

## WHA Expresses Concerns Over Inadequate Payment Update in Outpatient Rule

### Urges CMS to restore 340B cuts without penalizing other hospitals

WHA again voiced concerns over the Centers for Medicare & Medicaid Service's (CMS) inadequate proposed payment update in comments sent regarding the [proposed 2023 Outpatient Prospective Payment System \(OPPS\) rule](#).

WHA noted that CMS agreed with hospitals and other groups in upwardly adjusting the proposed inpatient rule payment adjustment earlier this year. Given that hospitals are still facing the same pressures of historic inflation, ever-increasing drug prices, and the worst workforce shortage in years, which is driving significant increases in labor costs, CMS should likewise act to increase the payment rate in this rule to more accurately reflect these cost increases.

While pleased that CMS is finally recognizing the need to rectify the previous cuts made to 340B hospitals in response to the U.S. Supreme Court decision in *American Hospital Association v. Becerra*, WHA also cautioned CMS against recouping payments that had already gone out to non-340B hospitals, something CMS had suggested it would need to do to follow budget neutrality rules.

"Hospitals were not responsible for CMS's decision to make the prior unlawful payment cuts, and they should not be penalized for CMS's decision," wrote WHA President and CEO Eric Borgerding. "It's worth noting that budget neutrality is to be applied on a prospective basis, and there is no legal basis for recouping payments that have already gone out based on prior years' payment rules."

WHA also commented on several other provisions, including:

- Cautioning CMS against adding new a new service line, facet joint interventions, to its prior authorization program.
- Supporting CMS's proposal to exempt sole community hospitals from site-neutral payment cuts and proposing to not only exempt Medicare-dependent and low-volume hospitals from the cuts, but to reverse them entirely.
- Supporting CMS's proposal to continue payment for remote outpatient mental health services after the public health emergency expires (including audio only) but cautioning against its proposed limited reimbursement model.
- Supporting CMS's proposal to utilize telehealth and advanced-practice providers to provide supervision.
- Cautioning against flawed assertions about hospital consolidation.

You can read the full [comment letter here](#). Contact WHA Vice President of Federal and State Relations [Jon Hoelter](#) with questions.

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