



**hfma**

healthcare financial management association

## **HFMA Legislative Update Bipartisan Budget Act of 2015**

### **Who Does This Apply To?**

Section 603 of the Bipartisan Budget Act (BBA) of 2015 implements (with limited exemptions) site neutral payments for new Provider-Based Hospital Outpatient Departments (HOPD) effective Jan. 1, 2017. New Provider-Based HOPDs are defined as those that were not billing under the Centers for Medicare & Medicaid Services' (CMS) Outpatient Prospective Payment System (OPPS) prior to the date of enactment (Nov. 2, 2015) of the BBA of 2015.

### **Which Provider-Based Departments Can Bill Under OPPS after Jan. 1, 2017?**

Provider-Based HOPDs that are exempted from this policy include:

- Existing Provider-Based HOPDs (both on- and off-campus) that were billing under OPPS prior to or on Nov. 2, 2015
- Provider-Based Rural Health Clinics
- New Provider-Based HOPDs located on the main-campus (meets the 250 yard requirement as defined in the provider-based regulations) of the hospital.
- Dedicated Emergency Departments

Further, the definition of off-campus does not apply to other off-campus hospital organizations that are required to meet provider-based criteria (e.g., inpatient campuses of a multi-hospital campus, satellite facilities).

### **How Will Non-Exempt Departments Provider-Based Departments Be Paid After Jan. 1, 2017?**

The date of enactment (Nov. 2, 2015) and the effective date (Jan. 1, 2017) of the site neutral payment are misaligned. HOPDs that gain provider-based status prior to the effective date can bill under the OPPS until Jan. 1, 2017. After that date however, all non-exempt Provider-Based HOPDS will be paid under the appropriate fee schedule (e.g., Physician, Ambulatory Surgical Center, or Clinical Lab Fee Schedule).

### **Open Issues:**

Additionally, there are several areas where the legislation is unclear, such as:

- Would a Provider-Based HOPD that transfers hospital or health system ownership after enactment of the law still be able to bill under OPPS?
- Would the site-neutral payment reductions apply if the physical location of a Provider-Based HOPD that was billing under OPPS prior to the date of enactment is relocated to another site not on the main campus (e.g., Medical Office Building torn down and rebuilt)?

- Do all services provided in a free-standing ED fall under the exemption or will only certain E&M codes be exempted?

Answers to these and other questions will need to be resolved through CMS rulemaking.