Calendar Year 2018 Medicare Hospital Outpatient Prospective Payment System Proposed Rule

August 2017

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Overview

- The Centers for Medicare and Medicaid Services (CMS) published the calendar year (CY) 2018 Medicare Hospital Outpatient Prospective Payment System (OPPS) Proposed Rule on July 13, 2017

- Comments on the Proposed Rule are due by **5 p.m. EST on September 11, 2017**

Key issues addressed in the Proposed Rule:

- Payment cuts for 340B drugs
- Payment for drugs and biologicals, including biosimilar products
- Payments to providers
- Hospital Outpatient Quality Reporting (OQR) Program

82 Fed. Reg. 33,558

Proposed payment cut for drugs acquired under the 340B program

- Proposes to reduce payment from Average Sales Price (ASP) **plus** 6% to ASP **minus** 22.5%
  - CMS believes that 22.5% represents the "average minimum discount" received by 340B providers, though discounts are, in reality, "likely much higher" according to a MedPAC report cited by CMS
- Payment cuts would **not** apply to pass-through drugs or vaccines
- As proposed, cuts would take effect on January 1, 2018
- Hospitals would be required to report a modifier for **non-340B** drugs; any drug reported without a modifier would be subject to cuts

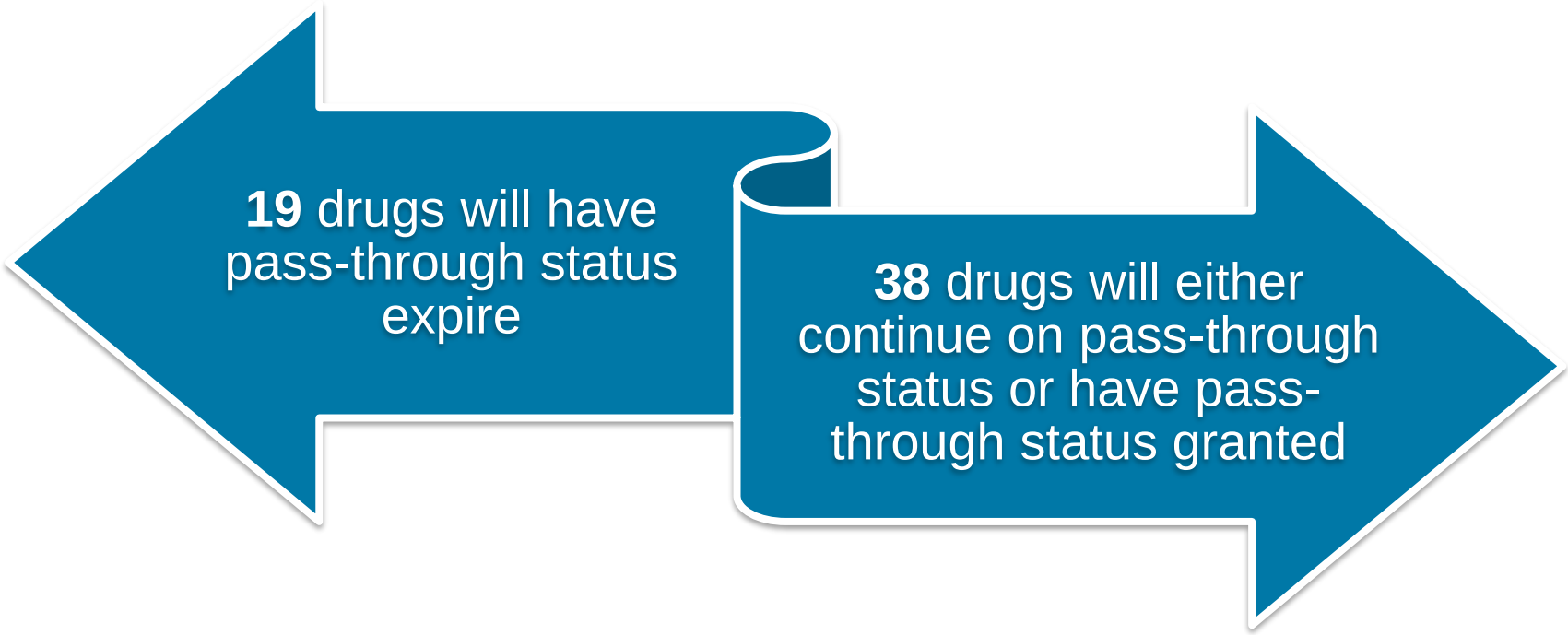
82 Fed. Reg. 33,633–35

Reimbursement for separately payable drugs set at default rate of ASP plus 6%

- Nonpass-through separately payable (non-340B) drugs and biologicals would continue to be reimbursed at the statutory default rate of **ASP plus 6%**
    - With sequestration still in effect, this amount is truly ASP + 4.3%

82 Fed. Reg. at 33,633

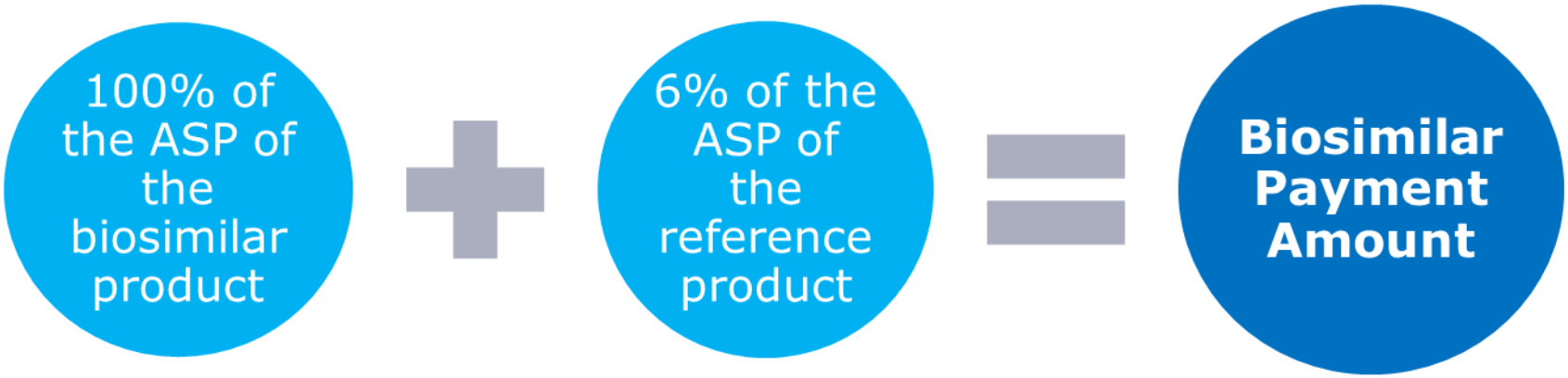
Reimbursement for pass-through drugs and biologicals remains at ASP plus 6%



82 Fed. Reg. at 33,621–22

OPPS payment for separately payable biosimilar biological products

- CMS would continue to pay for non-340B separately payable biosimilar products according to the same ASP-based methodology that applies to biosimilars in the physician office setting

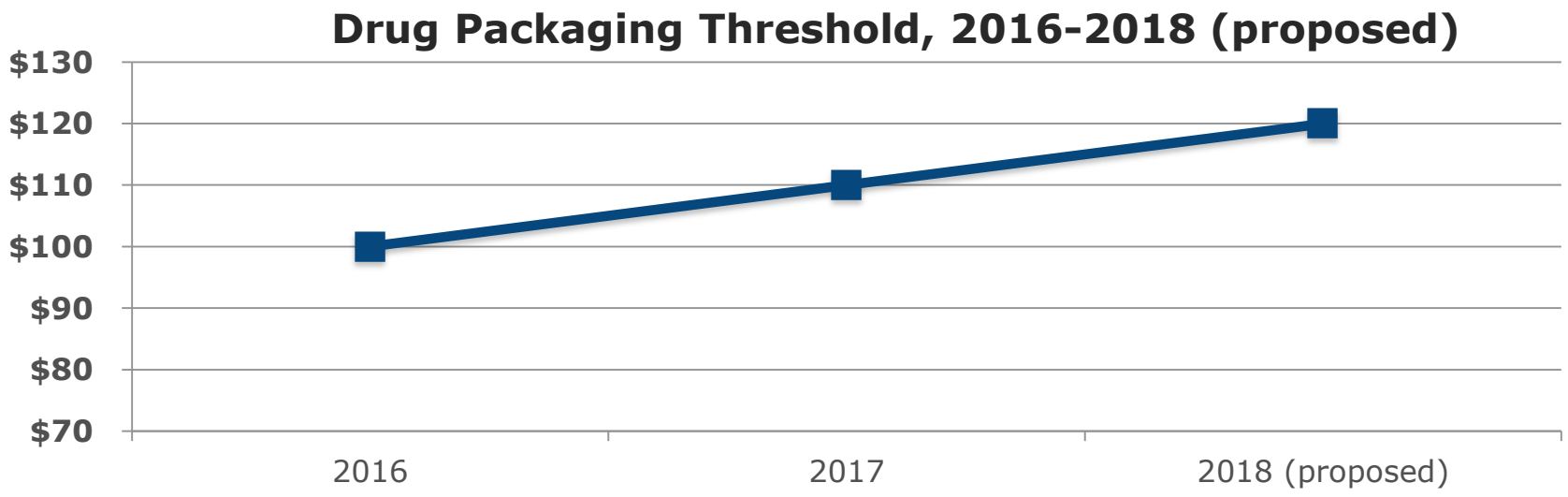


- All biosimilars of the same reference product are grouped in the same billing code and subject to the same blended payment amount
- Payment amount for the reference product is not affected by this policy

42 U.S.C. § 1395w–3a(b)(8); 82 Fed. Reg. at 33,630

Drug packaging threshold continues to rise

- Cost threshold for packaged drugs would rise from $110 to $120 per day



82 Fed. Reg. at 33,625

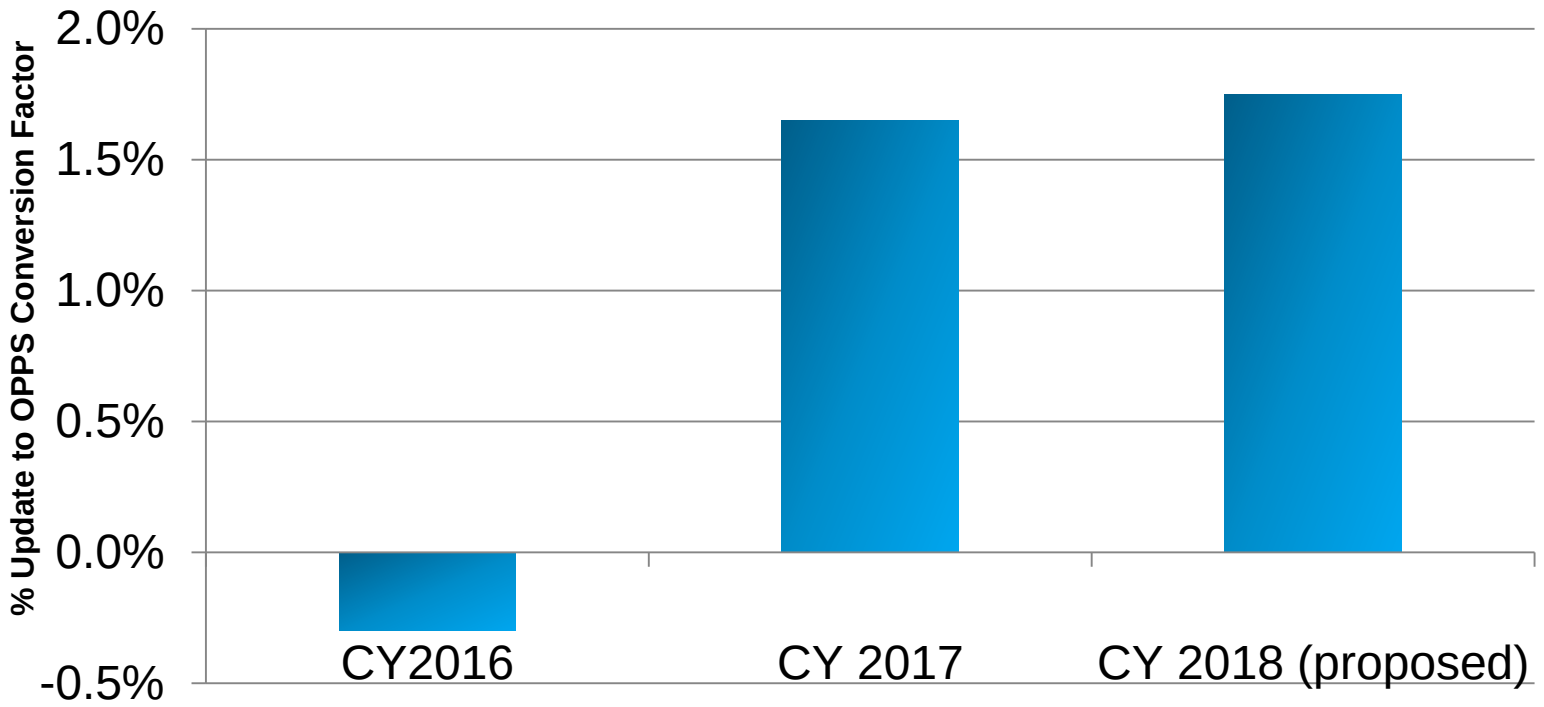
Proposal to package drug administration services

- Drug administration services have thus far been excluded from OPPS packaging policies
- CMS now proposes to package certain low-cost drug administration services (Level 1 and Level 2)
  - Does **not** propose to package drug add-on codes (e.g., additional hour of infusion) at this time
- The agency also indicates that it intends to move towards more comprehensive packaging policies in the future

82 Fed. Reg. at 33,585

1.75% annual OPPS payment update for CY 2018

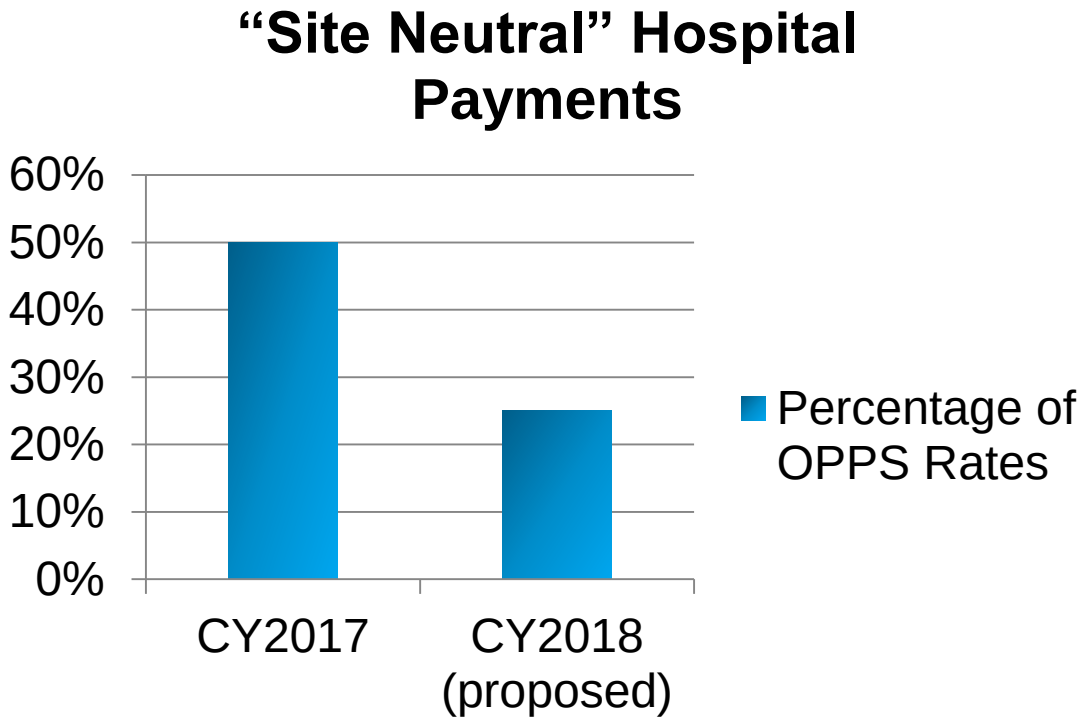
- 1.75% conversion factor update results from 2.9% calculated inflation update reduced by:
  - Multi-factor productivity adjustment (-0.4%) and
  - Statutorily mandated reduction (-0.75%)



82 Fed. Reg. at 33,564

“Site neutral” payment adjustments

- New, off-campus hospital outpatient departments subject to last year’s site neutral policies would be paid 25% of OPPS rates– down from 50% of OPPS rates in CY 2017



- Note that this reduction would not change payments for separately payable drugs under the OPPS because such drugs are paid the same rate in the physician office setting

82 Fed. Reg. at 33,982–83

Proposed Hospital OQR program measures

Payment determination CY	Total measures	Comments
2020	26	Proposed removal of two measures: **OP-21: Median Time to Pain Management for Long Bone Fracture**, which measures the median time from ED arrival to time of initial pain medication administration for ED patients with a principal diagnosis of long bone fracture **OP-26: Hospital Outpatient Volume Data on Selected Outpatient Surgical Procedures**, which assesses the aggregate count of selected, higher volume, surgical procedures performed in Hospital Outpatient Departments
2021	22	Proposed removal of measure four measures: **OP-1: Median Time to Fibrinolysis**, which assesses the median time from ED arrival to administration of fibrinolytic therapy in ED patients with ST-segment elevation **OP-4: Aspirin at Arrival**, which assesses the rate of patients with chest pain or possible heart attack who received aspirin within 24 hours of arrival **OP-20: Door to Diagnostic Evaluation by a Qualified Medical Professional**, which assesses the time from ED arrival to provider contact for emergency department patients **OP-25: Safe Surgery Checklist Use**, which assesses whether a hospital employed a safe surgery checklist that covered each of the three critical perioperative periods (prior to administering anesthesia, prior to skin incision, and prior to patient leaving the operating room) for the entire data collection period.

82 Fed. Reg. at 33,672–75

Request for comments on how to improve OPPS and Physician Fee Schedule (PFS)

- In both OPPS and PFS Proposed Rules, CMS seeks stakeholder ideas on ways to:
  - Increase transparency;
  - Flexibility;
  - program simplification; and
  - Innovation
- Examples include:
  - Recommendations regarding payment system re-design;
  - Elimination or streamlining of reporting requirements;
  - Operational flexibility;
  - Data sharing to facilitate patient-centered care; and
  - How to generally simplify rules for beneficiaries, clinicians, providers, and suppliers

82 Fed. Reg. at 33,703–04

Request for comments

The agency solicits comments on many topics, including:

- The appropriateness of the amount and timing of the 340B payment cuts
- Whether 340B hospitals should be required to report actual drug acquisition costs
- How savings from 340B cuts should be utilized
- Whether additional drug administration services should be packaged, such as Level 3 and Level 4 services
- Whether the agency should package drug add-on codes
- Whether additional services should be considered for packaging
- How to improve OPPS and PFS

Commenting on the Proposed Rule

Submit comments electronically using file code file code CMS-1678-P at www.regulations.gov or mail comments to:

Regular Mail
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1678-P
P.O. Box 8013
Baltimore, MD 21244-1850

Express or Overnight Mail
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1678-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Public comments are due by no later than **5:00 p.m. EST on September 11, 2017**

82 Fed. Reg. at 33,558