

September 15, 2025

Secretary Robert F. Kennedy, Jr.
Department of Health and Human Services (HHS)

Administrator Mehmet Oz
Centers for Medicare and Medicaid Services (CMS)

Re: Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs (CMS-1834-P)

Dear Secretary Kennedy and Administrator Oz:

Thank you for the opportunity to comment on the Calendar Year 2026 Hospital Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) Payment System proposed rule.¹ This letter makes three main points:

1. CMS' proposal to apply site-neutral payment to drug administration services furnished in currently excepted off-campus hospital outpatient departments (HOPDs) would lower costs for the Medicare program and its beneficiaries, remove an incentive for vertical consolidation, and do so without harming patient care.
2. The economic logic of site-neutral payment applies to many other types of services and to on-campus, not just off-campus, services. Thus, further expanding site-neutral payment, as CMS seeks comment on in the proposed rule, would likely produce similar benefits.
3. To truly equalize payments across sites of service, CMS would need to set "site-neutral" payment rates that more precisely align with the payments that would occur under the Physician Fee Schedule (PFS), rather than simply paying 40 percent of the OPPS rate.

The remainder of this letter examines these points in greater detail.

Expanding Site-Neutral Payment for Drug Administration Would Lower Costs and Reduce Incentives for Vertical Consolidation Without Harming Quality of Care

CMS proposes to apply a PFS-equivalent rate—implemented as 40 percent of the OPPS amount—to any HCPCS code assigned to the drug-administration APCs (APCs 5691–5694) when furnished in off-campus provider-based departments that are currently excepted under Section 603 of the Bipartisan Budget Act of 2015, with rural sole community hospitals exempted. CMS estimates that this change in policy would reduce spending on this care by \$280 million in 2026, with \$210 million in savings for Medicare and \$70 million in savings for beneficiaries.

¹ The views expressed in this letter are our own and do not necessarily reflect the views of the Brookings Institution or anyone affiliated with the Brookings Institution other than ourselves.

The logic of equalizing payments for drug administration services is the same as for clinic visits, which are already subject to site-neutral payment. When Medicare pays more for a service in one setting than another, it creates an incentive to deliver care in the higher-paid setting. This, in turn, leads to higher spending for the Medicare program and higher cost-sharing for beneficiaries (which is typically 20% of the Medicare allowed amount). For services that do not require hospitals' specialized capabilities—which is clearly the case for drug administration services since they are often delivered in the office setting—these higher costs come with no clinical benefit.² The current payment disparity for drug administration is substantial, as documented in the proposed rule, so this is a likely a major driver of the migration of these services into HOPDs that CMS observes.

Research suggests that site of service payment differentials have also increased the acquisition of physician practices by hospitals.³ By equalizing payments, this proposal would also reduce the financial incentive for hospitals to acquire physician practices simply to take advantage of a payment arbitrage opportunity. Because this proposal would only apply to certain existing off-campus HOPDs, the reduction in vertical consolidation might be somewhat smaller than for other ways of expanding site-neutral payment, but some effect is still likely since hospitals often have at least some scope to shift additional practices into existing HOPDs.

The Economic Logic of Site-Neutral Payment Applies to More Settings and Services

The proposed rule solicits comments on whether it should expand site-neutral payment to on-campus HOPDs and other services. We believe that the fundamental economic logic of site-neutral payments applies to settings and services beyond CMS' current proposal.

In particular, whether a service is delivered on- or off-campus is irrelevant to the rationale for site-neutral payment laid out above. If a service does not require the specific clinical capabilities that hospital settings uniquely provide, paying more for a service delivered in a HOPD is likely to raise costs without clinical benefit, whether the service is on- or off-campus.

There are also many other types of services that are likely suitable for site-neutral payment. The Medicare Payment Advisory Commission (MedPAC) has identified a set of services that are more commonly performed in the physician office setting than the HOPD setting and thus presumably suitable for office-based care.⁴ These services include a wide range of care, most notably many common imaging services, various diagnostic tests, and some minor procedures. Furthermore, the MedPAC list arguably excludes some services that are, in fact, appropriate for office-based care. The very existence of the payment disparity has likely caused a significant shift in volume to the HOPD setting, which likely causes MedPAC's list to exclude some services that were, in the past, most commonly delivered in office settings. In work with Benedic Ippolito, we have therefore

² Medicare Payment Advisory Commission (MedPAC), *Medicare and the Health Care Delivery System* (2023), https://www.medpac.gov/wp-content/uploads/2023/06/Jun23_MedPAC_Report_To_Congress_SEC.pdf.

³ David Dranove and Christopher Ody, "Employed for Higher Pay? How Medicare Payment Rules Affect Hospital Employment of Physicians," *American Economic Journal: Economic Policy* 11, no. 4 (2019): 249–71, <https://doi.org/10.1257/pol.20170020>.

⁴ Medicare Payment Advisory Commission (MedPAC), *Medicare and the Health Care Delivery System*.

argued that a less restrictive standard might more accurately capture the full range of services that could be safely and appropriately provided in the office setting; specifically, we argued for including services as long as some minimum share of services (e.g., 30%) are currently being performed in the office setting.⁵

Achieving Site-Neutrality Requires Changing how CMS Calculates “Site-Neutral” Rates

At present, CMS generally applies site-neutral payment by reducing OPPS payment amount to 40 percent of the amount that would otherwise be paid under the OPPS. In many cases, this likely results in payment amounts that differ markedly from what would be paid under the PFS.

Indeed, CMS’ own analysis in the proposed rule demonstrates that the 40 percent multiplier results in higher payments for drug administration services. CMS states that for the drug administration codes examined, “The volume-weighted PFS payment for the drug administration APCs ranged from 24 percent to 33 percent of the OPPS payment.” This means that even after the proposed reduction to 40 percent of OPPS rates, the amount that off-campus HOPDs are paid for the technical aspects of these services would still be around one-fifth to two-thirds higher than what would be paid in the office setting. For this reason, CMS’ proposal would only partially realize the potential benefits of a shift to site-neutral payment for drug administration services.

To ensure the same amount is paid regardless of setting, CMS could base site-neutral payment rates more directly on the PFS rate for the technical aspect of the services in question, with any departures limited to transparent, code-specific adjustments warranted by OPPS packaging rules.

Thank you for the opportunity to comment on this proposed rule. We hope that this information is helpful to you. If we can provide additional information, we would be happy to do so.

Sincerely,

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⁵ Loren Adler et al., *Assessing Recent Health Care Proposals from the House Committee on Energy and Commerce* (2023), <https://www.brookings.edu/articles/assessing-recent-health-care-proposals-from-the-house-committee-on-energy-and-commerce/>.