KRIEG DEVAULT

# Insights

## CMS Rule Reducing Medicare Payments for Certain Clinic Visits by Off-Campus PBDs

December 12, 2018

By: Meghan M. Linvill McNab and Brandon W. Shirley

The Bipartisan Budget Act ("BBA") of 2015, and its implementing regulations at 42 CFR 419.22(v) and 419.48 resulted in the movement of payments for nonexcepted provider-based departments ("PBD") from the outpatient prospective payment system ("OPPS") to the Medicare Part B site-specific Physician Fee Schedule ("PFS"). Excepted off-campus PBDs are not subject to the PFS and can instead continue billing under the OPPS. Excepted off-campus PBDs, or those with grandfather status, include: (i) departments that are located on the campus or within 250 yards from a remote location of a hospital; and (ii) off-campus departments that were furnishing services prior to November 2, 2015 that were billed under the OPPS in accordance with timely filing limits. 42 CFR 419.48(b

However, CMS recently issued a final rule (83 Fed. Reg. at 58822, Nov. 21, 2018) regarding payment amounts for G0463 (hospital outpatient clinic visit for assessment and management of a patient) furnished by off-campus PBDs. In effect, CMS is reducing the OPPS rate for G0463 services provided in excepted off-campus PBDs to the PFS payment rate. This reduction will be phased in over 2 years. In 2019, excepted off-campus PBDs will be paid 70% of the OPPS rate for the clinic visit service. In CY 2020 and subsequent years, excepted off-campus PBDs will be paid 40% of the OPPS rate for the clinic visit service (the PFS payment rate). The result of this payment change is to make the payment for G0463 provided by excepted off-campus PBDs equal to the payment for G0463 provided by non-excepted off-campus PBDs. Therefore, this final rule implements a site-neutral payment structure and eliminates the benefits of an outpatient PBD's grandfathered status for G0463 services.

The American Hospital Association filed a complaint on December 4, 2018 challenging the validity of the final rule's payment reduction for G0463 services.

If you have any questions, please contact Meghan M. Linvill McNab at mmcnab@kdlegal.com or Brandon W. Shirley at bshirley@kdlegal.com.