

New Requirements for Off-Campus Hospital Outpatient Departments Begin in 2028

Insights

02.18.26

The Consolidated Appropriations Act, 2026 (“CAA 2026”), which was signed into law on February 3, 2026, imposes significant new Medicare requirements for off-campus hospital outpatient departments.

Beginning January 1, 2028, Medicare will not pay for items or services furnished by off-campus hospital outpatient departments unless:

1. The hospital has submitted a provider-based status attestation; and
2. The outpatient department has received its own National Provider Identifier (“NPI”)

Hospitals and health systems with off-campus hospital outpatient departments should begin preparing soon to avoid disruption in Medicare payments once the new requirements take effect in 2028.

Background on Off-Campus Hospital Outpatient Departments

Off-campus hospital outpatient departments are outpatient hospital departments located more than 250 yards from the main inpatient hospital building (or from the main inpatient building on a hospital’s remote campus). Medicare allows hospitals to bill outpatient services furnished at these locations as hospital services if the department satisfies the provider based requirements in 42 C.F.R. § 413.65, including requirements related to licensure, operational and financial integration, clinical oversight, and public signage and representation.

Under current law, hospitals may operate off-campus hospital outpatient departments without submitting a provider based attestation to the Centers for Medicare & Medicaid Services (“CMS”), although some hospitals choose to do so.

Overview of the New Statutory Requirements Applicable Starting in 2028

Section 6225 of the CAA 2026 amends the Medicare statute to impose several new conditions for Medicare payment for items and services furnished by off-campus hospital outpatient departments. Beginning January 1, 2028, Medicare will not pay for items or services furnished by an off-campus hospital outpatient department unless the hospital satisfies all applicable requirements—(1) separate NPI, (2) timely provider-based attestation, and (3) ongoing submission of required provider based attestations, per CMS’s forthcoming schedule.

1. Separate NPI

Each off-campus hospital outpatient department must obtain its own NPI, separate from the hospital’s NPI, and must bill Medicare using that separate

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2. Initial Provider-Based Attestation

To continue receiving Medicare payment, the hospital must submit an initial provider-based status attestation for each off-campus hospital outpatient department certifying compliance with the provider-based requirements in 42 C.F.R. § 413.65, by January 1, 2028.

The statute applies this requirement based on a two year lookback period tied to the date items or services are furnished. As written, this appears to require an attestation for every off campus department, even those that previously submitted voluntary attestations and received provider based determinations from their Medicare Administrative Contractors (“MACs”).

3. Subsequent Provider-Based Attestations

After the initial attestation is submitted, hospitals must submit subsequent attestations for each off-campus hospital outpatient department on a schedule to be established by CMS through notice and comment rulemaking.

4. CMS Rulemaking and Review

CMS is required to establish, through notice and comment rulemaking, the process for submitting and reviewing initial and subsequent attestations. The statute directs CMS to review attestations and determine compliance using site visits, remote audits, or other methods CMS deems appropriate.

Practical Considerations for Providers

Although CMS rulemaking will be necessary to implement these provisions, hospitals and health systems should consider taking preparatory steps well in advance of 2028, particularly given the number of off-campus locations many systems operate.

Hospitals may wish to consider the following actions:

- **Inventory all off-campus outpatient departments**, including confirmation of their physical locations and operational status.
- **Review compliance with provider-based requirements** under 42 C.F.R. § 413.65 for each off-campus hospital outpatient department.
- **Confirm enrollment and location information** in Medicare enrollment systems (e.g., PECOS) for accuracy and consistency with licensure and billing practices.
- **Begin assembling documentation** that may be required to support future provider-based attestations.
- **Monitor CMS rulemaking and guidance and consider participating in notice and comment rulemaking**, including submitting comments on proposed regulations implementing the new NPI, attestation, and review requirements for off-campus hospital outpatient departments.

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