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Comment on 42 CFR Parts 405, 410, 412, Federal Register, Friday July 19, 2013: "Medicare and Medicaid Programs: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Hospital Value-Based Purchasing Program; Organ Procurement Organizations; Quality Improvement Organizations; Electronic Health Records (EHR) Incentive Program; Provider Reimbursement Determinations and Appeals; Proposed Rule" Page 43626 to 43627 "D. Collecting Data on Services Furnished in Off-Campus Provider-Based Departments."

As currently proposed, it is doubtful that this regulation will have much of an impact on the facility fee patient surcharge. This surcharge represents a considerable expense for the patient and also sets a precedent that could threaten the financial viability of Medicare. The same total reimbursement should be paid for substantially the same service, regardless of location.

The term "on campus" is too vague and many physicians are housed in professional buildings that are next to or are attached to a hospital. For example: The photograph below depicts a hospital (St. Joseph East, Lexington KY) pictured on the left and two doctor buildings "on campus" to the right. The Lexington Clinic is a private doctor's clinic which is not owned by the hospital and housed in one of these buildings. Under the current regulation, the hospital owned doctors will still be receiving a higher reimbursement than the private Lexington Clinic doctors, even though both of their offices are on campus.

Another difficulty is that as hospitals are employing more physicians there is also a movement to house physicians "on campus", in a hospital owned building. Thus, the number of "on campus" hospital employed doctors should be expected to increase in the ensuing years.

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