THE 2026 OPPS DRUG ACQUISITION COST SURVEY: RESPONSE DEADLINE EXTENDED

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US Policy and Regulatory Alert

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The Centers for Medicare and Medicaid Services (CMS) has confirmed that it is extending the deadline for hospitals to respond to the Outpatient Prospective Payment System (OPPS) Drug Acquisition Cost Survey (ODACS). Hospitals reimbursed under OPPS now have until 7 April 2026 at 11:59 PM ET to decide whether to respond, which is a week later than the initial deadline of 31 March 2026.

Through ODACS, CMS is trying to meet its statutory obligation to conduct a survey before reducing reimbursement to hospitals for separately payable drugs, particularly for 340B Drug Pricing Program (340B) drugs. CMS will meet the statutory burden *only if* the survey results in a "statistically significant estimate" of drug costs. The deadline extension indicates that CMS may not be receiving the response rate it deems necessary for the survey to be used as a basis for implementing lower OPPS reimbursement rates for separately payable drugs.

HOSPITALS STILL FACE A DIFFICULT CHOICE, BUT THE PICTURE IS GROWING CLEARER

As discussed in our prior March 2026 alert, if large numbers of hospitals do not respond to the survey request, then CMS, by statute, will not be able to use its results to cut reimbursement to 340B-covered entities. CMS has a strong desire to effectuate the cuts that the US Supreme Court has already once denied to the agency, but it acknowledges that it cannot mandate the survey under the statute. Therefore, CMS has suggested that it may treat non-responses as an indication of low acquisition costs, but it cites to no law supporting its authority to do so. Counter to its desire to get a robust response, CMS has also created an onerous certification provision accompanying the acquisition cost data submission, which has given many health systems pause. There thus remain considerations arguing both in favor of responding and not responding.

If a hospital's decision not to respond is driven in part by whether it will make a difference in terms of its future reimbursement, the extension of time points to the conclusion that it will. CMS likely would not extend the window if it already had a "statistically significant estimate" as required by statute. Thus, so long as the trend remains the same, then hospitals continuing not to respond may find that their reimbursement for outpatient drugs remains secure.

The firm's 340B Program and Pharmacy practice group practitioners will continue to closely monitor developments on this issue.

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