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CLIENT ADVISORY

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Provider Based Departments on the Chopping Block in Budget Deal

The budget deal struck by Congress and the White House this week is funded, in part, on a proposed end to the favorable reimbursement hospitals receive in off-campus provider-based departments. On October 27, 2015, Congressional and White House leaders released a discussion draft of the Bipartisan Budget Act of 2016, which a two-year budget agreement to raise the federal debt ceiling and avoid default. Under the budget deal, most services provided at new off-campus provider-based departments after January 1, 2017 would no longer receive higher payment under the OPPS.

Currently, hospital departments that satisfy the provider-based rules (42 C.F.R. § 413.65) are paid under the Hospital Outpatient Prospective Payment System ("OPPS"). Instead of receiving reimbursement under the OPPS, services in off-campus provider-based departments (such as hospital-owned clinics and surgical centers) would be paid under the Medicare Physician Fee Schedule or the Ambulatory Surgery Center Payment System. The Act contains several exceptions and exclusions from this new payment methodology, including:

- On-campus provider-based departments (defined as within 250 yards of a hospital's main campus or a remote location of a hospital);
- Existing off-campus provider-based departments, if the department is billing as a provider-based location as of the effective date of the Act (which is expected to be early November 2015);
- Emergency department services (e.g., CPT codes 99281-99285) provided at off-campus provider-based emergency departments;
- Other off-campus provider-based entities, including remote locations, satellite facilities, and rural health clinics.

Services at these facilities will continue to be paid under the OPPS in 2017 and beyond.

The Act directs CMS to establish standards for collecting the information necessary to make this payment change, including the use of a code or modifier on claims or reporting information about off-campus provider-based departments in the hospital's CMS-855A enrollment form. Hospitals are already obligated to report all "practice locations" of the hospital (including off-campus provider-based departments) in their enrollment forms, and beginning in January 2016 must include the "PO" modifier on claims submitted for services rendered in off-campus provider-based departments. CMS could use this data to determine which departments qualify for grandfathering under the Act.

For more information about the upcoming changes to provider-based reimbursement, please contact Mary Malone, Emily Towey, or Colin McCarthy at (866) 967-9604 or by email at mmalone@hdjn.com, etowey@hdjn.com, or cmccarthy@hdjn.com. Additional information about Hancock, Daniel, Johnson & Nagle, P.C. is available on the firm's website at www.hdjn.com.