LEGAL UPDATES

PUBLISHED: JULY 10, 2026

CMS Proposes to Reduce 340B Drug Reimbursement Under 2027 OPPS Rule

Services

340B Drug Pricing Program

Healthcare Operations

Healthcare Regulatory & Compliance Counseling

Medicaid Reimbursement Strategies

Industry

Healthcare

Professionals

ROBERT HESS
JEFFERSON CITY:
573.761.1112
ROBERT.HESS@HUSCHBLACKWELL.COM

RENEE E. ZERBONIA
DENVER:
303.749.7250
KANSAS CITY:
816-983-8385
RENEE.ZERBONIA@

The Centers for Medicare & Medicaid Services (CMS) has proposed to reduce Medicare reimbursement for drugs purchased under the 340B Drug Pricing Program in its Calendar Year (CY) 2027 Hospital Outpatient Prospective Payment System (OPPS) proposed rule. Under the proposal, Medicare payment for 340B drugs would be reduced to Average Sales Price (ASP) minus 33.4%. This would be a significant departure from current payment methodology and a move that would result in approximately $5.7 billion in reduced drug spending in 2027 alone.

This proposal follows years of litigation and policy debate over 340B payment rates. In 2018, CMS reduced 340B drug payments to ASP minus 22.5%, a policy that was ultimately struck down by the United States Supreme Court in *American Hospital Association v. Becerra* (2022) for failure to conduct required hospital-specific surveys. The current proposal appears designed to address the Supreme Court's concerns by grounding the payment reduction in survey data CMS characterizes as reflecting actual acquisition costs.

Proposed 340B Payment Reduction

CMS is proposing to update payment rates for drugs purchased under the 340B Drug Pricing Program to what it characterizes as better reflecting hospitals' actual acquisition costs. The new proposed reimbursement rate for 340B drugs is ASP minus 33.4%. The proposal is based on a CMS survey indicating that hospitals acquire 340B drugs at an average cost significantly below ASP. Children's hospitals and PPS-exempt cancer hospitals would be exempt from the revised payment methodology. Nonexempt providers would be required to include the "JG" modifier to identify drugs acquired under the 340B program.

© 2026 HUSCH BLACKWELL LLP. ALL RIGHTS RESERVED

CMS emphasizes that statute requires this policy to be implemented in a budget-neutral manner. Accordingly, the proposal would increase OPPS payments for non-drug services by an equivalent amount. CMS frames the change as ensuring that hospital drug discounts are passed directly to Medicare beneficiaries who receive the drugs and to American taxpayers. Net impact on 340B covered entities will depend on the relative impact of the 340B drug payment reductions and the OPPS payment increases for non-drug services.

As a practical matter, covered entities with high 340B drug utilization relative to their non-drug service volume should not assume the non-drug payment increase will fully offset lost drug revenue. The non-drug increase will be distributed uniformly across all OPPS hospitals regardless of each facility's 340B drug mix. This means hospitals that generate a disproportionate share of revenue from 340B-acquired drugs may experience a net revenue loss.

Accelerating the Offset for Previously Reversed Reductions

As noted above, CMS previously implemented a similar 340B drug payment reduction, which was later invalidated by the United States Supreme Court. While CMS repaid hospitals following the Supreme Court decision, it has reduced future payments to recoup those funds and maintain budget neutrality. Previously, CMS was seeking to complete the recoupment over 16 years (by CY 2041). In this rulemaking, CMS has separately proposed to accelerate the recoupment by increasing the payment reduction and completing repayment by the end of CY 2029. Hospitals enrolled in Medicare before January 2, 2018, and subject to this offset will receive an increased payment reduction in CY 2027 (annual conversion factor reduction is proposed to be increased from 0.5% to 3.0%).

Key Takeaways

The proposed ASP minus 33.4% rate is a significant reduction to 340B drug reimbursement. CMS now has the legal predicate, a completed mandatory survey, that was absent from prior litigation.

For ***covered entities***, these reimbursement changes will affect drug revenue, beneficiary copayment dynamics, contract pharmacy economics, and payor billing at acquisition cost. The budget-neutral non-drug rate increase may only partially offset losses, and hospitals with a high ratio of 340B drug revenue to non-drug service revenue may experience a net revenue loss. That exposure may be compounded for hospitals enrolled in Medicare before January 2, 2018, and subject to the payment reductions tied to the previous Supreme Court decision.

For ***manufacturers***, reduced Medicare reimbursement may affect 340B purchasing patterns and payor contracting.

© 2026 HUSCH BLACKWELL LLP. ALL RIGHTS RESERVED

For all ***stakeholders***, CMS will accept public comments on the proposed rule through ***August 31, 2026***, following its publication in the Federal Register. If finalized, the policies would take effect on January 1, 2027.

Contact Us

If you have any questions about this legal update, please contact Robert Hess, Renee Zerbonia, Kristina Abdalla, or your Husch Blackwell attorney.

© 2026 HUSCH BLACKWELL LLP. ALL RIGHTS RESERVED