

# Report on Medicare Compliance Volume 30, Number 2. January 18, 2021

## CMS to Take Back Money It Returned Under Site-Neutral Payment Policy

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CMS is taking back money from hospitals for outpatient clinic visits provided in 2019 at excepted off-campus provider-based departments (PBDs) after returning the money when it lost a federal court decision on the site-neutral payment policy introduced in the 2019 Outpatient Prospective Payment System regulation.

Now that CMS won its appeal<sup>[1]</sup> of the decision at the U.S. Court of Appeals for the District of Columbia Circuit, which restored the site-neutral payment policy, CMS “will begin reprocessing the claims” by July 1, 2021, according to an *MLN Connects*<sup>[2]</sup> posted Jan. 14.

“It is a shame CMS is taking this action now, when hospitals are struggling with the increased costs of responding to community need around the COVID pandemic,” said attorney Larry Vernaglia, with Foley & Lardner in Boston. “While CMS has done many great things to assist the hospital community in the past 10 months, this will sting. Many hospitals will not have reserved for this recoupment. Indeed, this is an area where hospitals would have reasonably relied on CMS *not* taking this action—from the perspective of fairness and equity. No other industry could be expected to be whipsawed by their largest business partner in this fashion.”

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