

Small Entity Compliance Guide

Medicare Program; Revised Payment System Policies for Services Furnished in Ambulatory Surgical Centers (ASCs) Beginning in CY 2008

Federal Register Vol. 72, No. 148, Page 42469 August 2, 2007
42 CFR Parts 410 and 416

CMS-1517-F, RIN 0938-AO73

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, P.L. 104-121, as amended by P.L. 110-28, May 25, 2007) contains requirements for issuance of “small entity compliance guides.” Guides are to explain what actions affected entities must take to comply with agency rules. Such guides must be prepared when agencies issue final rules for which agencies were required to prepare a Final Regulatory Flexibility Analysis under the Regulatory Flexibility Act.

The complete text of this Final Rule can be found on the CMS Web site at:
<http://www.cms.hhs.gov/QuarterlyProviderUpdates/downloads/Regs-3Q07QPU.pdf>.

This rule revises the Medicare ambulatory surgical center (ASC) payment system to implement certain related provisions of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). This final rule establishes the ASC list of covered surgical procedures, identifies covered ancillary services under the revised ASC payment system, and sets forth the amounts and factors that will be used to determine the ASC payment rates for calendar year (CY) 2008. The changes to the ASC payment system and rate-setting methodology in this final rule are applicable to services furnished on or after January 1, 2008. We estimate that about three fourths of ASCs would be considered small businesses under the latest Small Business Administration size standards.

This rule could have a far-reaching effect on the provision of outpatient surgical services for a number of years to come. First, we are greatly expanding the list of procedures that will be eligible for payment under the revised ASC payment system. Second, we are moving from a limited fee schedule based on nine disparate payment groups to a payment system incorporating relative payment weights for groups of procedures with similar clinical and resource characteristics, based on the ambulatory payment classifications that are key elements of the outpatient prospective payment system.

This rule imposes no direct Federal compliance requirements on small entities. It is designed to be “budget neutral” and create no net savings or costs in 2008. However, in future years, it will produce significant Medicare savings, while at the same time significantly increasing Medicare payments to ASCs as services migrate between ASCs and physicians’ offices. However, ASCs will be differentially affected depending on the particular surgical services they offer, and all ASCs will have to revise billing procedures to implement the new payment codes.

In order to assist ASCs in adapting to the revised payment system, we have developed a special Web page on the revised system that includes a number of downloadable files providing details on covered procedures, coding, and payment levels. These materials have been placed at http://www.cms.hhs.gov/ASCPayment/04_CMS-1517-F.asp.