

(iii) Is not a sole community hospital as defined in §412.92 of this chapter; and

(iv) Is not an essential access community hospital under §412.109 of this chapter.

(3) *Permanent treatment for cancer hospitals and children's hospitals.* In the case of a hospital described in §412.23(d) or §412.23(f) of this chapter for which the prospective payment system amount is less than the pre-BBA amount for covered hospital outpatient services, the amount of payment under this part is increased by the amount of this difference.

(4) *Temporary treatment for sole community hospitals located in rural areas for covered hospital outpatient services furnished during cost reporting periods beginning on or after January 1, 2004 and before January 1, 2006.* For covered hospital outpatient services furnished during cost reporting periods beginning on or after January 1, 2004, and continuing through December 31, 2005, for which the prospective payment system amount is less than the pre-BBA amount, the amount of payment under this part is increased by the amount of that difference if the hospital—

(i) Is a sole community hospital, under §412.92 of this chapter; and

(ii) Is located in a rural area as defined in §412.63(b) or §412.64(b), as applicable, of this chapter or is treated as being located in a rural area under section 1886(d)(8)(E) of the Act.

(5) *Temporary treatment for small sole community hospitals on or after January 1, 2009 and through December 31, 2009.* For covered hospital outpatient services furnished on or after January 1, 2009, and continuing through December 31, 2009, for which the prospective payment system amount is less than the pre-BBA amount, the amount of payment under this part is increased by 85 percent of that difference if the hospital—

(i) Is a sole community hospital as defined in §412.92 of this chapter or is an essential access community hospital as described under §412.109 of this chapter; and

(ii) Has 100 or fewer beds as defined in §412.105(b) of this chapter.

(6) *Temporary treatment for sole community hospitals on or after January 1,*

2010, and through December 31, 2011. For covered hospital outpatient services furnished on or after January 1, 2010, through December 31, 2011, for which the prospective payment system amount is less than the pre-BBA amount, the amount of payment under this part is increased by 85 percent of that difference if the hospital is a sole community hospital as defined in §412.92 of this chapter or is an essential access community hospital as described under §412.109 of this chapter.

(7) *Temporary treatment of small sole community hospitals on or after January 1, 2012 through December 31, 2012.* (i) For covered hospital outpatient services furnished on or after January 1, 2012 through December 31, 2012, for which the prospective payment system amount is less than the pre-BBA amount, the amount of payment under this part is increased by 85 percent of that difference if the hospital—

(A) Is a sole community hospital as defined in §412.92 of this chapter or is an essential access community hospital as described under §412.109 of this chapter; and

(B) Has 100 or fewer beds as defined in §412.105(b) of this chapter, except as provided in paragraph (d)(7)(ii) of this section.

(ii) For covered hospital outpatient services furnished on or after January 1, 2012 through February 29, 2012, the bed size limitation under paragraph (d)(7)(i)(B) of this section does not apply.

(e) *Prospective payment system amount defined.* In this section, the term “prospective payment system amount” means, with respect to covered hospital outpatient services, the amount payable under this part for these services (determined without regard to this section or any reduction in coinsurance elected under §419.42), including amounts payable as copayment under §419.41, coinsurance under section 1866(a)(2)(A)(ii) of the Act, and the deductible under section 1833(b) of the Act.

(f) *Pre-BBA amount defined—(1) General rule.* In this paragraph, the “pre-BBA amount” means, with respect to covered hospital outpatient services furnished by a hospital or a community mental health center (CMHC) in a year,

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an amount equal to the product of the reasonable cost of the provider for these services for the portions of the provider's cost reporting period (or periods) occurring in the year and the base provider outpatient payment-to-cost ratio for the provider (as defined in paragraph (f)(2) of this section).

(2) *Base payment-to-cost-ratio defined.* For purposes of this paragraph, CMS shall determine these ratios as if the amendments to sections 1833(i)(3)(B)(i)(II) and 1833(n)(1)(B)(i) of the Act made by section 4521 of the BBA, to require that the full amount beneficiaries paid as coinsurance under section 1862(a)(2)(A) of the Act are taken into account in determining Medicare Part B Trust Fund payment to the hospital, were in effect in 1996. The “base payment-to-cost ratio” for a hospital or CMHC means the ratio of—

(i) The provider's payment under this part for covered outpatient services furnished during one of the following periods, including any payment for these services through cost-sharing described in paragraph (e) of this section:

(A) The cost reporting period ending in 1996; or

(B) If the provider does not have a cost reporting period ending in 1996, the first cost reporting period ending on or after January 1, 1997, and before January 1, 2001; and

(ii) The reasonable costs of these services for the same cost reporting period.

(g) *Interim payments.* CMS makes payments under this section to hospitals and CMHCs on an interim basis, subject to retrospective adjustments based on settled cost reports.

(h) *No effect on coinsurance.* No payment made under this section affects the unadjusted coinsurance amount or the coinsurance amount described in § 419.41.

(i) *Application without regard to budget neutrality.* The additional payments made under this section—

(1) Are not considered an adjustment under § 419.43(f); and

(2) Are not implemented in a budget neutral manner.

[65 FR 18542, Apr. 7, 2000, as amended at 65 FR 67829, Nov. 13, 2000; 66 FR 59923, Nov. 30, 2001; 69 FR 832, Jan. 6, 2004; 69 FR 65863, Nov. 15, 2004; 71 FR 68228, Nov. 24, 2006; 72 FR 66933, Nov. 27, 2007; 73 FR 68814, Nov. 18, 2008; 74 FR 60681, Nov. 20, 2009; 75 FR 72265, Nov. 24, 2010; 76 FR 74583, Nov. 30, 2011; 77 FR 68559, Nov. 15, 2012]

§ 419.71 Payment reduction for certain X-ray imaging services.

(a) *Definition.* For purposes of this section, the term “computed radiography technology” means cassette-based imaging which utilizes an imaging plate to create the image involved.

(b) *Payment reduction for film X-ray imaging services.* For an imaging service that is an X-ray taken using film and that is furnished during 2017 or a subsequent year, the payment amount for such service (including the X-ray component of a packaged service) is reduced by 20 percent.

(c) *Payment reduction for computed radiography imaging services.* The payment amount for an imaging service that is an X-ray taken using computed radiography technology (including the X-ray component of a packaged service) is reduced by—

(1) 7 percent, for such services furnished in CY 2018, 2019, 2020, 2021, or 2022.

(2) 10 percent, for such services furnished in CY 2023 or a subsequent calendar year.

(d) *Application without regard to budget neutrality.* The reductions taken under this section are not considered adjustments under section 1833(t)(2)(E) of the Act and are not implemented in a budget neutral manner.

[82 FR 52637, Nov. 13, 2017; 82 FR 59497, Dec. 14, 2017]

Subpart I—Prior Authorization for Outpatient Department Services

SOURCE: 84 FR 61491, Nov. 12, 2019, unless otherwise noted.

§ 419.80 Basis and scope of this subpart.

(a) *Basis.* The provisions in this subpart are issued under the authority of section 1833(t)(2)(F) of the Act, which

authorizes the Secretary to develop a method for controlling unnecessary increases in the volume of covered hospital outpatient department services.

(b) *Scope.* This subpart specifies the process and requirements for prior authorization for certain hospital outpatient department services as a condition of Medicare payment.

§ 419.81 Definitions.

As used in this subpart, unless otherwise specified, the following definitions apply:

List of hospital outpatient department services requiring prior authorization means the list of hospital outpatient department services described in § 419.83(a) that CMS adopts in accordance with § 419.83(b) that require prior authorization as a condition of Medicare payment.

Prior authorization means the process through which a request for provisional affirmation of coverage is submitted to CMS or its contractors for review before the service is provided to the beneficiary and before the claim is submitted for processing.

Provisional affirmation means a preliminary finding that a future claim meets the Medicare coverage, coding, and payment rules in chapter IV of this title or in Title XVIII of the Social Security Act.

§ 419.82 Prior authorization for certain covered hospital outpatient department services.

(a) *Prior authorization as condition of payment.* As a condition of Medicare payment for the services in the categories of services on the list of hospital outpatient department services requiring prior authorization as specified in § 419.83(a), a provider must submit to CMS or its contractors a prior authorization request in accordance with the requirements of paragraph (c) of this section.

(b) *Denial of claim.* (1) CMS or its contractors will deny a claim for a service that requires prior authorization if the provider has not received a provisional affirmation of coverage on the claim from CMS or its contractor unless the provider is exempt under § 419.83(c).

(2) CMS or its contractor may deny a claim that has received a provisional

affirmation based on either of the following:

(i) Technical requirements that can only be evaluated after the claim has been submitted for formal processing; or

(ii) Information not available at the time of a prior authorization request.

(3) CMS or its contractor may deny claims for services related to services on the list of hospital outpatient department services for which the provider has received a denial.

(c) *Submission of prior authorization request.* A provider must submit to CMS or its contractor a prior authorization request for any service on the list of outpatient department services requiring prior authorization.

(1) *Prior authorization request requirements.* A prior authorization request must—

(i) Include all documentation necessary to show that the service meets applicable Medicare coverage, coding, and payment rules in chapter IV of this title or in Title XVIII of the Social Security Act.

(ii) Be submitted before the service is provided to the beneficiary and before the claim is submitted.

(2) *Request for expedited review.* A provider may submit a request for expedited review of a prior authorization request. The request for expedited review must comply with the requirements in paragraphs (c)(1)(i) and (ii) of this section and include documentation showing that the processing of the prior authorization request must be expedited due to the beneficiary's life, health, or ability to regain maximum function being in serious jeopardy.

(d) *Reviews*—(1) *Review of prior authorization request.* Upon receipt of a prior authorization request, CMS or its contractor will review the request for compliance with applicable Medicare coverage, coding, and payment rules in chapter IV of this title or in Title XVIII of the Social Security Act.

(i) CMS or its contractor will issue a provisional affirmation to the provider if it is determined that applicable Medicare coverage, coding, and payment rules in chapter IV of this title or in Title XVIII of the Social Security Act are met.