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*Editors: [Leslie Demaree Goldsmith](#) and [Carel T. Hedlund](#)*

## CMS Proposes Ambulatory Surgical Center Quality Reporting – and Eventual Medicare Reimbursement Reduction – Rule

By: [Christopher P Dean](#)

The proposed Medicare Hospital Outpatient Prospective Payment System (OPPS) for calendar year 2012 includes the [Ambulatory Surgical Center Quality Reporting Program \[PDF\]](#) proposed rule (ASC QRP). The proposed ASC QRP will require each ASC to report seven claims-based elements beginning on January 1, 2012, and, if not reported, an ASC could receive a reduction in Medicare reimbursement of up to 2% as early as calendar year 2014. The ASC QRP would require each ASC to report additional elements in 2013 and 2014 that, if not reported, could reduce that ASC's Medicare reimbursements in 2015 and 2016. Comments on the proposed ASC QRP are due by September 16, 2011.

The initial required elements include seven claims-based elements and one element reported via the National Health Safety Network (NHSN).

The seven proposed claims-based elements that each ASC would report include the following: (1) patient burns, including electrical, chemical, radiation, and thermal burns; (2) patient falls measured as a percentage of ASC admissions experiencing a fall in the ASC; (3) wrong site, wrong side, wrong patient, wrong procedure, or wrong implant to measure unintended surgical procedures; (4) hospital transfer / admission rates immediately following a procedure as an indication of sub-optimal practice or patient selection; (5) prophylactic intravenous (IV) antibiotic timing as an encouragement to provide certain pre-operative antibiotics within a prescribed period of time before a procedure; (6) the appropriate removal of patient hair from ASC patients to permit CMS to determine the level of adherence in hair removal standards among ASCs; and (7) the selection and use of prophylactic antibiotic first

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or second generation cephalosporin as a preventive measure against surgical site infections.

CMS proposes that each ASC would use quality data codes, or QDCs, to report the necessary claims-based elements for Medicare Part B claims only. The proposed ASC QRP advised that appropriate QDCs would be provided in the final 2012 OPPS. An M5 indicator would also be used to indicate that data submitted under a QDC would not require payment. An ASC would be required to report the claims-based elements using the QDCs (when provided) effective January 1, 2012.

Under the ASC QRP, an ASC will also be required to report its surgical site infection rates via the NHSN. Under the proposal, an ASC will report the percentage of surgical site infections related to the procedure and occurring within either thirty days following a procedure or within one year following a procedure where an implant is in place. Unlike the claims-based elements, the proposed ASC QRP would require data reporting beginning January 1, 2013.

The ASC QRP did not clearly outline how CMS would implement the reduction in Medicare reimbursement for those ASCs which failed to report the mandatory quality data. The ASC QRP proposed that an ASC that fails to report these mandatory elements could receive a statutorily-permitted reduction in Medicare reimbursement of up to 2% in a subsequent year. The ASC QRP did not provide details as to how this reimbursement reduction would be implemented or whether the proposed reductions would be made in step fashion so that ASCs who have few failures to report the data receive little or no reduction while ASCs that habitually fail to report the data would receive the full 2% reduction.

The ASC QRP also proposes that each ASC report two additional elements that will effect reimbursement in calendar year 2015. The proposed rule would require an ASC to report its use of a safe surgery checklist and its patient volume data in six common procedural categories (gastrointestinal, eye, nervous system, musculoskeletal, skin and genitourinary) during calendar 2012. The ASC would need to report the calendar year 2012 information between July 1, 2013, and

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August 15, 2013. The ASC QRP also proposes to reduce Medicare reimbursement in 2015 for an ASC that fails to report the original eight elements and the two additional elements.

In addition to the previous ten elements, the ASC QRP proposes that each ASC report one additional element that would affect Medicare reimbursement in calendar year 2016. Beginning on October 1, 2013, each ASC will be required to report via the NHSN the percentage of ASC personnel who have been immunized for influenza during the flu season.

#### **Ober|Kaler's Comments**

The Medicare Improvement and Extension Act of the Tax Relief Health Care Act of 2006 permits CMS to reduce ASC payments by as much as a 2% for a failure to report required quality data. Although the proposed ASC QRP was silent about the method of these potential reductions in Medicare reimbursement, it appears that any reductions will be limited initially to those ASCs who fail to report data – and that an ASC will not receive a Medicare reimbursement reduction for failing to obtain a minimum standard of proficiency in each element. Additional information about each of the proposed performance measures can be found at the [CMS Ambulatory Surgical Center Regulation and Notice webpage for the 2012 OPPS](#). CMS will accept comments on the proposed rule for a limited time and interested parties must submit their comments to CMS no later than September 16, 2011.