NISKANEN CENTER

September 11, 2025

The Honorable Mehmet Cengiz Oz, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard, Mail Stop DO-01-40
Baltimore, Maryland 21244-1850

Re: CY 2026 Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Quality Reporting Programs; Overall Hospital Quality Star Ratings; and Hospital Price Transparency (CMS-1834-P)

Dear Administrator Oz,

The Niskanen Center is grateful for the opportunity to comment on the Centers for Medicare and Medicaid Services (CMS) 2026 proposed rule to revise the Medicare Hospital Outpatient Prospective Payment System (OPPS) and the Ambulatory Surgical Center (ASC) payment systems.

The Niskanen Center is a nonprofit organization that advocates for public policies that foster innovation, competition, and effective governance. In accordance with that mission, we support regulatory efforts to expand access to lower-cost healthcare options. Across the healthcare industry, market distortions that restrict the availability of lower-cost care increase costs for patients and taxpayers without adding quality improvements.

We commend the agency for its important work to begin to rebalance reimbursements by shifting spending away from hospital-owned settings for care and toward freestanding outpatient clinics. Because non-hospital settings for care often deliver the same or better quality of care at lower cost, this rebalancing would enhance the overall value of Medicare spending and direct resources toward lower-cost and effective care models. In this comment, we will focus on two proposals the agency should ensure are included in the final rule:

1) Expanding the site-neutral payment policy for drug administration in Excepted Off-Campus Provider-Based Departments (PBDs)
2) Eliminating the Inpatient Only (IPO) list and adding procedures to the ASC Covered Procedures List (ASC CPL)

Expanding the site-neutral payment policy for drug administration in Excepted Off-Campus Provider-Based Departments (PBDs)

CMS's 2026 OPPS proposed rule expands site-neutral payment policy to drug administration services provided in excepted off-campus provider-based departments, aligning payments to the Medicare Physician Fee Schedule (PFS) rates instead of higher hospital outpatient rates. This type of reform is needed because Medicare typically pays hospitals significantly more than independent physician offices for the same service. For example, routine X-rays are reimbursed at rates up to four times higher in hospital outpatient departments (HOPDs) than in physician offices. This is also the case for drug administration services like IV infusions and chemotherapy, which are reimbursed at 2.5x higher rates in HOPDs than they are at freestanding clinics despite the service being functionally identical.[1]

This proposal echoes an earlier version of the *Lower Costs, More Transparency Act* (2023), which would have introduced site-neutral payments for drug administration and was projected to save $4 billion over 10 years.[2] CMS estimates that this version in the 2026 rule would save $280 million in 2026, likely reaching a few billion spending in savings when stretched over 10 years.

This reform is especially important for Medicare beneficiaries who rely heavily on outpatient treatments—particularly cancer patients, for whom chemotherapy infusions at HOPDs can carry a significant financial burden. Of the $280 million in savings next year, beneficiaries would see $70 million saved through reduced coinsurance.[3] This represents a meaningful reduction in out-of-pocket costs for Medicare patients. Some estimates suggest that a broader site-neutral policy would save certain cancer patients more than $1,500.[4] CMS should build on this proposal and

[1] Examining the Impact of Site Neutral Payment on Costs for Cancer Care. *American Cancer Society Cancer Action Network.* Oct 23, 2023. https://www.fightcancer.org/sites/default/files/acs_can_site_neutral_issue_brief_-_final_10-19-23.pdf.
[2] Estimated Direct Spending and Revenue Effects of H.R. 5378, the Lower Costs, More Transparency Act. *Congressional Budget Office.* Sep 14, 2023. https://www.cbo.gov/publication/59568.
[3] Calendar Year 2026 Hospital Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center Proposed Rule (CMS-1834-P). *Centers for Medicare and Medicaid Services.* Jul 15, 2025. https://www.cms.gov/newsroom/fact-sheets/calendar-year-2026-hospital-outpatient-prospective-payment-system-opps-and-ambulatory-surgical.
[4] Examining the Impact of Site Neutral Payment on Costs for Cancer Care. *American Cancer Society Cancer Action Network.* Oct 23, 2023. https://www.fightcancer.org/policy-resources/examining-impact-site-neutral-payment-costs-cancer-care.

advance comprehensive site-neutral payment reform to curb unnecessary spending and ease financial pressures on patients.

Eliminating the Inpatient Only (IPO) list and adding procedures to the ASC Covered Procedures List (ASC CPL)

In another step to shift Medicare spending toward lower-cost, non-hospital models, CMS is proposing two changes that would allow more surgeries to potentially move from inpatient hospital stays to outpatient settings including Ambulatory Surgical Centers (ASCs). The 2026 proposed rule would do this by phasing out the Inpatient-Only List, a classification of procedures that Medicare will not reimburse in an outpatient setting. The IPO list has long prevented certain surgeries from being performed at Ambulatory Surgery Centers (ASCs), who offer better or similar quality care at lower costs than hospitals.[5]

The proposed rule also adds 547 codes to the ASC covered procedures list, expanding the range of services Medicare will reimburse in these lower-cost settings. By enabling beneficiaries to receive coverage for hundreds of additional procedures outside hospitals, CMS could help shift some care from high-cost inpatient settings to more affordable outpatient facilities—generating savings for both Medicare and its patients over time. For example, shifting joint replacements from predominantly inpatient to a 50/50 inpatient/outpatient split could reduce spending by about $1.2 billion annually.[6] While it is unclear how many hospital-based procedures will be *replaced* by outpatient procedures, this reform pushes Medicare spending in the right direction, towards lower-cost treatment without compromising patient quality.

Conclusion

Medicare reimbursement policy has long contributed to the market distortions in healthcare by reimbursing hospital-owned clinics higher than freestanding ones for the exact same services, while also unnecessarily restricting care at ASCs. We commend CMS for directly confronting these distortions by shifting payments toward freestanding clinics while also removing unnecessary restrictions on outpatient surgeries and strongly encourage the agency to include these changes in their final rule and continue to pursue the expansion of these policies in the long-term. Thank you for your time and consideration.

Respectfully submitted,

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[5] Munnich EL & Parente ST. Returns to specialization: Evidence from the outpatient surgery market. *Journal of Health Economics.* Jan 2018. https://www.sciencedirect.com/science/article/abs/pii/S0167629617310743?via%3Dihub.

[6] Winning in an Outpatient World: Preparing for Potential Changes to Medicare's IPO List. *Trilliant Health.* Aug 5, 2025. https://www.trillianthealth.com/market-research/studies/preparing-for-changes-to-medicares-ipo-list.

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