



Policy Brief

August 21, 2020



Key Highlights: Outpatient Prospective Payment System Rule

CMS released its annual Outpatient Prospective Payment System (OPPS) [proposed rule](#) for Calendar Year (CY) 2021. The rule includes several policies that are significant to hospitals, including the elimination of the Inpatient Only (IPO) list, continued payment reductions for 340B drugs and an overhaul of the Hospital Quality Star Ratings program. A detailed outline of the rule can be found [here](#).

Key Highlights

Increases OPPS payment rates by 2.6%. The 2.6% update will apply to hospitals that meet quality reporting requirements. CMS estimates the increase will total \$83.9 billion in CY 2021, up from \$7.5 billion in CY 2020.

Continues to reduce payments for 340B drugs: Average Sales Price (ASP) minus 28.7%. On July 31st, the U.S. Court of Appeals for the District of Columbia [upheld](#) CMS' authority to reduce payments for 340B drugs. In this rule, CMS proposes two alternatives: 1) Reduce payments even further, at ASP minus 28.7% or 2) Continue paying hospitals at the reduced rate of ASP minus 22.5%. CMS is basing the payment reduction on data collected from a 340B acquisition cost survey conducted earlier this year.

Eliminates the IPO list. CMS proposes a three-year phased elimination of the IPO list, beginning with the removal of 266 musculoskeletal-related services on January 1, 2021. For the first two years after a procedure is removed from the IPO list, that procedure will *not* be subject to the two-midnight rule. This proposal, if finalized, will accelerate the shift of services from the inpatient to the outpatient setting.

Allows more procedures to be done in Ambulatory Surgical Centers (ASCs). CMS proposes to add 11 procedures (outlined on Table 40 of proposed rule) to the ASC Covered Procedures List (CPL), including Total Hip Arthroplasty. Over the last few years, CMS has been adding more procedures to the ASC CPL list and this trend is expected to continue.

Streamlines the Overall Hospital Quality Star Ratings. The rule proposes to simplify the hospital Quality Star Ratings by using fewer variables for the ratings, decreasing the number of measure groups and stratifying the readmission groups based on the dual-eligible population.



Key Highlights: Physician Fee Schedule Proposed Rule

CMS released its annual Physician Fee Schedule (PFS) [proposed rule](#) for CY 2021. In alignment with the Administration's desire to [expand](#) telehealth services, the rule proposes to reimburse providers for more telehealth services and seeks comments on whether to make some of the COVID-19 telehealth waivers permanent. The rule also increases payment for certain E/M visits such as maternity care bundles while proposing payment reductions for various specialties, including infectious disease and radiology. A detailed outline of the rule can be found [here](#).

Key Highlights

Expands coverage of telehealth services and seeks comments on COVID-19 telehealth waivers. The rule proposes to add several [permanent](#) and [temporary services](#) to the approved list of Medicare telehealth services. For temporary services, most of which were added during the Public Health Emergency (PHE), CMS proposes to create a temporary Category 3. This will allow the Agency to solicit comments on whether to add these services permanently, beyond the PHE. CMS seeks input on whether to extend some of the COVID-19 telehealth waivers as well.

Reduces payment for several specialties. To balance the [increased payment](#) for E/M office visits, CMS proposes to reduce the reimbursement rate for several specialties including Radiology (-11%), Orthopedic Surgery (-5%), Vascular Surgery (-7%) and Infectious Disease (-4%). Table 90 (pages 897 and 898) in the proposed rule shows the impact by specialty.

Expands scope of practice to the extent allowed by state law. CMS proposes allowing Certified Nurse Midwives (CNMs), Clinical Nurse Specialists (CNSs), Nurse Practitioners (NPs) and

Physician Assistants (PAs), in addition to physicians, to supervise the administration of diagnostic tests within their state scope of practice and applicable state laws. The Agency also proposes to extend some policies implemented under the PHE related to services furnished by pharmacists and physical therapists.



President Releases COVID-19 Relief Orders: What Does This Mean for the Next Package?

Last week, the Trump Administration [released](#) a series of Executive Orders (EOs) to provide support during the COVID-19 public health emergency. The EOs include delaying payroll tax obligations and providing an additional \$400 in weekly state unemployment benefits, as the additional \$600 provided under the CARES Act has expired. Many political pundits have viewed these actions as a [response](#) to the stalled Congressional negotiations over another COVID-19 relief package. Congressional action may still be necessary, as some EOs require that funds be allocated—something the President alone may not have the [power](#) to do. On a recent stakeholder call, the AHA reported that although congressmembers have returned to their districts to campaign, they may be called back to the Capitol to vote if a legislative deal is reached.

Recent COVID-19 Executive Orders

On August 8th, President Trump [issued](#) the following four EOs and memorandums:

- [*Authorizing the Other Needs Assistance Program for Major Disaster Declarations*](#)
Provides an additional \$400 each week for state unemployment benefits with the federal government covering 75% of the costs.
- [*Deferring Payroll Tax Obligations*](#)
Delays payroll taxes until the end of year, as of September 1, 2020.
- [*Providing Assistance to Renters and Homeowners*](#)
Allocates available federal funds to provide temporary financial assistance or extend other resources to minimize evictions and foreclosures.

- [Continued Student Loan Payment Relief](#)

Defers student loan payments and forgives interest until further notice.

Status on Another COVID-19 Relief Package

While the [legality](#) of President Trump's actions is still being determined, there remains the question of whether another COVID-19 relief package will be passed by Congress.

Congressmembers are out for August recess, many campaigning for the upcoming election. However, according to the AHA, congressional leaders have asked both members of the House and Senate to remain flexible; they will need to return if a deal on the next relief package is reached.



The Rising Mental Health Cost of the Pandemic

The COVID-19 public health emergency is having a serious impact on communities' levels of mental health. In a new study released last week, the Centers for Disease Control and Prevention (CDC) found that nearly 41% of the U.S. population struggles with pandemic-related mental health issues, stemming either directly from the pandemic or its related physical distancing measures. Racial and ethnic minorities, essential workers and unpaid adult caregivers are affected most severely. Read more on at-risk communities and ways that health systems can help.

Which communities are the most at risk?

The CDC surveyed thousands of teens and adults in conducting their research, assessing participants for adverse mental health symptoms, suicidal ideation and misuse of substances. The CDC's findings revealed that Black and Latinx individuals of any race are showing significantly higher rates of poor mental health during the pandemic than their White peers. Regardless of race or ethnicity, over a quarter of all "[Zoomers](#)" (people currently ages 18-24) feel depressed, anxious or isolated. Many essential workers and adult caregivers also report having [seriously considered](#) suicide in the last 30 days.

What can health systems do to help?

Dr. Ken Duckworth of the [National Alliance on Mental Illness](#) (NAMI) urges providers to take this new study seriously, saying, “There’s a whole subset of people—caregivers, people with pre-existing conditions, people of color, essential workers—who need mental health support.” Health systems can share the ways that an infectious disease outbreak can increase stress with their patients and employees, making sure that people know the [warning signs](#). Many communities may need increased Substance Use Disorder resources, as rates of drug and alcohol misuse have gone up. Finally, the CDC and NAMI have released a robust set of [mental health resources](#) for providers and patients as we continue to navigate this pandemic together.



Updates on COVID-19 Regulations

AHPA continues to follow new COVID-19 regulations, guidance and other government actions. The updates below are the latest guidance and other developments since August 10th to help mitigate the impacts of COVID-19. For earlier COVID-19 regulations and guidance, visit the last [Policy Brief](#).

HHS Announces Allocation of CARES Act Funding for Nursing Homes

- HHS has [announced](#) the details of the next round of nursing home Provider Relief Fund (PRF) distribution, as authorized by the CARES Act. The PRF distribution will total approximately \$5 billion.

Additional Opportunity for Provider Relief Fund’s Phase 2 Applications

- HHS has [launched](#) a second opportunity to apply for additional funding under the PRF. Eligible providers must submit their application for consideration by August 28, 2020.

Year-End COVID-19 State Testing Plans

- HHS has publicly released the July through December [COVID-19 Testing Plans](#) for all states, territories and localities. These plans serve as a roadmap developed in partnership with the federal government for each jurisdiction.

Updated Requirement for COVID-19 DRG Add-on

- CMS has updated [guidance](#) related to the 20% DRG rate add-on for patients diagnosed with COVID-19. For inpatient admissions occurring on or after September 1st, eligible claims will be required to document a positive COVID-19 test in the medical record.



Election Watch 2020: News from the Campaign Trail

The journey to the 2020 presidential election continues. Below are the latest highlights from the campaign trail:

- **Mr. Biden has [announced](#) Sen. Kamala Harris (D-CA), a previous presidential-hopeful herself, as his running mate.** The Biden-Harris ticket is [historic](#), as Sen. Harris is the first Black or South Asian American woman tapped to run on a major-party ticket in the U.S. More on Sen Harris' positions on health care, education and inequality can be found [here](#).
- **The Democratic National Convention kicked off this week**, pivoting to [virtual](#) in light of the pandemic. Speakers were encouraged to set up cameras in interesting (socially-distant) locations; participants watched via livestream on the [DNC's website](#) and through major TV networks.

IN OTHER NEWS

[HHS Releases Healthy People 2030 with National Health Objectives for the Next Decade](#) – HHS

[Lost on the Frontline: Memorial Portraits of Healthcare Workers](#) – The Guardian / KHN

[Supreme Court to Hear Obamacare Case One Week After Election Day](#) – CNN

[Moving on from Telehealth-By-Desperation: What Will Make Telehealth Stick](#) – Health Affairs

[NC "Reporting Error" Fuels 200,000 COVID Testing Overcount](#) – Modern Healthcare

[Scam Alert: Things a COVID-19 Contact Tracer Wouldn't Say](#) – Kaiser Health News