



November 2, 2018

The U.S. Senate and House of Representatives are in recess.

November 6 is Election Day – Don't Forget to Vote!

In this Edition:

Capitol CMS Releases NEMPAC Medicare in Physician and Hospital Payment Midterm Final Minute Rules Elections

Here's a new edition of ACEP's Capital Minute for the last week of October, 2018. Click here <https://www.youtube.com/watch?v=hYzpf0KB5CY> or click on the blue box below to view.



CMS Releases Annual Medicare Physician and Hospital Outpatient Payment Final Rules

Physician Rule

On November 1, the Centers for Medicare & Medicaid Services (CMS) released the Calendar Year (CY) 2019 Medicare Part B physician fee schedule (PFS) and Quality Payment Program (QPP) **final rule**. This rule includes numerous policies that impact physician payments under Medicare. Most notably, the final rule:

- Delays and modifies CMS' proposal to streamline documentation requirements and create a new, single blended payment rate for new and established patients for office/outpatient Evaluation and Management (E/M) visits.

- Creates separate payments for two newly defined physicians' services furnished using remote communication technology.
- Addresses ACEP's concerns about the Appropriate Use Criteria (AUC) Program for advanced imaging by clarifying that an emergency medical condition includes instances where an emergency medical condition is suspected, but not yet confirmed. Therefore, if physicians think their patients are having a medical emergency (even if they wind up not having one), they are excluded from the AUC requirements.
- Finalizes a subset of changes to the Medicare Shared Savings Program for ACOs proposed in the August 2018 proposed rule "Medicare Program; Medicare Shared Savings Program; Accountable Care Organizations Pathways to Success."
- Establishes set of policies related to the third year of the QPP-- the performance program established by the Medicare Access and CHIP Reauthorization Act (MACRA).

ACEP's summary of the rule can be found [here](#).

Hospital Outpatient Rule

On November 2, CMS released the CY 2019 Medicare Hospital Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) Payment System **final rule**. In this nearly 1200-page rule, CMS is finalizing the following major policies:

- Paying for clinic visit services at 40 percent of the OPPS rate at all off-campus provider-based departments. The change will be phased in over two years, instead of one year as CMS originally proposed.
- Expanding Medicare reimbursement cuts for drugs purchased through the 340B discount program to certain hospital off-campus departments, focusing Medicare cuts on non-grandfathered hospital outpatient departments – equal to the 22.5% reductions imposed on all other settings in January 2018.
- Updating the Hospital Consumer Assessment of Healthcare Providers and Systems (HCAHPS) patient experience of care survey measure by removing the three recently revised pain communication questions.
- Adding a new claim-line modifier, "ER," that must be billed for outpatient hospital services furnished in an off-campus, provider-based emergency department.
- Paying separately for non-opioid pain management drugs that function as a supply when used in a covered surgical procedure performed in an ASC.
- Expanding the number of surgical procedures payable at ASCs to include additional procedures that can safely be performed in that setting.
- Removing measures from the Hospital Outpatient Quality Reporting Program and from the Ambulatory Surgery Center Quality Reporting Program.

CMS is also not finalizing a major proposal to pay the site-neutral rate to an otherwise excepted off-campus hospital outpatient department for new clinical families of services not previously offered between November 1, 2014, and November 1, 2015.

NEMPAC in the 2018 Midterm Elections

With just days until the November 2018 midterm elections, the final countdown is on for control of the U.S. House of Representatives and Senate in the 116th Congress. Voter turnout and momentum will play a huge role in deciding which party will control these chambers and, possibly more importantly, by what margin. Democrats need to pick up 23 seats to take the majority from Republicans in the House of Representatives. Democrats need a two seat pick up in the Senate to take the majority there which currently stands at 51 R – 49 D.

ACEP's political action committee, **NEMPAC** raised nearly \$2 million to help elect candidates who will work with us on important issues impacting emergency medicine and patients. NEMPAC was recently mentioned in a **Bloomberg article** as one of the top healthcare PACs and noted that the health-care industry has given \$466.7 million to candidates in the midterm elections with doctors' groups donating the most, followed by pharmaceutical companies and insurers. It also noted that the 2018 elections will be the most expensive midterms in history.

The November 2018 midterm election will bring many new faces to Washington, given the high number of retirements and Members of Congress running for other offices. We will send a special post-election update including a summary of the elections, a look ahead to the post-election lame duck session, and the potential health care agenda that the new Congress may focus on next year.



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