

Section 603 of the
Balanced Budget Act of 2015
*Site Neutral Payments for New Off-Campus
Provider-based HOPDs*

CHA MEMBER FORUM

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CALIFORNIA
HOSPITAL
ASSOCIATION



Today's Speakers



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Agenda

- Welcome
- Section 603 Recap
- Outcome of OPPS Final rule
- Next Steps for Advocacy
- Q & A



Section 603 of the Balanced Budget Act of 2015

- Implements site-neutral payments for new off-campus provider-based hospital outpatient departments — those that began billing on or after Nov. 2, 2015 (the date of enactment of the legislation) – beginning January 1, 2017
- Exemptions:
 - On campus provider-based departments (grandfathered facilities billing before November 2)
 - A provider-based department within 250 yards
 - A dedicated emergency department
- This does not apply to CAH, RHCs or FQHCs (they are not paid under the OPPIPS)



Section 603 of the Balanced Budget Act of 2015

For Off-campus HOPD
Services billing on or
after Nov. 2, 2015

Beginning January 1, 2017
Payments will be made
“under the applicable
payment system” i.e.
Physician Fee Schedule



CHA Detailed Summary of BBA is available at

http://www.calhospital.org/sites/main/files/file-attachments/slavitt_603_060716_final_to_cms_w_attachment.pdf



Section 603 of the Balanced Budget Act of 2015

Left open many questions for rulemaking

- Relocation
 - Seismic compliance
- Expansion of services
- Change in ownership
- Payment for services not paid under other applicable Part B payment systems i.e. Partial Hospitalization Services



Action Recap - Regulatory

- CHA letters and meetings in June with CMS
- OPPS proposed rule released in July
 - Did not address our requests for flexibility
- CHA comments, member comments and many specific examples provided to CMS
- CHA meetings with CMS leadership
- OPPS Final Rule Released in November
 - FR Pages 79699 -79731
 - Some significant movement by CMS but more work to be done



The OPPS Final Rule

- Creates and defines terms including “excepted items and services” to describe those items and services that are excluded, or “excepted,” from the Section 603 site-neutral payment system policy and, therefore, would still be paid under the OPPS. **“Excepted” = Grandfathered services**
- Defines “off-campus PBDs” and finalizes the requirements that would allow certain off-campus PBDs to retain their “excepted” status
- Establishes new payment policies for “non-excepted” items and services beginning in 2017
 - Interim Final Rule with Comments Due December 31
 - CMS did not delay implementation, but provided for payment to hospitals in 2017





Continued Payment under OPPS

- “Excepted items and services” will continue to be paid under OPPS if they are:
 - Furnished in a dedicated emergency department (as defined under EMTALA)
 - The PBD was billing OPPS for *services furnished* prior to Nov 2, 2015
 - On-campus PBD are excepted (grandfathered) and continue to receive OPPS payments
 - Services provided within 250 yds. of remote location are also excepted
- FAQ: What about PT, OT and ST? Not applicable; currently paid under PFS i.e. no change at this time





Expansion of Services

- CMS proposed that “excepted” off-campus PBDs would continue to receive OPPS only for those items and services billed prior to November 2, 2015
- CMS proposed that any expansion of services beyond those furnished under the 19 specific clinical families would be subject to site neutral rates
- **CMS responded to industry comments and has not finalized this proposal. Excepted PBD may expand services at existing sites, but CMS notes they will continue to monitor closely these service line expansions**
- CMS remains very concerned about the expansion of services





Change of Ownership

- If a hospital experiences a change of ownership – in its entirety – and the new owner accepts the Medicare CCN, CMS will allow the PBD to retain their “excepted” status
- If the provider agreement is terminated under a change of ownership, the off-campus PBD will lose its “excepted” status and be subject to site-neutral payment policies







Relocation of Existing PBD

- Off-Campus PBD services largely still frozen in time
- CMS finalizes its proposal that off-campus PBD must retain the same physical address, including the suite number to retain its “excepted” status and continue to receive OPPS rates
- If a PBD changes location, it would be subject to a different applicable payment system
 - CMS clarifies that if a hospital has an existing PBD on campus and you move to off-campus, it would then be subject to new payment system
- CMS finalizes a limited exception process for relocation



Exceptions Process

- Allows for excepted PBD to relocate **temporarily or permanently**, without loss of excepted status “for extraordinary circumstances outside of the hospitals control”  
- CMS cites “natural disasters, **significant seismic building code requirements** or significant public health and safety issues” as possible scenarios
- CMS notes that such exceptions will be limited and rare and at the discretion of the CMS regional offices; CMS purposefully did not articulate additional examples
- Additional technical guidance forthcoming in 2017



Exceptions Process for Region IX

- Region IX Contact for Relocations Exceptions Process:

Lisa Leong

DFMFFSO, CMS Region 9

90 7th Street, Suite 5-300 (5W)


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ROSFOFM@cms.hhs.gov

- Please contact CHA if your PBD has moved and you are seeking an exception for relocation to retain excepted status. akeefe@calhospital.org, 202-488-4688



What happens in 2017 for nonexcepted PBD?

- CMS specifies that that for NEW PBDs, the “applicable payment system” will be the PFS for the majority of services
- CMS had proposed no payments be made directly to hospitals during this “transition year”
 - CMS did not finalize this proposal 
- **In the IFR, CMS finalized a policy to pay new PBD’s 50% of the OPPS rate for 2017**
 - **Continue to bill on institutional claims (UB04)**
 - **Utilize the modifier “PN” for nonexcepted item or service**



What happens in 2017 for nonexcepted PBD?

- OPPS policies such as packaging logic and Comprehensive APCs will still be applied
- CMS updated the website with the missing table from the rule that indicates the status indicator, the item or service, OPPS payment prior to Section 603 a column for payment under the IFC
- <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS/Hospital-Outpatient-Regulations-and-Notices-Items/CMS-1656-FC.html?DLPage=1&DLEntries=10&DLSort=2&DLSortDir=descending>
- **CMS seeks comment on this proposal**



What happens in 2017?

- CMS finalized its proposal that new off-campus PBD PHP programs will receive the CMHC rate for PHP services rather than OPPS rates
- CMS adopted revisions to the PHP payment policy



			Payment Rate	% Change (2017)
Final CY 2017	APC 5853: Partial Hospitalization (3+ services) for CMHCs		\$121.48	-
Final CY 2016		APC 5851: Level 1 Partial Hospitalization (3 services) for CMHCs	\$94.49	+28.6%
		APC 5852: Level 2 Partial Hospitalization (4+ services) for CMHCs	\$143.00	-15.0%
Final CY 2017	APC 5863: Partial Hospitalization (3+ services) for Hospital-based PHPs		\$207.27	-
Final CY 2016		APC 5861: Level 1 Partial Hospitalization (3 services) for Hospital-based PHPs	\$183.41	+13.0%
		APC 5862: Level 2 Partial Hospitalization (4+ services) for Hospital-based PHPs	\$212.67	-2.5%



What happens in 2018 and beyond?

- CMS intends to continue 50% OPPS rate through 2018
- CMS will revisit in future rulemaking its FFY 2017 proposals for FFY 2019 and beyond.
- CMS believes legislative intent is to provide equal payments across PFS and OPPS
 - Payments are likely to decrease, not increase overtime



Next Steps - Regulatory

- CMS asserts in the final rule that Section 603 does not change the status of a PBD, rather how it is reimbursed and therefore no impact on 340B
- CHA complete summary of the OPPS final rule forthcoming in CHA News
- CHA is preparing comments to respond to the IFC
 - Comments are due December 31st
 - CHA Draft comments available week of December 19 in CHA news



Legislative Recap

- Seeking exception for those already in development on date of enactment (Nov. 2, 2015)
- “Dear Colleague” letters to CMS pre-rulemaking and post-rulemaking
- CA Delegation Meeting with Any Slavitt in July
- H.R. 5267 -- Introduced May 18, passed House June 7
- Several provisions important to hospitals: HOPD, Readmissions adjustment
 - CHA Legislative Summary of HR 5273 at <http://www.calhospital.org/cha-news-article/house-ways-means-passes-hr-5273>
- 21st Century Cures

Current Law: Section 603

Off-campus HOPD Services
furnished or billing on or after
November 2, 2015

CY 2017
PFS/ASC/
CLFS Rates



HR 5273
as amended

Off-campus HOPD Services
furnished or billing on or
after November 2, 2015

Provider
Submits
Voluntary
Attestation



**CY 2017
OPPS
Payment
Rates**

Voluntary Attestation
Received by CMS before
December 2, 2015

Binding written
agreement
executed for
“actual
construction” of
HOPD prior to
November 2,
2015

60 days after
enactment
CMS receives
written
certification of
compliance with
‘mid-build
requirements’

Submission
of CMS
Enrollment
(Form 855)

**CY 2018
OPPS
Payment
Rates**

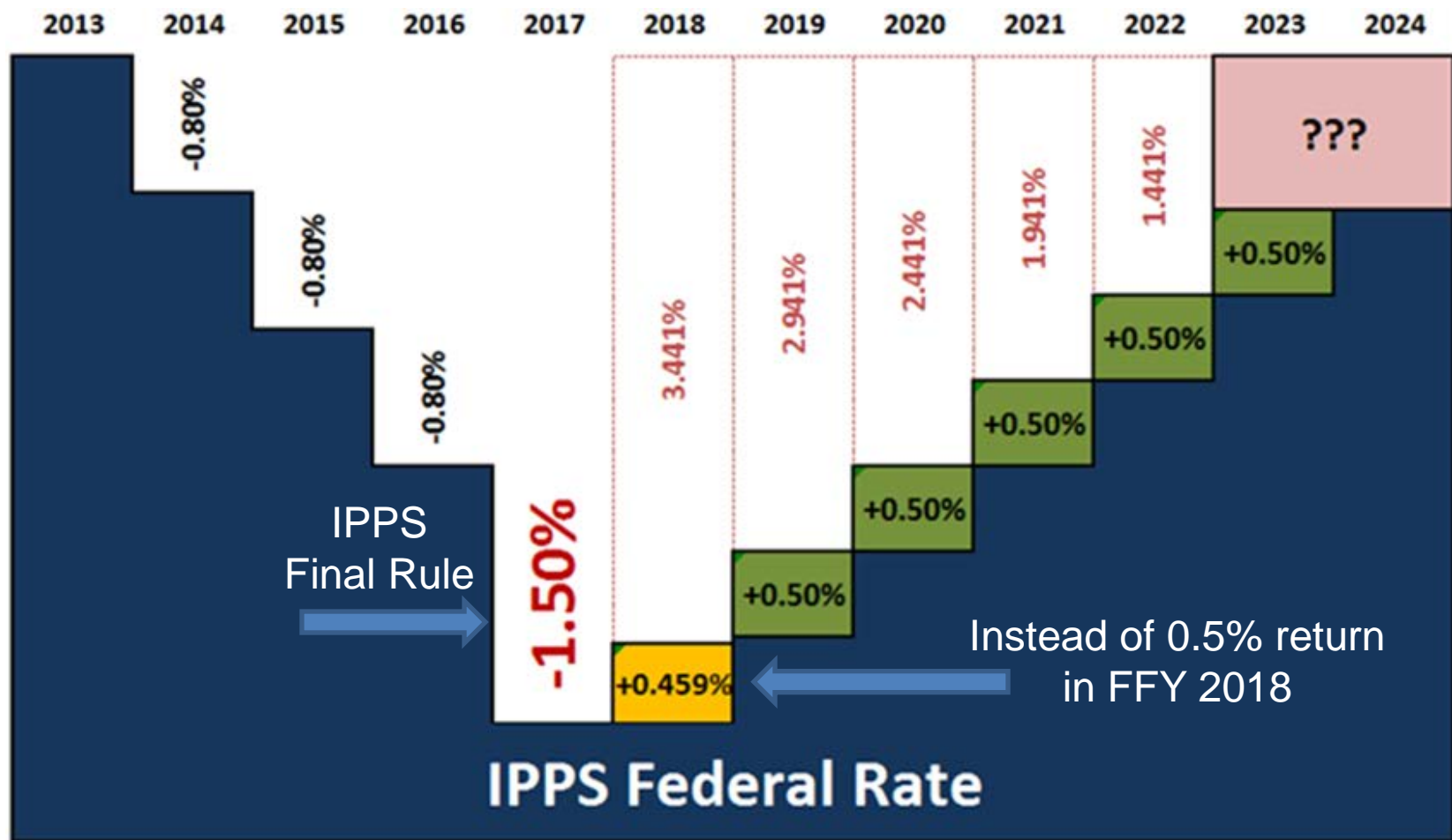
November
2, 2015

December 31, 2016
or 60 days after
enactment, if later,
CMS receives
voluntary attestation

May 24, 2016



Mid-build Cost – 0.041 offset





Next Steps – Legislative

- Passage of 21st Century Cures
 - CHA Summary of Key Provisions
<http://www.calhospital.org/21st-century-cures-legislation>
- Await outcomes of the exceptions process
- Examine additional legislative opportunities



Questions





Contact Us

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