

Report on Medicare Compliance Volume 28, Number 3. January 28, 2019 In a Second Lawsuit, Hospitals Hope to Reverse Site Neutrality Policy

By Nina Youngstrom

CMS allegedly wandered off the legal reservation with site neutrality, according to a lawsuit filed Jan. 18 by 38 hospitals. They are suing HHS over payment changes to “excepted” off-campus provider-based departments (PBDs) in the final 2019 Outpatient Prospective Payment System (OPPS) regulation. Under the OPPS rule, Medicare pays off-campus PBDs the same amount for clinic visits as freestanding physician practices (RMC 11/12/18, p. 1).

With site neutrality, hospitals will experience “a severe and unexpected financial hit...that jeopardizes their ability to care for the medically vulnerable populations often treated in PBDs,” the lawsuit alleged. The lawsuit comes on the heels of a separate action filed by the American Hospital Association (AHA) in December that makes the same arguments.

The new lawsuit, *University of Kansas Hospital Authority, et al v. Azar*, No. 1:19-cv-00132, which was filed in the U.S. District Court for the District of Columbia, alleges two causes of action:

This document is only available to subscribers. Please [log in](#) or [purchase access](#).

[Purchase Login](#)