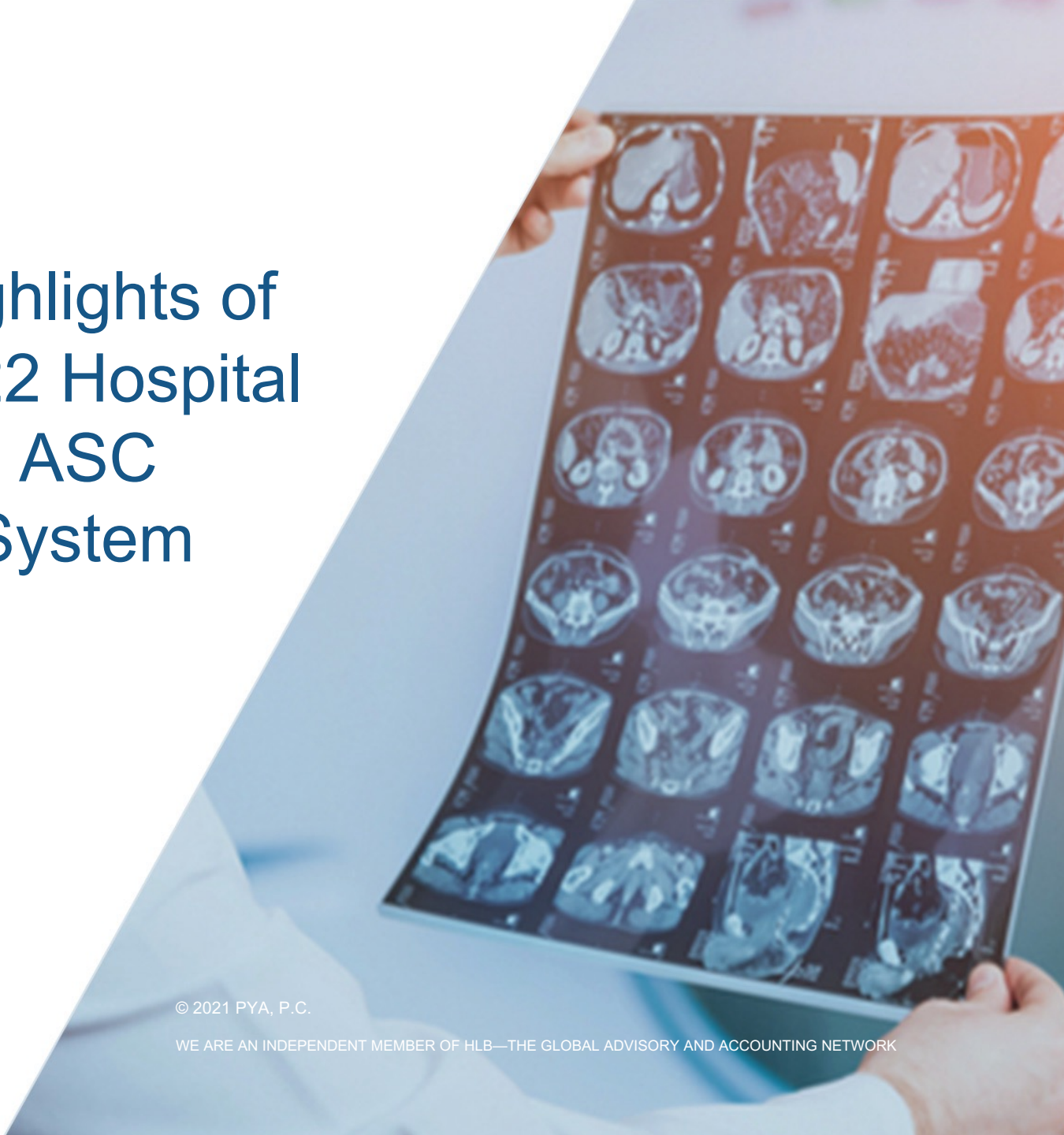
Top 10 Highlights of the CY2022 Hospital OPPS and ASC Payment System Final Rule

December 8, 2021



HEALTHCARE REGULATORY ROUND-UP

TOP 10 HIGHLIGHTS OF THE CY2022 HOSPITAL OPPS AND ASC PAYMENT SYSTEM *FINAL* RULE

December 8, 2021

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PYA

Top Ten

1. OPPS and ASC payment rate updates
2. Reversal of 2021 changes to the Inpatient Only list
3. Reversal of 2021 changes to the ASC Covered Procedures list
4. Changes to the two-midnight rule medical review activities exemptions
5. Increase in penalties for non-compliance with price transparency rules
6. Clarification of rules regarding online price estimator tools
7. 340B program payment rates
8. Radiation oncology model timing and design
9. Modifications to hospital outpatient and ASC quality reporting programs
10. Payment for non-opioid pain management drugs and biologicals

1. CY2022 Payment Rates

Updates OPPS payment rates by 2.0 percent

- Proposed a 2.3 percent update
- Update uses 2019 claims data rather than 2020
- Uses inpatient PPS wage index (including reclasses)
  - 60 percent of the payment rate is labor-related
- Rate would move to $84.177 (currently $82.797)
  - $82.526 for hospitals not meeting quality reporting requirements
  - Increase of $875 in cost outlier threshold ($6,175 for CY2022)

Maintains site neutral payment at 40 percent of OPPS

- Applies to *non-grandfathered* (non-excepted) off-campus provider-based departments and to *grandfathered* off-campus provider-based clinics

ASCs would receive the same percentage payment update

- ASC conversion factor set at $49.916 ($48.937 for those not meeting quality reporting requirements)

2. Inpatient Only List

- Reverses 2021 action that began process to repeal inpatient only (IPO) list
  - Restores majority of the services removed last year
    - Maintained outpatient status for three arthrodesis and arthroplasty services along with the associated anesthesia codes
  - Codifies process for future services to be moved off IPO list
    - Most outpatient depts equipped to provide the services to Medicare patients
    - Simplest procedure described by the code may be furnished in most outpatient depts
    - Procedure related to codes already removed from IPO list
    - Service is already being furnished on outpatient basis
    - Can be appropriately and safely performed in an ASC

3. ASC Covered Procedures List

- Reinstates patient safety criteria for adding services to ASC covered procedures list
- Removes majority of services added to ASC CPL last year
- Nomination process for new ASC services
  - Rather than current notification methodology
  - Stakeholders would nominate procedures for addition to the ASC covered procedures list
    - If CMS agrees that nominated procedure meets criteria for a covered surgical procedure, would be proposed for inclusion in next annual rulemaking
    - Expect sub-regulatory guidance

4. Two-Midnight Rule Reviews

- Two-year exemption from medical review for those procedures removed from the IPO list on or after January 1, 2021
  - Exempt from site-of-service claim denials for non-compliance with the 2-midnight rule

5. Price Transparency: Penalty

- Civil monetary penalty for non-compliance
  - Currently $300 per day
  - New penalty varies with bed size
    - 30 or less beds: $300 per day
    - 31-550 beds: daily maximum penalty of $10 per bed
    - More than 550 beds: $5,500/day

6. Price Estimator Tools

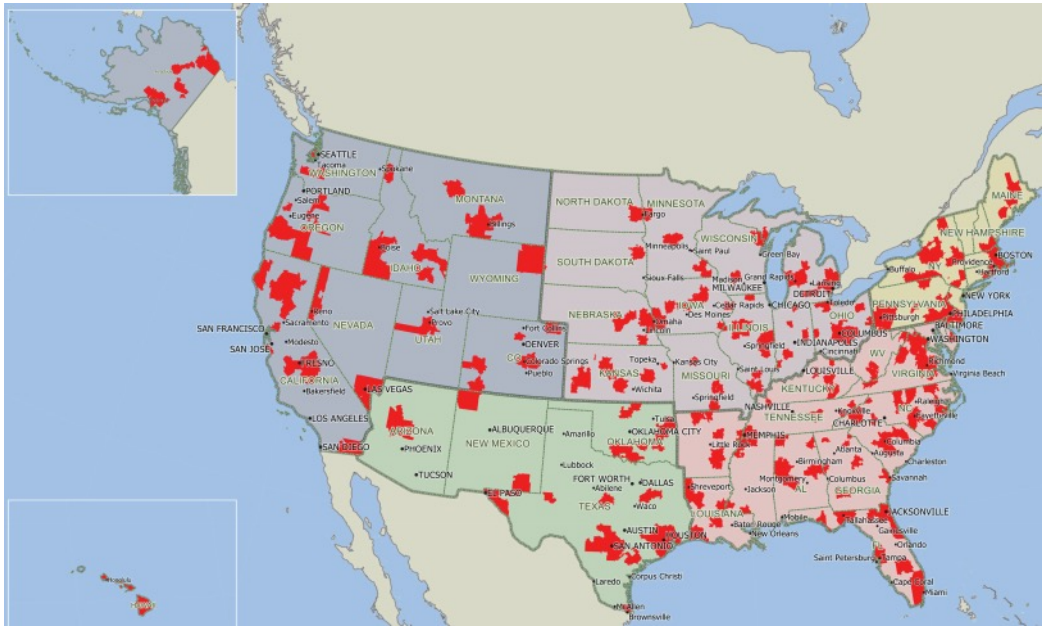
- Price estimators deemed to meet the shoppable services requirement if –
  - Includes estimate for at least 300 services, including the 70 specified by CMS
    - Single out-of-pocket amount – not a range of rates
    - Can rely on prior claims reimbursement data
      - Does not have to duplicate machine readable file
  - Provides real-time access to estimate of amount patient is expected to pay
    - Must be useful for self-pay patients as well as those with insurance
  - Prominently displayed on hospital website with no barriers to access

7. 340B Program Payment Rates

- Continues payment for 340B-acquired drugs at ASP minus 22.5 percent
  - Supreme Court hearing on November 30 to address CMS action in reducing payment rate in CY2018

8. Radiation Oncology Model

- New mandatory episodic payment model commencing **January 1, 2022,** and continue for 5 years
- All RT providers (HOPDs, physician practices, freestanding RT centers) in specified zip codes to receive episodic payments (vs. fee-for-service) (approximately 30% of all RT services)



Radiation Oncology Model

- Tests whether site-neutral, modality agnostic, prospective episode-based payments impacts cost and quality
- Episodic payment split between PC and TC; 50% at initiation, 50% at end of 90-day episode (with quality withholds)
- Key changes
  - Lowers discount on participant-specific payment rates from 3.75% to 3.5% (PC) and 4.75% to 4.5% (TC)
  - Include 2% quality withhold in Year 1
  - Removes liver cancer (leaving 15 cancers)
  - Removes brachytherapy
  - Other modifications to ensure RO Model qualifies as Advanced APM for 2022

9. Quality Reporting Programs

- New measures -
  - COVID-19 Vaccination coverage among health care personnel
    - Excludes only those with contraindications to the vaccine
  - Breast screening recall rates
  - ST-STEMI eCQM
  - Improvement in patient's visual function within 90 days following cataract surgery
  - Reporting of outpatient and ASC CAHPS
- Removed measures –
  - Fibrinolytic therapy received within 30 minutes of ED arrival
  - Median time to transfer to another facility for acute coronary intervention

10. Non-Opioid Pain Management

- CMS required by law to review OPPS/ASC payments to ensure no financial incentives to use opioids rather than non-opioid alternatives for pain management
- For 2022, separate payment (ASP + 6%) for ASCs for non-opioid alternatives that function as surgical supplies that –
  - Are FDA-approved
  - Have an FDA-approved indication for pain management or analgesia
  - For drugs and biologicals, have a per-day cost in excess of the OPPS drug packaging threshold ($130 in 2022)
- For 2022, will impact four drugs:

HCPCS Code	Long Descriptor
C9290	Injection, bupivacaine liposome, 1 mg
J1097	Phenylephrine 10.16 mg/ml and ketorolac 2.88 mg/ml ophthalmic irrigation solution, 1 ml
C9088	Instillation, bupivacaine and meloxicam, 1 mg/0.03 mg
C9089	Bupivacaine, collagen-matrix implant, 1 mg

Comment Solicitation

- CMS sought comment on the following in Proposed Rule; no actions taken in Final Rule
  - Making certain PHE flexibilities permanent
    - Providing mental health services via communication technology by hospital clinical staff member who cannot bill Medicare independently for his/her professional services
    - Providing direct supervision for pulmonary rehabilitation, cardiac rehabilitation, and intensive cardiac rehabilitation services via audio/video real-time communication technology
  - Extending non-opioid pain management payments to HOPDs
  - Adopting new ASC quality measures
  - Implementing Rural Emergency Hospital program

Upcoming Webinars

- January 12, 2022:

  “Ripped from the Headlines — Hot Topics in Hospital Reimbursement”

- January 26, 2022:

  “Planning for the Future — Acute Hospital Services at Home”

Questions:

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