

LEGAL UPDATES

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Provider-Based Compliance Alert: OPPS Reimbursement at Risk—Off- Campus Provider-Based Departments Must Obtain Separate NPIs and Submit Attestations Before January 1, 2028

A significant regulatory change is on the horizon that will impact Medicare reimbursement for off-campus provider-based hospital outpatient departments (HOPDs). Passed on February 3, 2026, the Consolidated Appropriations Act introduces new requirements that hospitals must implement before January 1, 2028, to maintain eligibility for reimbursement under the Outpatient Prospective Payment System (OPPS) for their off-campus provider-based locations.

Key Changes

Section 6225 of the Act mandates that, starting January 1, 2028, off-campus provider-based HOPDs will not be eligible for payment under the OPPS unless the provider-based department:

1. Obtains a National Provider Identifier (NPI) separate from the hospital's NPI,
2. Bills all items and services furnished by the provider-based department using that distinct NPI,
3. Submits an initial provider-based attestation before January 1, 2028, demonstrating compliance with the requirements of 42 C.F.R. § 413.65, and

4. Submits subsequent provider-based attestations within a timeframe to be established by the Centers for Medicare & Medicaid Services (CMS).

Why This Matters

Historically, provider-based attestations were voluntary, with many hospitals opting not to submit them due to their time-consuming nature. Under the new statutory framework, attestations will be mandatory, and failure to timely submit the required attestations will result in the loss of OPPS reimbursement for affected off-campus locations. In short, **a provider that does not satisfy the new requirements will not be reimbursed under the OPPS for any items or services billed on or after January 1, 2028.**

What Qualifies as an Off-Campus Outpatient Department of a Provider?

The legislation incorporates the definitions from 42 C.F.R. § 413.65 and applies only to outpatient hospital departments that are “off campus,” i.e., located **more than 250 yards** away from the hospital’s main buildings or its remote locations.

Recommended Steps

CMS is expected to establish a standardized process for initial and subsequent provider-based attestations through notice-and-comment rulemaking. In the meantime, hospitals may submit attestations under the existing process outlined under 42 C.F.R. § 413.65(b). As an initial step toward compliance, affected providers should:

1. Identify all off-campus HOPDs that operate under the main hospital’s NPI,
2. Initiate the process of obtaining separate NPIs for these locations,
3. Review the provider-based requirements under 42 C.F.R. § 413.65 and gather the necessary documentation to demonstrate compliance with those requirements, and
4. Develop a timeline and process for completing attestations for all applicable locations.

It’s important to note that CMS has not yet issued implementing regulations for these new requirements. The specific attestation process and documentation requirements are subject to change as formal guidance develops. As such, we recommend that providers stay informed about the rulemaking process and be prepared to adjust compliance strategies as guidance is released implementing this new law.

The documentation required for provider-based attestations can be extensive and time-consuming to prepare, often requiring coordination across multiple departments. Hospitals that begin addressing

these requirements proactively will be better prepared to submit timely attestations and avoid potential reimbursement disruptions.

Contact us

Our attorneys at Husch Blackwell have extensive experience guiding clients through provider-based regulatory and compliance matters. For questions about how these changes may impact your organization, please contact Crystal Bloom, Joe Geraci, Alison Hollender, John Gramlich, and Neha Khan.