

## CMS Announces It Will Finally Begin Restoring 340B Payments for PPS 340B Hospitals

On Oct. 13, the [Centers for Medicare & Medicaid Services \(CMS\) announced](#) it will finally be rectifying its unlawful payment cuts to 340B hospitals paid under the prospective payment system (PPS), at least for the remainder of 2022.



The announcement comes after the American Hospital Association filed a motion requesting the Department of Health and Human Services, under which CMS is housed, to immediately halt these cuts, given the [clear ruling from the United States Supreme Court on June 15](#) which declared the cuts unlawful.

After the Supreme Court ruling, CMS introduced its proposed 2023 outpatient payment prospective system (OPPS) rule which acknowledged the ruling, but also said the agency did not have time yet to fix the payment methodology in the proposed rule for 2023, saying it would instead do so in the final rule. In the final rule, CMS would also ostensibly include changes to payments for 2022 and earlier.

However, the United States District Court for the District of Columbia [ruled on Sept. 28](#) that the department must immediately halt the unlawful cuts going forward for 2022. "HHS should not be allowed to continue its unlawful 340B reimbursements for the remainder of the year just because it promises to fix the problem later," wrote Judge Rudolph Contreras, who oversaw the case.

In response, CMS says it will upload revised OPPS drug files that will apply the rate of average sales price (ASP) plus 6% to 340B-acquired drugs for the rest of 2022, rather than the proposed payment of ASP minus 22.5%. It will also reprocess claims its contractors paid on or after Sept. 28, 2022, using the default rate (generally ASP plus 6%).

The district court is still considering another motion made by the AHA over how to rectify 340B cuts from 2018 to 2022. WHA has joined AHA and others in [calling for CMS to hold non-340B hospitals harmless](#) when restoring the previous cuts.

Contact WHA Vice President of Federal and State Relations [Jon Hoelter](#) with questions.

### Other Articles in this Issue

- [PHE Extended Until at Least January 2023, Allowing Regulatory Flexibilities to Continue](#)
- [CMS Announces It Will Finally Begin Restoring 340B Payments for PPS 340B Hospitals](#)
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