



## Mid-Build Provider-Based Department (PBD) Attestation Filing Deadline Fast Approaching (Checklist Included)

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Providers seeking to classify certain off-campus departments as "mid-build" for purposes of eligibility for Hospital Outpatient Prospective Payment System (OPPS) reimbursement must file a provider-based attestation with their Medicare Administrative Contractor (MAC) for receipt no later than **February 13, 2017**.

Changes to the OPPS reimbursement framework effective in 2016 essentially disqualified off-campus hospital departments that were not providing OPPS-covered services prior to November 2, 2015 from receiving payment under the OPPS. Many providers had commented on the proposed rule, noting that off-campus projects that were underway, but not yet operational, as of November 2, 2015 were planned in reliance on the existing OPPS reimbursement rule and would be unfairly financially disadvantaged under the new rule. Observers were hopeful that the Centers for Medicare and Medicaid Services (CMS) would include a "mid-build" exception in the final rule, allowing those off-campus projects that were "mid-build" as of November 2, 2015 to qualify for OPPS reimbursement even if they were not providing services as of that date. However, the final rule, published on November 14, 2016, did not contain an exception for "mid-build" projects. For more information on the final rule, please [click here](#).

But good news for providers with "mid-build" off-campus departments was just around the corner. On December 13, 2016, the 21<sup>st</sup> Century Cures Act (H.R. 34) was enacted into law. Section 16001 of the 21<sup>st</sup> Century Cures Act exempts from the new OPPS rule off-campus facilities that were "mid-build" prior to November 2, 2015. The exception allows providers that meet certain specified requirements and file a provider-based attestation and certain additional documentation for receipt no later than **February 13, 2017** to qualify for OPPS reimbursement for covered services furnished in a new off-campus facility on or after January 1, 2018, subject to a compliance audit to be completed no later than December 31, 2018.

The calculated receipt deadline for the requisite filings is Saturday, February 11, 2017. CMS has

extended the deadline to the next business day, indicating that attestations and required supporting documentation must be received by the MAC no later than **February 13, 2017**. Facilities that comply with the "mid-build" exception will be eligible for OPPTS reimbursement effective January 1, 2018.

#### **HOW TO QUALIFY FOR THE MID-BUILD EXCEPTION (effective January 1, 2018)**

To qualify for the mid-build exception, providers must:

1. Satisfy the "mid-build" requirement, i.e., prior to November 2, 2015, have had a binding written agreement with an outside party for the construction of the department of the provider;
2. Submit to the MAC, for receipt no later than February 13, 2017, a provider-based attestation for the provider department, attesting to compliance with the requirements of a department of a provider as specified at 42 C.F.R. §413.65;
3. Submit to the MAC, again for receipt no later than February 13, 2017, written certification from the provider's chief executive officer or chief operating officer that the facility was "mid-build" prior to November 2, 2015; and
4. Include the mid-build facility as part of the provider on its enrollment form.

The filing must be received by the MAC by February 13, 2017. Email submissions are acceptable.

## **Related People**

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