

## 340B Covered Entities Beware: CMS Proposes Drastic Drug Reimbursement Rate Cuts

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In its Outpatient Prospective Payment System proposed rule ("Proposed Rule"), CMS outlined a significant Medicare Part B payment reduction for separately payable, nonpassthrough drugs provided in the hospital outpatient settings. You can find the Proposed Rule [here](#). The proposal comes at a time when 340B stakeholders continue to face pressure to increase audit and program integrity efforts. Here are five things you should know about CMS's Proposed Rule:

- CMS proposes to pay 340B covered entities at a roughly 28 percent lower rate than all non-340B hospitals for the same drugs (Average Sales Price minus 22.5 percent)
- The proposal is budget neutral – meaning CMS proposes to take the savings generated from this payment cut and increase OPPS rates; either across the board for all services, or for a subgroup of services
- CMS may complicate 340B covered entity billing processes by implementing a modifier to roll out its proposal – this could pose compliance challenges and enhance False Claims Act risk
- CMS requested comments in a few key areas, including whether the rate reduction should be phased in over time and whether the amount of the reduction is appropriate
- CMS previously proposed a Part B demonstration that included a payment reduction for physician administered drugs – that program was eliminated due to significant industry pushback

CMS's proposal could result in a tremendous effect on 340B entities with specialty clinics (such as cancer centers) with high Medicare populations. It is critical that all covered entities assess the effect of CMS's proposal, and submit comments that include data to show CMS that such a significant payment reduction could all but eliminate the resources covered entities need in order to fulfill the 340B program's intent – to stretch scarce federal resources to reach more patients and provide more services.

Comments are due by Sept. 11. We encourage covered entities to comment on the Proposed Rule before the comment window closes. Stakeholders can submit comments [here](#). To learn more about

CMS's Proposed Rule, or to discuss how it could affect your community, please contact the authors or your Polsinelli attorney.

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National Law Review, Volumess VII, Number 228

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