Insights

Bipartisan Budget Act of 2015 Changes Reimbursement for Off-Campus Outpatient Departments

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On November 2, 2015, President Obama signed the Bipartisan Budget Act of 2015 (**Pub. Law 114-74**) into law. The Act includes many provisions aimed to reduce federal debt, but only a few specifically affect health care. Perhaps one of the most significant health care implications involves a change in the reimbursement model for off-campus outpatient departments of providers.

Section 603 of the Bipartisan Budget Act amends Section 1833(t) of the Social Security Act. Section 1833(t) deals with the prospective payment system for hospital outpatient department ("OPD") services and is amended to exclude certain services from the payment system. Effective January 1, 2017, payment for "services that are furnished...by an off-campus outpatient department of a provider" will not be determined under the outpatient prospective payment system ("OPPS"). In lieu of the payment under the OPPS, payment for services furnished at an off-campus outpatient department will be determined under the applicable Part B payment system. Additionally, Section 603 defines "applicable items and services" furnished by an off-campus outpatient department as items and services other than those provided by a dedicated emergency department. An off-campus outpatient department is considered to be off-campus when it does not meet the definition of "campus" or "remote location of a hospital" under 42 C.F.R. § 413.65(a)(2).

However, there are a few exceptions to the new provisions that may make this change a little less detrimental to hospital systems. First, the provisions appear to only apply to "new" off-campus outpatient departments that begin billing after the date of enactment of the law—November 2, 2015. Additionally, some off-campus outpatient departments will be "grandfathered" in under the law. Specifically, an off-campus outpatient department that "was billing under this subsection with respect to covered OPD services prior to the date of enactment of this paragraph" is not included in the definition of "off-campus outpatient department of a provider."

Hospitals are also required to release necessary information to the Secretary for the implementation of the law, however, it appears that CMS will have to issue guidance on what that information may be. Finally, there will be no opportunity for administrative or judicial review of the determinations of applicable items and services, whether the department is an off-campus outpatient department or of the information the hospitals are required to report.