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Memorandum

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To: **Integrated Health Care Coalition**
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Subject: **Analysis of the Off-Campus Site Neutral Proposal in the FY 2019 CMS OPPS NPRM**

Dobson DaVanzo & Associates (Dobson | DaVanzo) is pleased to submit this memorandum outlining the findings from our recent analysis of the Centers for Medicare and Medicare Services (CMS) Outpatient Prospective Payment System (OPPS) Notice of Proposed Rulemaking (NPRM) which was released on July 31, 2018. These findings will support comments being submitted to CMS by the Integrated Health Care Coalition as part of the rulemaking process.

Background

CMS has long noted, along with the Medicare Payment Advisory Committee (MedPAC) that an increasing number of outpatient procedures are being performed in the "off-campus" setting. This is a location where services are provided which is physically removed from the main hospital campus. It may be a clinic, or it may be a former physician group practice that was acquired by a hospital. CMS speculates that part of the increase in outpatient expenditures is being driven by payments to these off-campus settings, which are reimbursed by CMS at a higher rate than are physician offices under the Physician Fee Schedule (PFS).

In 2015, Congress passed hospital outpatient department site-neutral payment policies in Sec. 603 of the Bipartisan Budget Act of 2015 (P.L. 114-74). The section states that any hospital-based outpatient department (HOPD) that billed for services after November 2, 2015 would not be eligible for reimbursement under the CMS' Outpatient Prospective Payment System (OPPS). Instead, HOPDs are eligible for reimbursement under either the Ambulatory Surgery Center (ASC) or the Medicare Physician Fee Schedule (PFS).

In order to implement this this change, CMS proposed the use of the modifier PO on claims to indicate whether a particular claim was performed in an off-campus setting. This modifier is first available on the claims for 2016. Claims flagged with the PO modifier will be reimbursed at a reduced rate. The normal Ambulatory Procedure Code (APC) is reduced by the relativity adjuster. The relativity adjuster is determined by comparing evaluation and management (E/M) code reimbursement in the OPPS and PFS systems. In the current case, the relativity adjuster is 40 percent.

One issue surrounding the use of the PO modifier is that it penalizes some off-campus settings which are long established and whose payment and cost structure are intimately integrated with the main hospital campus. To account for this, CMS put in place a two-tiered site neutral mechanism, exempted and non-exempted. The PN modifier is used to indicate a non-exempted off-campus provider and the modifier PO is used to indicate an exempted (grandfathered) off-campus provider.

A new twist in the current NPRM is the addition of the E/M code G0463 with a PO modifier to the list of claims to be paid at the relativity adjusted rate. This was done because G0463 is the most common code in the OPPS setting and it is frequently used in the off-campus setting.

CMS states that they believe these actions are necessary because the rate of increase in outpatient department is unnecessary; the agency cites the Social Security Act §1833(t)(2)(F) "the Secretary shall develop a method for controlling unnecessary increases in the volume of covered OPD services." (CMS OPPS NPRM July 31, 2018, page 37049)

Analysis

To conduct our analysis, we examined the CMS Limited Data Set (LDS) files from 2012 through 2017. We focused closely on the outpatient expenditures for 2017. In order to determine the impact of the site neutral proposal, we created a dataset that includes all claims for outpatient procedures. We crosswalked the providers to their respective CMS wage index and applied the wage index calculation to the labor portion.[1] The wage index

[1] CMS OPPS NPRM July 31, 2018 page, 37073.

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adjusted APC payment rates were then crosswalked to each claim for each provider separately.

The estimated payment for each claim was calculated under four different criteria:

1. All claims were to be paid at the regular OPPS APC rate,
2. Claims with a PN modifier were paid at the off-campus rate,
3. Claims with a PO modifier and a G0463 E/M code were paid at the off-campus rate, and
4. Any claim not meeting number two or three above was paid at the regular OPPS APC rate.

Types two, three and four were added together to create the NPRM off-campus site neutral payments.

In order to examine the change over time in inpatient versus outpatient expenditures and utilization, we created extracts from each year 2012 through 2017 for payments by setting (inpatient, outpatient). We also flagged outpatient claims that were charged to revenue centers for observation days:

- 0760 = Treatment or observation room-general classification,
- 0761 = Treatment or observation room-treatment room,
- 0762 = Treatment or observation room-observation room, or
- 0769 = Treatment or observation room-other.

We calculated the growth in outpatient expenditures with observation days included and excluded. We used the 100 percent LDS outpatient and inpatient files variables for total Medicare paid in this part of the analysis.

Findings

Our analysis of the trend in outpatient spending over time shows that, as expected, outpatient expenditures are growing faster than inpatient expenditures. However, as CMS data shows the growth rate moderated since Congress passed Sec. 603 of the Bipartisan Budget Act of 2015 (P.L. 114-74).

The compound average growth rate (CAGR) for outpatient expenditures between 2012 and 2017 is 6.5 percent. This compares to a CAGR of 8.5 percent found by CMS.[2] The CAGR for inpatient expenditures over the same time period is 0.7 percent. This can be seen in Exhibit 1, which includes outpatient observation stays.

Based on this analysis, it is clearly uncertain whether the growth in outpatient expenditures has been "unnecessary." Hospitals say changes in government policies and

[2] CMS OPPS NPRM July 31, 2018 page, 37139.

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technological advancements have significantly reduced inpatient stays and increased outpatient visits.

We do know that CMS' Off-Campus Site Neutral Proposal in the FY 2019 CMS OPPS NPRM will disproportionately affect about six percent of 3,333 hospitals that participate in the program. 200 hospitals will shoulder 73 percent of the proposed payment reductions.

Exhibit 1: Comparison of Expenditures in Hospital Outpatient to Inpatient Departments (including observation stays)

Year	Number of Facilities	Outpatient (millions)	Annual Change	Inpatient (millions)	Annual Change
2012	3,473	$38,693.2		$107,511.7	
2013	3,454	$40,664.0	5.1%	$106,907.8	-0.6%
2014	3,432	$44,333.2	9.0%	$106,344.3	-0.5%
2015	3,388	$47,122.3	6.3%	$107,405.7	1.0%
2016	3,365	$50,075.3	6.3%	$110,911.9	3.3%
2017	3,336	$52,990.3	5.8%	$111,195.7	0.3%
CAGR			**6.5%**		**0.7%**

Source: Dobson | DaVanzo Analysis of the CMS 100% LDS Claims Files

As shown in Exhibit 2, our findings do not change much if outpatient observations stays are excluded from the analysis. The CAGR for outpatient expenditures with observation stays excluded is 6.3 percent while the inpatient expenditure CAGR is the same at 0.7 percent.

Exhibit 2: Comparison of Expenditures in Hospital Outpatient to Inpatient Departments (excluding observation stays)

Year	Number of Facilities	Outpatient (millions)	Annual Change	Inpatient (millions)	Annual Change
2012	3,473	$33,882.1		$107,511.7	
2013	3,454	$35,348.1	4.3%	$106,907.8	-0.6%
2014	3,432	$38,168.0	8.0%	$106,344.3	-0.5%
2015	3,388	$40,798.3	6.9%	$107,405.7	1.0%
2016	3,365	$43,144.3	5.8%	$110,911.9	3.3%
2017	3,336	$45,917.9	6.4%	$111,195.7	0.3%
CAGR			**6.3%**		**0.7%**

Source: Dobson | DaVanzo Analysis of the CMS 100% LDS Claims Files

Our analysis of the impact of the proposed off-campus site neutral payment system indicates that it will result in a total of $864.1 million being removed from the OPPS

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payments. Two hundred hospitals will incur 73 percent of this reduction. For the top 200, the average reduction will be 5.5 percent. For the remaining hospitals, the reduction will be 0.5 percent. Exhibit 3 contains details on this facet of our analysis.

Exhibit 3: Impact of the Proposed Off-campus Site Neutral Payment System

Impact Group	Paid OPPS	PN Paid	PO/G0463 Paid	On Campus Paid	Total Proposed Paid	Difference between OPPS and Proposed Paid	Percent Impact
Top 200	$11,437.6	$72.9	$346.1	$10,389.9	$10,809.0	($628.6)	-5.5%
Other	$45,164.3	$31.0	$126.0	$44,771.7	$44,928.7	($235.6)	-0.5%
All	$56,601.8	$103.9	$472.1	$55,161.6	$55,737.7	($864.1)	-1.5%

Source: Dobson | DaVanzo Analysis of the CMS 100% LDS Claims Files

Our analysis focused exclusively on Medicare fee for service (FFS) claims. About 1 in 5 Medicare beneficiaries are enrolled in Medicare Advantage (MA). If we assume that the utilization patters for MA beneficiaries are the same as utilization patters for FFS beneficiaries, the total impact of this site neutral proposal could be as high as $1.03 billion.

A complete hospital by hospital impact table can be seen in the attached appendix.

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