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Site Neutrality:

# The Impact on Outpatient Imaging Strategies with Hospital Partners

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# Introduction

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- What is site neutrality?
- Its history.
- The legislation and key components.
- Practical implications.
- Examples of outpatient imaging strategies with hospital partners.

# What is Site Neutrality (and the History)?

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- The rationale: MedPAC's findings, and the need for budget savings.
- Similarity to DRA 2005.
- It's nothing more than a bald payment reduction.

# The Legislation

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- Section 603 of the Bipartisan Budget Act of 2015.
- Items and services furnished to Medicare beneficiaries on or after January 1, 2017, by any "**off-campus outpatient department of a provider**" will no longer be reimbursed under the Hospital Outpatient Prospective Payment System ("HOPPS"), rather, they will be reimbursed under the Medicare Physician Fee Schedule or the Ambulatory Surgical Center Payment System.

# The Legislation (cont'd)

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- Regulations were proposed in the July 14, 2016, issue of the Federal Register (as part of the 2017 HOPPS proposed regulations).
- The proposed regulations primarily deal with:
  - What is required to be grandfathered.
  - How will payments be determined.

# Key Components

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- The definition of "off-campus outpatient department of a provider":
  - Department or facility furnishing health care services of the same type as the hospital, but that could not by itself participate in Medicare.
  - Off-campus.
  - Not billing under HOPPS for "covered OPD services" furnished prior to November 2, 2015.

# Key Components (cont'd)

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- Does not apply to items and services furnished in a dedicated emergency department.
- Does not apply to Medicare Advantage, Medicaid or non-governmental payors.
  - But remember how non-governmental payors often follow Medicare.

# Practical Implications of Site Neutrality

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- SITE NEUTRALITY ANALYSIS IS NOT BINARY!



# Practical Implications of Site Neutrality (cont'd)

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- On the one hand, past Federal legislation (e.g., DRA 2005) and regulatory efforts have sought to somewhat equalize Medicare outpatient reimbursement for suppliers compared to providers (although providers sometimes still saw higher reimbursement).
- And the recent site neutrality legislation brought this equalization full circle for outpatient hospital services.
- On the other hand, there usually still exists reimbursement advantages for being a provider on the non-governmental side, therefore, . . .

# Practical Implications of Site Neutrality (cont'd)

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- Deals tend to still be viable.
- Often site neutrality only raises the financial viability bar for provider-based locations *and/or* pushes the locations on-campus.
- **QUERY**: even though site neutrality only applies to Medicare, how long will any remaining arbitrage opportunity on the non-governmental side last?

# Examples of Outpatient Imaging Strategies with Hospital Partners

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- Independent diagnostic testing facility (“IDTF”).
- Diagnostic Radiology Group Practice Clinic (“DRGPC”).
- Private pay only venture.
- “Reverse under arrangement.”
- Traditional under arrangement.
- Provider-based.

# To Reiterate . . .

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- IT'S NOT BINARY.
- Plenty of deals are still getting done.
- For some deals, site neutrality will have no implications.
  - IDTFs, DRGPCs, private pay only and reverse under arrangement.
- For other deals, it may only raise the financial viability bar.
  - Under arrangement and provider-based.
- In any event, it may be a harbinger of things to come.

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**Thank you!**

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