMHCs), federally qualified health centers (FQHC), and rural health clinics (RHC). Under this proposed rule, the agency is also revising the definition of a CMHC as an entity that would provide day treatment or intensive outpatient services, or psychosocial rehabilitation services.

### *Partial Hospitalization Program*

CMS is proposing to update payment rates under the Partial Hospitalization Program (PHP). Under the proposed rule, the agency is changing the methodology for calculating the payment for hospital based and CMHC PHP services to include PHP and non-PHP days. CMS is also proposing new Medicare coverage of treatment for substance use disorders under the PHP.

### *Cancer Hospitals*

CMS is proposing to continue providing additional payments to cancer hospitals so their payment-to-cost ratio (PCR), after the additional payments, is equal to the weighted average PCR for the other OPSS hospitals using the most recently submitted or settled cost report data.

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## *Hospital Price Transparency*

CMS is proposing to change the way hospital charges are made available to the public. CMS is also modifying its monitoring and enforcement capabilities. A full summary of the proposed rule's price transparency and enforcement provisions can be found in this CMS [fact sheet](#).

Comments on the proposed rule are due by **September 11, 2023**.

## *Sources and Additional Information:*

- The full proposed rule can be found at <https://public-inspection.federalregister.gov/2023-14768.pdf>.