



What Do “Site Neutral Payments” Mean to Your Facility?

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Impact of Section 603 of Bipartisan Budget Act of 2015 on Hospital Off-Campus Outpatient Departments



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Bipartisan Budget Act of 2015, Section 603

- As of 1/1/17, no “off-campus outpatient department of a provider” (OCODP) may bill under OPPS unless:
 1. It is a “dedicated emergency department”(DED)
or
 2. It is grandfathered

- After 1/1/17, the OCODP will need to bill under another payment system:
 - MPFS,
 - ASC,
 - Rehab?

Section 603 of BiBA 2015 (cont.)

■ What is an OCO DP?

- Provider-based outpatient hospital department
- Off-campus, not on the main campus or 250 yards of the main buildings or a “remote location” of the hospital*

* awkward language in the bill, will require CMS interpretation

- Note also that the Regional Office also has discretion to make a case-by-case determination, even if > 250 yards

■ Not an RHC or an FQHC, except for certain FQHC look-alikes

Section 603 of BiBA 2015 (cont.)

- **How does OCODP get grandfathered?**
 - If the “department of a provider . . . was billing under [OPPS] with respect to covered OPD services furnished prior to the date of the enactment of this paragraph”.
 - **Best reading: the hospital had to have been billing for services at the facility as provider-based OPPS services prior to the date the President signed the BiBA 2015, November 2, 2015.**
 - Some commenters are saying that the date of enactment is 1/1/17; risky reading for planning purposes absent CMS guidance or judicial interpretations.

Section 603 of BiBA 2015 (cont.)

■ What's a DED?

- EMTALA concept (42 CFR 489.24(b))
- Designed to sweep in entities that didn't want to be one – so written broadly.

■ Meets at least one of the following requirements:

- licensed by the State as an emergency room or emergency department;
- held out to the public (by name, posted signs, advertising, or other means) as a place that provides care for emergency medical conditions on an urgent basis without requiring a previously scheduled appointment; *or*
- Provides at least one-third of all of its outpatient visits for the treatment of emergency medical conditions on an urgent basis without requiring a previously scheduled appointment.

Section 603 of BiBA 2015 (cont.)

- **CMS will be collecting information from providers “to implement this paragraph and paragraph (1)(B)(v)”**
 - **Argument that Section 603 is not self-implementing, and regulations are required.**
 - **Would allow more new facilities to be grandfathered.**
 - **Unclear what CMS will do with this authority.**

Section 603 of BiBA 2015 (cont.)

- **No appeal or judicial review:**
 - **What services are excluded from OPPS;**
 - **What other payment systems are eligible for billing;**
 - **Whether the specific off-campus department is subject to the ban;**
 - **Whether the OCODP is grandfathered (maybe); and**
 - **The information hospital is required to report to CMS.**

Section 603 of BiBA 2015 (cont.)

■ Important considerations:

- OCODP (even a new OCODP) may keep billing as provider-based through 1/1/17.
- Efforts to modify the law are underway – tough to handicap, might allow more grandfathering of OCODP's under development.
- Be careful about services that have no other freestanding payment category (like partial hospitalization).
- You can still be provider-based to the hospital, but not bill OPPS (see impact re: 340B, 3-day DRG payment window, etc.).
- If you rely on DED, be prepared for EMTALA compliance.
- If you rely on DED, CMS may still permit OPPS billing only for the emergency services (stay tuned).



Q&A Session

Phone lines will be opened at this time for live questions.