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Provider-Based Rulemaking Update: CMS Finalizes Requirements for Off-Campus Provider-Based Departments

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The Centers for Medicare & Medicaid Services (CMS) has finalized the provider-based billing and attestation framework in the calendar year (CY) 2027 Hospital Outpatient Prospective Payment System (OPPS) final rule. As discussed in our July 2026 update on the proposed rule, Section 6225 of the Consolidated Appropriations Act, 2026 established separate National Provider Identifier (NPI) and mandatory attestation requirements for off-campus hospital outpatient departments (HOPDs). Beginning January 1, 2028, payment for covered off-campus HOPD services will depend on the department having and billing under an NPI separate from the hospital's NPI and the hospital satisfying the initial and subsequent attestation requirements.

Key Finalized Provisions

One NPI Per Enrolled Location, Not Per Service Line. CMS clarifies that a "department of a provider" is identified by the hospital's physical facility location in the enrollment system: its street address, including suite or floor number where applicable. A single off-campus location operating at one address needs only one NPI even if it provides multiple service lines. For example, laboratory and radiology services at the same enrolled location do not require separate NPIs for each service line. Hospitals should therefore review how their locations are identified in the Provider Enrollment, Chain, and Ownership System (PECOS), rather than assign NPIs based solely on clinical specialties.

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NPI Enrollment Required Before Attestation. CMS expressly finalized that, before submitting an attestation, the hospital must obtain an NPI for each covered provider-based department and update its enrollment record in PECOS or any successor system.

Further Billing Guidance Forthcoming. In response to concerns about combining same-day outpatient services on one claim, CMS says it is taking measures to permit multiple NPIs within a claim: the hospital's claim-level NPI plus department service-line NPIs for services furnished that day. This does not require a separate NPI for each specialty; it describes how department NPIs would be reflected on claim service lines. CMS will continue developing billing, enrollment, and other sub-regulatory implementation guidance. The final rule does not provide detailed claim-field instructions or a release date for that guidance.

Mandatory Attestation Timeline. For departments providing services on or before January 1, 2028, initial attestations must be submitted between January 1, 2026 and December 31, 2027. Departments beginning services after January 1, 2028 must submit an initial attestation within the two years before delivering billed services. Timely submission satisfies the initial attestation requirement even if CMS has not yet issued a provider-based status determination. The final rule adds this protection expressly to § 419.23(c).

No Grandfathering of Older Approvals. Departments with affirmative provider-based determinations before January 1, 2026 are not grandfathered into the new process. They must submit a new attestation under the streamlined process. Hospitals should include these previously approved locations in their filing plans.

Standardized Form and Centralized Electronic Submission. CMS finalized the framework for a standardized attestation process and centralized electronic submission system, with further form refinements and operational instructions forthcoming. While CMS develops the electronic submission system and finalizes changes to the attestation form, providers should check with their servicing Medicare Administrative Contractor to confirm whether it accepts the proposed attestation form and the exact method for submitting an initial attestation under existing procedures.

Supporting Documentation Not Submitted Upfront. The attestation certifies compliance with the applicable provider-based requirements at 42 C.F.R. § 413.65. CMS clarifies that supporting

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compliance documentation need not accompany the initial submission. Providers must maintain that documentation and furnish it upon request. Timely filing is not a substitute for substantive compliance: CMS may conduct extended reviews and recover excess payments if it determines that provider-based requirements were not met.

Looking Ahead

Hospitals should confirm which off-campus locations are covered, reconcile their location-level NPIs with enrollment records, and complete required PECOS updates before attesting. They should also include previously approved departments in their filing schedules and review the documentation supporting each location's provider-based status. For departments operating on or before January 1, 2028, the filing deadline is December 31, 2027. Providers should allow time for NPI assignment, enrollment updates, and attestation submission, while monitoring forthcoming billing and submission instructions.

Helpful Links

2027 OPPS Final Rule: https://www.federalregister.gov/documents/2026/11/06/2026-22739/medicare-program-hospital-outpatient-prospective-payment-and-ambulatory-surgical-center-payment

Proposed CMS-Standardized Attestation Form:
https://www.cms.gov/files/document/proposed-section-6225-attestation-format.pdf

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.

This article provides general legal information. It does not constitute legal advice to the reader and does not create an attorney-client relationship between the reader and Husch Blackwell LLP. The reader should seek legal advice if they have questions about how this legal information may apply to their own circumstances.

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