

CMS Proposes Updates to the OPSS

On July 15, 2025, the Centers for Medicare & Medicaid Services (CMS) released the proposed rule for the Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) Payment System for calendar year (CY) 2026. Among other items, the agency proposes increasing payments to all outpatient providers, eliminating the Inpatient Only (IPO) List, and changing quality reporting programs. This Health Capital Topics article reviews the proposed updates and changes to outpatient reimbursement.

For most procedures, the payment rates under the OPPS and ASC Payment System are the product of: (1) a relative weight (which indicates a procedure's resource intensity relative to other procedures) and (2) a conversion factor.¹ The conversion factor converts the relative weight into a payment amount. Prior to 2019, the ASC conversion factor was updated annually based on the consumer price index for all urban consumers (CPI-U). But in 2019, CMS changed the basis for the annual ASC conversion factor update, instead basing it on the hospital market basket index.² With this change, subsequent updates to the ASC conversion factor have been aligned with updates to the OPPS conversion factor, equalizing updates among both types of outpatient facilities.³

For CY 2026, CMS proposes to increase OPPS payment rates to hospital outpatient departments (HOPDs) that meet specific quality reporting criteria by 2.4% – calculated from the proposed hospital inpatient market basket percentage increase of 3.2% minus the proposed productivity adjustment of 0.8%.⁴ This calculation results in a proposed OPPS conversion factor of \$91.747.⁵ ASCs that meet the required quality criteria will also receive proposed payment rate increases of 2.4%, by way of the same calculation described above for OPPS payment rates.⁶ Consequently, the proposed ASC conversion factor for 2026 is \$55.109.⁷

As discussed above, CMS began applying productivity-adjusted hospital market basket updates (i.e., the updates used for HOPD payment rate updates) to ASC payment rates in 2019, for a test period of five years,⁸ in order to assess changes in the migration of services and determine if the data trends were consistent.⁹ Because of abnormal healthcare utilization in 2020 due to the COVID-19 public health emergency (PHE), CMS then extended the test period until 2025.¹⁰ CMS proposes to extend the test period for an additional year (i.e., through 2026) to

continue studying “the impact of the higher update factor on the migration of services from the hospital outpatient setting to the ASC setting.”¹¹

The Inpatient Only (IPO) List, established as part of the initial implementation of the OPPS, contains approximately 1,730 services for which Medicare makes payment only when they are furnished in the inpatient hospital setting.¹² In the 2021 OPPS/ASC final rule, CMS eliminated the IPO List over a three-year transitional period.¹³ In response to stakeholder concerns, the 2022 final rule reversed course and halted the elimination, reinstating most of the services removed in 2021.¹⁴ CMS once again proposes to eliminate the IPO List over the next three years, starting with the removal of 285 procedures, most of which are musculoskeletal, for 2026.¹⁵ The agency states that “the evolving nature of the practice of medicine allows more procedures to be performed on an outpatient basis with a shorter recovery time. This proposal would...[give] physicians greater flexibility in determining the most appropriate site of service.”¹⁶

The 340B Drug Pricing Program allows hospitals and clinics that treat low-income, medically underserved patients to purchase certain “specified covered outpatient drugs” at discounted prices and then receive reimbursement under the OPPS at the same rate as all other providers.¹⁷ This results in a margin for these participants between the amount paid for the drug and the amount received, which enables covered entities to stretch scarce federal resources as far as possible, reaching more patients and providing more comprehensive services.¹⁸ CMS must follow a statutory formula in setting the annual reimbursement rate for 340B drugs. From 2006 to 2018, the reimbursement rate for these outpatient drugs was the drug's average sales price (ASP) *plus* 6%.¹⁹ In the 2018 OPPS, however, CMS finalized a reduction to this reimbursement rate, specific to 340B participants only, of ASP *minus* 22.5%.²⁰ Hospitals and hospital associations subsequently sued CMS to challenge the cuts, and the U.S. Supreme Court unanimously found in 2022 that CMS exceeded its authority in changing drug reimbursement rates for a subset of hospitals.²¹

In accordance with the Supreme Court ruling, CMS issued its 340B Final Remedy rule in November 2023, which set forth the agency's plan to claw back reimbursements unlawfully paid to some hospitals and

reimbursements unlawfully kept from other hospitals. Under the Final Remedy rule, the agency stated that it would repay the amounts owed to approximately 1,600 hospitals in a single lump-sum payment. It also stated that it would recoup funds from those overpaid hospitals by adjusting their OPPTS conversion factor by -0.5% starting in 2026, and continuing that adjustment until the full amount is recouped, approximately 16 years.²² In the 2026 OPPTS/ASC proposed rule, CMS instead proposes revising that offset percentage to -2% starting in 2026, which will accelerate the payback period by 10 years.²³

Other proposals CMS suggests for 2026 include:

- (1) Revising the ASC Covered Procedures List (CPL) to make it easier to add procedures to the list;
- (2) Adding 547 procedures to the ASC CPL (271 of which are also proposed for removal from the IPO List);

- (3) Expanding site-neutral payment policies to drug administration services, which CMS predicts will reduce OPPTS spending by \$280 million;
- (4) Numerous changes to the hospital price transparency regulations, e.g., requiring the disclosure of the 10th, median, and 90th percentile allowed amounts of payor-specific negotiated charges when they are based on percentages or algorithms; and
- (5) Revising the quality measures that must be reported under the Hospital Outpatient Quality Reporting (OQR) Program, the Rural Emergency Hospital Quality Reporting (REHQR) Program, and the Ambulatory Surgical Center Quality Reporting (ASCQR) Program.²⁴

CMS will receive comments and information on the OPPTS/ASC proposed rule until September 15, 2025, and the final rule is expected to be released in November 2025.²⁵

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2 *Ibid.*

3 *Ibid.*

4 “Calendar Year 2026 Hospital Outpatient Prospective Payment System (OPPTS) and Ambulatory Surgical Center Proposed Rule (CMS-1834-P)” Centers for Medicare and Medicaid Services, July 15, 2025, <https://www.cms.gov/newsroom/fact-sheets/calendar-year-2026-hospital-outpatient-prospective-payment-system-opps-and-ambulatory-surgical> (Accessed 7/21/25).

5 “Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs; Overall Hospital Quality Star Ratings; and Hospital Price Transparency” Federal Register, Vol. 90, No. 135 (July 17, 2025), available at: <https://www.govinfo.gov/content/pkg/FR-2025-07-17/pdf/2025-13360.pdf> (Accessed 7/21/25), p. 33508-33509.

6 “CY 2025 Medicare Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System Proposed Rule (CMS 1809-P)” Centers for Medicare and Medicaid Services, July 10, 2024, <https://www.cms.gov/newsroom/fact-sheets/cy-2025-medicare-hospital-outpatient-prospective-payment-system-and-ambulatory-surgical-center#:~:text=In%20the%20CY%202025%20OPPS,July%201%2C%202023%2C%20through%20June> (Accessed 7/11/24).

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8 Centers for Medicare and Medicaid Services, July 10, 2024.

9 “CMS-1695-FC (PDF)” Centers for Medicare and Medicaid Services, <https://www.cms.gov/node/671966> (Accessed 7/18/24).

10 Centers for Medicare and Medicaid Services, July 10, 2024.

11 Centers for Medicare and Medicaid Services, July 15, 2025.

12 “CMS Releases CY 2026 Outpatient Prospective, ASC Payment System Proposed Rule” By Miranda A. Franco & Sarah Starling Crossan, Holland & Knight, July 21, 2025, <https://www.hklaw.com/en/insights/publications/2025/07/cms-releases-cy-2026-outpatient-prospective-asc-payment-system#:~:text=Changes%20to%20the%20IPO%20List,of%20285%20mostly%20musculoskeletal%20services.> (Accessed 7/21/25).

13 “Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; New Categories for Hospital Outpatient Department Prior Authorization Process; Clinical Laboratory Fee Schedule: Laboratory Date of Service Policy; Overall Hospital Quality Star Rating Methodology; Physician-Owned Hospitals; Notice of Closure of Two

Teaching Hospitals and Opportunity To Apply for Available Slots, Radiation Oncology Model; and Reporting Requirements for Hospitals and Critical Access Hospitals (CAHs) To Report COVID-19 Therapeutic Inventory and Usage and To Report Acute Respiratory Illness During the Public Health Emergency (PHE) for Coronavirus Disease 2019 (COVID-19): Final rule” Federal Register, Vol. 85, NO. 249 (December 29, 2020), p. 85869.

14 “Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs; Overall Hospital Quality Star Ratings; and Hospital Price Transparency” Federal Register, Vol. 90, No. 135 (July 17, 2025), available at: <https://www.govinfo.gov/content/pkg/FR-2025-07-17/pdf/2025-13360.pdf> (Accessed 7/21/25), p. 33665.

15 Centers for Medicare and Medicaid Services, July 15, 2025.

16 *Ibid.*

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Todd A. Zigrang, MBA, MHA, FACHE, CVA, ASA, ABV, is the President of **HEALTH CAPITAL CONSULTANTS (HCC)**, where he focuses on the areas of valuation and financial analysis for hospitals, physician practices, and other healthcare enterprises. Mr. Zigrang has over 30 years of experience providing valuation, financial, transaction and strategic advisory services nationwide in over 2,500 transactions and joint ventures. Mr. Zigrang is also considered an expert in the field of healthcare compensation for physicians, executives and other professionals.

Mr. Zigrang is the co-author of *"The Adviser's Guide to Healthcare - 2nd Edition"* [AICPA - 2015], numerous chapters in legal treatises and anthologies, and peer-reviewed and industry articles such as: *The Guide to Valuing Physician Compensation and Healthcare Service Arrangements (BVR/AHLA)*; *The Accountant's Business Manual (AICPA)*; *Valuing Professional Practices and Licenses (Aspen Publishers)*; *Valuation Strategies*; *Business Appraisal Practice*; and, *NACVA QuickRead*. Additionally, Mr. Zigrang has served as faculty before professional and trade associations such as the American Society of Appraisers (ASA); the National Association of Certified Valuators and Analysts (NACVA); the American Health Lawyers Association (AHLA); the American Bar Association (ABA); the Association of International Certified Professional Accountants (AICPA); the Physician Hospitals of America (PHA); the Institute of Business Appraisers (IBA); the Healthcare Financial Management Association (HFMA); and, the CPA Leadership Institute. He also serves on the Editorial Board of *The Value Examiner* and *QuickRead*, both of which are published by NACVA.

Mr. Zigrang holds a Master of Science in Health Administration (MHA) and a Master of Business Administration (MBA) from the University of Missouri at Columbia. He is a Fellow of the American College of Healthcare Executives (FACHE) and holds the Certified Valuation Analyst (CVA) designation from NACVA. Mr. Zigrang also holds the Accredited in Business Valuation (ABV) designation from AICPA, and the Accredited Senior Appraiser (ASA) designation from the American Society of Appraisers, where he has served as President of the St. Louis Chapter. He is also a member of the America Association of Provider Compensation Professionals (AAPCP), AHLA, AICPA, NACVA, NSCHBC, and, the Society of OMS Administrators (SOMSA).



Jessica L. Bailey-Wheaton, Esq., is Senior Vice President and General Counsel of HCC. Her work focuses on the areas of Certificate of Need (CON) preparation and consulting, as well as project management and consulting services related to the impact of both federal and state regulations on healthcare transactions. In that role, Ms. Bailey-Wheaton provides research services necessary to support certified opinions of value related to the Fair Market Value and Commercial Reasonableness of transactions related to healthcare enterprises, assets, and services.

Additionally, Ms. Bailey-Wheaton heads HCC's CON and regulatory consulting service line. In this role, she prepares CON applications, including providing services such as: health planning; researching, developing, documenting, and reporting the market utilization demand and "need" for the proposed services in the subject market service area(s); researching and assisting legal counsel in meeting regulatory requirements relating to licensing and CON application development; and, providing any requested support services required in litigation challenging rules or decisions promulgated by a state agency. Ms. Bailey-Wheaton has also been engaged by both state government agencies and CON applicants to conduct an independent review of one or more CON applications and provide opinions on a variety of areas related to healthcare planning. She has been certified as an expert in healthcare planning in the State of Alabama.

Ms. Bailey-Wheaton is the co-author of numerous peer-reviewed and industry articles in publications such as: *The Health Lawyer (American Bar Association)*; *Physician Leadership Journal (American Association for Physician Leadership)*; *The Journal of Vascular Surgery*; *St. Louis Metropolitan Medicine*; *Chicago Medicine*; *The Value Examiner (NACVA)*; and *QuickRead (NACVA)*. She has previously presented before the American Bar Association (ABA), the American Health Law Association (AHLA), the National Association of Certified Valuators & Analysts (NACVA), the National Society of Certified Healthcare Business Consultants (NSCHBC), and the American College of Surgeons (ACS).



Janvi R. Shah, MBA, MSF, CVA, serves as Senior Financial Analyst of HCC. Mrs. Shah holds a M.S. in Finance from Washington University Saint Louis and the Certified Valuation Analyst (CVA) designation from NACVA. She develops fair market value and commercial reasonableness opinions related to healthcare enterprises, assets, and services. In addition she prepares, reviews and analyzes forecasted and pro forma financial statements to determine the most probable future net economic benefit related to healthcare enterprises, assets, and services and applies utilization demand and reimbursement trends to project professional medical revenue streams and ancillary services and technical component (ASTC) revenue streams.

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