



August 30, 2026

Re: CMS-1850-P, Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment System Proposed Rule for CY 2027

Submitted electronically via regulations.gov

The Honorable Mehmet Oz, M.D.
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
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Baltimore, MD 21244

The Center for American Principles writes in support of the proposed adjustment to Medicare payment for drugs acquired under the 340B Drug Pricing Program, and urges the agency to finalize it as proposed.ⁱ The adjustment is modest in what it changes, yet it is significant in what it establishes: that a federal payment rate should rest on evidence of what something actually costs.

In 2022, the Supreme Court held unanimously that CMS could not vary 340B payment rates without first surveying what hospitals actually pay to acquire these drugs.ⁱⁱ The agency has now conducted that survey. It found 340B drugs acquired at an average of 33.4 percent below the average sales price, and it found cases in which a beneficiary's coinsurance alone exceeded the entire price the hospital paid for the drug.ⁱⁱⁱ The proposal aligns payment with that finding. This is the ordinary sequence of responsible rulemaking, which is to measure first and set the rate second, and the agency should be commended for following it.

We would note what the proposal leaves untouched. It does not reduce the discounts hospitals receive from manufacturers. It does not change who is eligible to participate or how much any hospital may purchase. Its effect is confined to what Medicare pays, and by extension to what seniors pay in coinsurance calculated on that rate, which CMS estimates will fall by \$1.15 billion in the first year^{iv}.

Nor does the correction reduce what hospitals receive as a class. Because the statute requires the change to be budget-neutral, the dollars Medicare no longer overpays for 340B drugs are redirected into higher payments for non-drug outpatient services. An analysis by Avalere Health applying the proposed

rate to 2025 Medicare claims found that overall Part B payments would rise for 78 percent of hospitals, including 88 percent of those with fewer than 100 beds, while only the largest hospitals, those with more than 500 beds, would see a net decrease on average^v. Paying the accurate price for a drug and paying hospitals fairly for the care they provide are not in tension, and this proposal advances both.

The larger questions about this program, including eligibility, the definition of a patient, and the absence of any accounting requirement, belong to Congress. The question before the agency is narrower. Medicare should not go on paying far more for a drug than the hospital paid to acquire it. Finalizing this adjustment as proposed is an overdue first step.

We appreciate your consideration.

Sincerely,



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ⁱ Centers for Medicare and Medicaid Services, "Calendar Year 2027 Hospital Outpatient Prospective Payment System (OPPS) and Ambulatory Surgical Center (ASC) Proposed Rule (CMS-1850-P)," Fact Sheet, July 2, 2026. <https://www.cms.gov/newsroom/fact-sheets/calendar-year-2027-hospital-outpatient-prospective-payment-system-opps-ambulatory-surgical-center>

ⁱⁱ *American Hospital Association v. Becerra*, 596 U.S. 724 (2022).

ⁱⁱⁱ CMS Fact Sheet, CMS-1850-P, July 2, 2026 (see note i).

^{iv} CMS, CY 2027 Hospital OPPS and ASC Proposed Rule (CMS-1850-P) (estimating that the proposed 340B payment adjustment would reduce beneficiary cost-sharing by approximately \$1.15 billion in the first year). Fact sheet: <https://www.cms.gov/newsroom/fact-sheets/calendar-year-2027-hospital-outpatient-prospective-payment-system-opps-ambulatory-surgical-center>

^v Avalere Health, "340B Payment Proposal Would Increase Payment to Most Hospitals" (Aug. 11, 2026). <https://advisory.avalerehealth.com/insights/340b-payment-proposal-would-increase-payment-to-most-hospitals>