

Report on Medicare Compliance Volume 29, Number 43. December 07, 2020 OPPS Final Rule: CMS Ends Inpatient-Only List, Puts Related Audits on Ice Indefinitely

By Nina Youngstrom

CMS is eliminating the inpatient-only (IPO) list in phases, which pushes all procedures into the realm of the two-midnight rule, and shelving audits of inpatient vs. outpatient status of the procedures for the foreseeable future, according to the final outpatient prospective payment system (OPPS) regulation,^[1] which was announced Dec. 2. When the OPPS rule takes effect Jan. 1, physicians and hospitals will make patient status determinations for hundreds of procedures, and eventually more than 1,000 procedures, without fear of claim denials by quality improvement organizations (QIOs) or recovery audit contractors (RACs). “Providers are still expected to bill in compliance with the 2-Midnight rule,” CMS said.

The indefinite audit pause came as a big surprise. “It’s contrary to their general theme of protecting the Medicare Trust Fund to allow such a high-dollar, high-volume area to be unaudited,” said Ronald Hirsch, M.D., vice president of R1 RCM.

QIOs will continue to audit eligible DRGs under the two-midnight rule, including medical DRGs and procedures removed from the IPO list before 2021. Hospitals still face reviews by the HHS Office of Inspector General (OIG), which announced just before Thanksgiving that it added audits^[2] of the two-midnight rule to its Work Plan. CMS’s unified program integrity contractors (UPICs) also review patient-status determinations.

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