

One Minute Memo[®]



New “Site Neutrality” Proposed Rule Would Slash Hospital Outpatient Payments for Off-Campus Services by 50%

By *William Eck*

In a proposed rule published in the *Federal Register* on July 21, 2017, the Centers for Medicare & Medicaid Services (“CMS”) moved to cut payments for most services provided by off-campus locations of hospitals by 50 percent. CMS would spare only: (i) dedicated off-campus emergency departments of hospitals; (ii) grandfathered provider-based facilities in operation prior to November 2, 2015; and (iii) facilities within 250 yards of a remote location of a hospital. The cuts will be effective in calendar year 2018.

The deadline to submit comments to the proposed rule is September 11, 2017. We are presently developing comments to the rule. If you would like to participate in our preparation of comments, please contact your Seyfarth attorney or William B. Eck, whose contact information is listed below. We welcome and encourage your input and insight.

As you know, in Section 603 of the Bipartisan Budget Act of 2015, Congress enacted certain “site neutrality” amendments to the Medicare Act. In general, site neutrality means that Medicare payment rates for a given service will not vary based on treatment setting, for certain outpatient services that are also furnished in physician offices, without a justifiable reason for the variance. CMS initially interpreted these amendments so as to assure access to needed hospital outpatient services.

However, for calendar year 2018, CMS has proposed decreasing the hospital payment rates by 50 percent. In 2016 CMS established a “relativity adjuster,” to decrease rates paid for the hospital facility (not professional) component by 50 percent.

For calendar year 2018, CMS is proposing to revise the relativity adjuster to be 25 percent of the outpatient prospective payment system rate for hospitals. The preamble to the proposed regulation notes a number of potential issues regarding this formulation, which we will address in our comments. Primary among these is access to care, which will be impaired by a 25 percent payment rate, particularly in areas that rely upon hospital outpatient centers for services. Our comments will be furnished in August or early September, once we receive further input from our hospital and health system clients.

If you would like further information, please contact [William Eck](mailto:weck@seyfarth.com) at weck@seyfarth.com.

www.seyfarth.com

Attorney Advertising. This One Minute Memo is a periodical publication of Seyfarth Shaw LLP and should not be construed as legal advice or a legal opinion on any specific facts or circumstances. The contents are intended for general information purposes only, and you are urged to consult a lawyer concerning your own situation and any specific legal questions you may have. Any tax information or written tax advice contained herein (including any attachments) is not intended to be and cannot be used by any taxpayer for the purpose of avoiding tax penalties that may be imposed on the taxpayer. (The foregoing legend has been affixed pursuant to U.S. Treasury Regulations governing tax practice.)

Seyfarth Shaw LLP One Minute Memo[®] | July 21, 2017

©2017 Seyfarth Shaw LLP. All rights reserved. “Seyfarth Shaw” refers to Seyfarth Shaw LLP (an Illinois limited liability partnership). Prior results do not guarantee a similar outcome.