



## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

42 CFR Parts 405, 410, 414, 424, and 425

[CMS-1676-P]

RIN 0938-AT02

### Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule and Other Revisions to Part B for CY 2018; Medicare Shared Savings Program Requirements; and Medicare Diabetes Prevention Program

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Proposed rule.

**SUMMARY:** This major proposed rule addresses changes to the Medicare physician fee schedule (PFS) and other Medicare Part B payment policies.

**DATES:** To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on September 11, 2017. (See the **SUPPLEMENTARY INFORMATION** section of this final rule with comment period for a list of provisions open for comment.)

**ADDRESSES:** In commenting, please refer to file code CMS-1676-P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. Electronically. You may submit electronic comments on this regulation to [www.regulations.gov](http://www.regulations.gov). Follow the instructions for “submitting a comment.”
2. By regular mail. You may mail written comments to the following address **ONLY**:

Centers for Medicare & Medicaid Services,  
Department of Health and Human Services,  
Attention: CMS-1676-P,  
P.O. Box 8016,  
Baltimore, MD 21244-8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. By express or overnight mail. You may send written comments to the following address ONLY:

Centers for Medicare & Medicaid Services,  
Department of Health and Human Services,  
Attention: CMS-1676-P,  
Mail Stop C4-26-05,  
7500 Security Boulevard,  
Baltimore, MD 21244-1850.

4. By hand or courier. If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC--  
Centers for Medicare & Medicaid Services,  
Department of Health and Human Services,  
Room 445-G, Hubert H. Humphrey Building,  
200 Independence Avenue, SW.,  
Washington, DC 20201

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD--

Centers for Medicare & Medicaid Services,  
Department of Health and Human Services,  
7500 Security Boulevard,  
Baltimore, MD 21244-1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-7195 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

**FOR FURTHER INFORMATION CONTACT:**

Jamie Hermansen, (410) 786-2064, for issues related to the valuation of anesthesia services and any physician payment issues not identified below.

Lindsey Baldwin, (410) 786-1694, and Emily Yoder, (410) 786-1804, for issues related to telehealth services and primary care.

Roberta Epps, (410) 786-4503, for issues related to PAMA section 218(a) policy and transition from traditional X-ray imaging to digital radiography.

Isadora Gil, (410) 786-4532, for issues related to the valuation of cardiovascular services, bone marrow services, surgical respiratory services, dermatological procedures, and payment

rates for nonexcepted items and services furnished by nonexcepted off-campus provider-based departments of a hospital.

Donta Henson, (410) 786-1947, for issues related to ophthalmology services.

Tourette Jackson, (410) 786-4735, for issues related to the valuation of musculoskeletal services, allergy and clinical immunology services, endocrinology services, genital surgical services, nervous system services, INR monitoring services, injections and infusions, and chemotherapy services.

Ann Marshall, (410) 786-3059, for issues related to primary care, chronic care management (CCM), and evaluation and management (E/M) services.

Geri Mondowney, (410) 786-4584, for issues related to malpractice RVUs.

Patrick Sartini, (410) 786-9252, for issues related to the valuation of imaging services and malpractice RVUs.

Michael Soracoe, (410) 786-6312, for issues related to the practice expense methodology, impacts, conversion factor, and valuation of pathology and surgical procedures.

Pamela West, (410) 786-2302, for issues related to therapy services.

Corinne Axelrod, (410) 786-5620, for issues related to rural health clinics or federally qualified health centers.

Felicia Eggleston, (410) 786-9287, for issues related to DME infusion drugs.

Rasheeda Johnson, (410) 786-3434, for issues related to initial data collection and reporting periods for the clinical laboratory fee schedule.

Edmund Kasaitis, (410) 786-0477, for issues related to biosimilars.

JoAnna Baldwin, (410) 786-7205, or Sarah Fulton, (410) 786-2749, for issues related to appropriate use criteria for advanced diagnostic imaging services.

Alesia Hovatter, (410) 786-6861, for issues related to PQRS.

Alexandra Mugge, (410) 786-4457, or Elizabeth Holland, (410) 786-1309, for issues related to the EHR incentive program.

Rabia Khan or Terri Postma, (410) 786-8084 or ACO@cms.hhs.gov, for issues related to the Medicare Shared Savings Program.

Kimberly Spalding Bush, (410) 786-3232, or Fiona Larbi, (410) 786-7224, for issues related to Value-based Payment Modifier and Physician Feedback Program.

Wilbert Agbenyikey, (410) 786-4399, for issues related to MACRA patient relationship categories and codes.

Carlye Burd, (410) 786-1972, or Albert Wesley, (410) 786-4204, for issues related to diabetes prevention program.

## **SUPPLEMENTARY INFORMATION:**

### **Table of Contents**

I. Executive Summary

II. Provisions of the Proposed Rule for PFS

A. Background

B. Determination of Practice Expense Relative Value Units (PE RVUs)

C. Determination of Malpractice Relative Value Units (MRVUs)

D. Medicare Telehealth Services

E. Potentially Misvalued Services under the PFS

F. Implementation of Reduced Payment for Film-Based Imaging Services

G. Proposed Payment Rates under the Medicare PFS for Nonexcepted Items and Services

Furnished by Nonexcepted Off-Campus Provider-Based Departments of a Hospital

H. Proposed Valuation of Specific Codes

I. Evaluation & Management (E/M) Guidelines and Care Management Services

III. Other Provisions of the Proposed Rule

A. New Care Coordination Services and Payment for Rural Health Clinics (RHCs) and Federally Qualified Health Centers (FQHCs)

B. Payment for DME Infusion Drugs

C. Solicitation of Public Comments on Initial Data Collection and Reporting Periods for Clinical Laboratory Fee Schedule

D. Solicitation of Public Comments on Biosimilars

E. Appropriate Use Criteria for Advanced Diagnostic Imaging Services

F. Physician Quality Reporting System Criteria for Satisfactory Reporting for Individual EPs and Group Practices for the 2018 PQRS Payment Adjustment

G. Medicare EHR Incentive Program

H. Medicare Shared Savings Program

I. Value-Based Payment Modifier and Physician Feedback Program

J. MACRA Patient Relationship Categories and Codes

K. Medicare Diabetes Prevention Program

IV. Collection of Information Requirements

V. Response to Comments

VI. Regulatory Impact Analysis

Regulations Text

**Acronyms**

In addition, because of the many organizations and terms to which we refer by acronym in this final rule, we are listing these acronyms and their corresponding terms in alphabetical order below:

A1c	Hemoglobin A1c
AAA	Abdominal aortic aneurysms
ACO	Accountable care organization
AMA	American Medical Association
ASC	Ambulatory surgical center
ATA	American Telehealth Association
ATRA	American Taxpayer Relief Act (Pub. L. 112-240)
AWV	Annual wellness visit
BBA	Balanced Budget Act of 1997 (Pub. L. 105-33)
BBRA	[Medicare, Medicaid and State Child Health Insurance Program] Balanced Budget Refinement Act of 1999 (Pub. L. 106-113)
BLS	Bureau of Labor Statistics
CAD	Coronary artery disease
CAH	Critical access hospital
CBSA	Core-Based Statistical Area
CCM	Chronic care management
CEHRT	Certified EHR technology
CF	Conversion factor
CG-CAHPS	Clinician and Group Consumer Assessment of Healthcare Providers and Systems
CLFS	Clinical Laboratory Fee Schedule

CoA	Certificate of Accreditation
CoC	Certificate of Compliance
CoR	Certificate of Registration
CNM	Certified nurse-midwife
CP	Clinical psychologist
CPC	Comprehensive Primary Care
CPEP	Clinical Practice Expert Panel
CPT	[Physicians] Current Procedural Terminology ( <i>CPT codes, descriptions and other data only are copyright 2015 American Medical Association. All rights reserved.</i> )
CQM	Clinical quality measure
CSW	Clinical social worker
CT	Computed tomography
CW	Certificate of Waiver
CY	Calendar year
DFAR	Defense Federal Acquisition Regulations
DHS	Designated health services
DM	Diabetes mellitus
DSMT	Diabetes self-management training
eCQM	Electronic clinical quality measures
ED	Emergency Department
EHR	Electronic health record
E/M	Evaluation and management



EMT	Emergency Medical Technician
EP	Eligible professional
eRx	Electronic prescribing
ESRD	End-stage renal disease
FAR	Federal Acquisition Regulations
FDA	Food and Drug Administration
FFS	Fee-for-service
FQHC	Federally qualified health center
FR	<b>Federal Register</b>
FSHCAA	Federally Supported Health Centers Assistance Act
GAF	Geographic adjustment factor
GAO	Government Accountability Office
GPCI	Geographic practice cost index
GPO	Group purchasing organization
GPRO	Group practice reporting option
GTR	Genetic Testing Registry
HCPCS	Healthcare Common Procedure Coding System
HHS	[Department of] Health and Human Services
HOPD	Hospital outpatient department
HPSA	Health professional shortage area
IDTF	Independent diagnostic testing facility
IPPE	Initial preventive physical exam
IPPS	Inpatient Prospective Payment System

IQR	Inpatient Quality Reporting
ISO	Insurance service office
IT	Information technology
IWPUT	Intensity of work per unit of time
LCD	Local coverage determination
MA	Medicare Advantage
MAC	Medicare Administrative Contractor
MACRA	Medicare Access and CHIP Reauthorization Act of 2015 (Pub. L. 114-10)
MAP	Measure Applications Partnership
MAPCP	Multi-payer Advanced Primary Care Practice
MAV	Measure application validity [process]
MCP	Monthly capitation payment
MedPAC	Medicare Payment Advisory Commission
MEI	Medicare Economic Index
MFP	Multi-Factor Productivity
MIPPA	Medicare Improvements for Patients and Providers Act (Pub. L. 110-275)
MMA	Medicare Prescription Drug, Improvement and Modernization Act of 2003 (Pub. L. 108-173, enacted on December 8, 2003)
MP	Malpractice
MPPR	Multiple procedure payment reduction
MRA	Magnetic resonance angiography
MRI	Magnetic resonance imaging
MSA	Metropolitan Statistical Areas

MSPB	Medicare Spending per Beneficiary
MU	Meaningful use
NCD	National coverage determination
NCQDIS	National Coalition of Quality Diagnostic Imaging Services
NP	Nurse practitioner
NPI	National Provider Identifier
NPP	Nonphysician practitioner
NQS	National Quality Strategy
OACT	CMS's Office of the Actuary
OBRA '89	Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239)
OBRA '90	Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508)
OES	Occupational Employment Statistics
OMB	Office of Management and Budget
OPPS	Outpatient prospective payment system
OT	Occupational therapy
PA	Physician assistant
PAMA	Protecting Access to Medicare Act of 2014 (Pub. L. 113-93)
PAMPA	Patient Access and Medicare Protection Act (Pub. L. 114-115)
PC	Professional component
PCIP	Primary Care Incentive Payment
PE	Practice expense
PE/HR	Practice expense per hour
PEAC	Practice Expense Advisory Committee

PECOS	Provider Enrollment, Chain, and Ownership System
PFS	Physician Fee Schedule
PLI	Professional Liability Insurance
PMA	Premarket approval
PPM	Provider-Performed Microscopy
PQRS	Physician Quality Reporting System
PPIS	Physician Practice Expense Information Survey
PPS	Prospective Payment System
PT	Physical therapy
PT	Proficiency Testing
PT/INR	Prothrombin Time/International Normalized Ratio
PY	Performance year
QA	Quality Assessment
QC	Quality Control
QCDR	Qualified clinical data registry
QRUR	Quality and Resources Use Report
RBRVS	Resource-based relative value scale
RFA	Regulatory Flexibility Act
RHC	Rural health clinic
RIA	Regulatory impact analysis
RUC	American Medical Association/Specialty Society Relative Value Scale Update Committee
RUCA	Rural Urban Commuting Area

RVU	Relative value unit
SBA	Small Business Administration
SGR	Sustainable growth rate
SIM	State Innovation Model
SLP	Speech-language pathology
SMS	Socioeconomic Monitoring System
SNF	Skilled nursing facility
TAP	Technical Advisory Panel
TC	Technical component
TIN	Tax identification number
TCM	Transitional Care Management
UAF	Update adjustment factor
UPIN	Unique Physician Identification Number
USPSTF	United States Preventive Services Task Force
VBP	Value-based purchasing
VM	Value-Based Payment Modifier

**Addenda Available Only Through the Internet on the CMS Website**

The PFS Addenda along with other supporting documents and tables referenced in this proposed rule are available on the CMS website at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>. Click on the link on the left side of the screen titled, “PFS Federal Regulations Notices” for a chronological list of PFS **Federal Register** and other related documents. For the CY 2018 PFS Proposed Rule, refer to item CMS-1676-P. Readers with questions related to accessing any of the Addenda or

other supporting documents referenced in this proposed rule and posted on the CMS website identified above should contact Jamie Hermansen at (410) 786-2064.

### **CPT (Current Procedural Terminology) Copyright Notice**

Throughout this proposed rule, we use CPT codes and descriptions to refer to a variety of services. We note that CPT codes and descriptions are copyright 2016 American Medical Association. All Rights Reserved. CPT is a registered trademark of the American Medical Association (AMA). Applicable Federal Acquisition Regulations (FAR) and Defense Federal Acquisition Regulations (DFAR) apply.

### **I. Executive Summary**

#### **A. Purpose**

This major proposed rule proposes to revise payment policies under the Medicare PFS and make other policy changes related to Medicare Part B payment, applicable to services furnished in CY 2018. In addition, this proposed rule includes proposals related to payment policy changes that are addressed in section III. of this proposed rule.

#### **1. Summary of the Major Provisions**

The statute requires us to establish payments under the PFS based on national uniform relative value units (RVUs) that account for the relative resources used in furnishing a service. The statute requires that RVUs be established for three categories of resources: work, practice expense (PE); and malpractice (MP) expense; and, that we establish by regulation each year's payment amounts for all physicians' services paid under the PFS, incorporating geographic adjustments to reflect the variations in the costs of furnishing services in different geographic areas. In this major proposed rule, we are proposing to establish RVUs for CY 2018 for the PFS, and other Medicare Part B payment policies, to ensure that our payment systems are

updated to reflect changes in medical practice and the relative value of services, as well as changes in the statute. In addition, this proposed rule includes discussions and proposals regarding:

- Potentially Misvalued Codes.
- Telehealth Services.
- Establishing Values for New, Revised, and Misvalued Codes.
- Establishing Payment Rates under the PFS for Nonexcepted Items and Services

Furnished by Nonexcepted Off-Campus Provider-Based Departments of a Hospital

- Evaluation & Management (E/M) Guidelines and Care Management Services
- Care Coordination Services and Payment for Rural Health Clinics (RHCs) and

Federally Qualified Health Centers (FQHCs).

- Payment for DME Infusion Drugs.
- Solicitation of Public Comments on Initial Data Collection and Reporting Periods for

Clinical Laboratory Fee Schedule.

- Solicitation of Public Comments on Payment for Biosimilar Biological Products under

Section 1847A of the Act.

- Appropriate Use Criteria for Advanced Diagnostic Imaging Services.
- PQRS Criteria for Satisfactory Reporting for Individual EPs and Group Practices for

the 2018 PQRS Payment Adjustment.

- Medicare EHR Incentive Program.
- Medicare Shared Savings Program.
- Value-Based Payment Modifier and the Physician Feedback Program.
- MACRA Patient Relationship Categories and Codes.

- Medicare Diabetes Prevention Program.

## 2. Summary of Costs and Benefits

We have determined that this major proposed rule is economically significant. For a detailed discussion of the economic impacts, see section VI. of this proposed rule.



## **II. Provisions of the Proposed Rule for PFS**

### A. Background

Since January 1, 1992, Medicare has paid for physicians' services under section 1848 of the Act, "Payment for Physicians' Services." The PFS relies on national relative values that are established for work, PE, and MP, which are adjusted for geographic cost variations. These values are multiplied by a conversion factor (CF) to convert the RVUs into payment rates. The concepts and methodology underlying the PFS were enacted as part of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101-239, enacted on December 19, 1989) (OBRA '89), and the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101-508, enacted on November 5, 1990) (OBRA '90). The final rule published on November 25, 1991 (56 FR 59502) set forth the first fee schedule used for payment for physicians' services.

We note that throughout this major proposed rule, unless otherwise noted, the term "practitioner" is used to describe both physicians and nonphysician practitioners (NPPs) who are permitted to bill Medicare under the PFS for services furnished to Medicare beneficiaries.

#### 1. Development of the Relative Values

##### a. Work RVUs

The work RVUs established for the initial fee schedule, which was implemented on January 1, 1992, were developed with extensive input from the physician community. A research team at the Harvard School of Public Health developed the original work RVUs for most codes under a cooperative agreement with the Department of Health and Human Services (HHS). In constructing the code-specific vignettes used in determining the original physician work RVUs, Harvard worked with panels of experts, both inside and outside the federal government, and obtained input from numerous physician specialty groups.

As specified in section 1848(c)(1)(A) of the Act, the work component of physicians' services means the portion of the resources used in furnishing the service that reflects physician time and intensity. We establish work RVUs for new, revised and potentially misvalued codes based on our review of information that generally includes, but is not limited to, recommendations received from the American Medical Association/Specialty Society Relative Value Scale Update Committee (RUC), the Health Care Professionals Advisory Committee (HCPAC), the Medicare Payment Advisory Commission (MedPAC), and other public commenters; medical literature and comparative databases; as well as a comparison of the work for other codes within the Medicare PFS, and consultation with other physicians and health care professionals within CMS and the federal government. We also assess the methodology and data used to develop the recommendations submitted to us by the RUC and other public commenters, and the rationale for their recommendations. In the CY 2011 PFS final rule with comment period (75 FR 73328 through 73329), we discussed a variety of methodologies and approaches used to develop work RVUs, including survey data, building blocks, crosswalk to key reference or similar codes, and magnitude estimation. More information on these issues is available in that rule.

b. Practice Expense RVUs

Initially, only the work RVUs were resource-based, and the PE and MP RVUs were based on average allowable charges. Section 121 of the Social Security Act Amendments of 1994 (Pub. L. 103-432, enacted on October 31, 1994), amended section 1848(c)(2)(C)(ii) of the Act and required us to develop resource-based PE RVUs for each physicians' service beginning in 1998. We were required to consider general categories of expenses (such as office

rent and wages of personnel, but excluding malpractice expenses) comprising PEs. The PE RVUs continue to represent the portion of these resources involved in furnishing PFS services.

Originally, the resource-based method was to be used beginning in 1998, but section 4505(a) of the Balanced Budget Act of 1997 (Pub. L. 105-33, enacted on August 5, 1997) (BBA) delayed implementation of the resource-based PE RVU system until January 1, 1999. In addition, section 4505(b) of the BBA provided for a 4-year transition period from the charge-based PE RVUs to the resource-based PE RVUs.

We established the resource-based PE RVUs for each physicians' service in a final rule, published on November 2, 1998 (63 FR 58814), effective for services furnished in CY 1999. Based on the requirement to transition to a resource-based system for PE over a 4-year period, payment rates were not fully based upon resource-based PE RVUs until CY 2002. This resource-based system was based on two significant sources of actual PE data: the Clinical Practice Expert Panel (CPEP) data; and the AMA's Socioeconomic Monitoring System (SMS) data. These data sources are described in greater detail in the CY 2012 final rule with comment period (76 FR 73033).

Separate PE RVUs are established for services furnished in facility settings, such as a hospital outpatient department (HOPD) or an ambulatory surgical center (ASC), and in nonfacility settings, such as a physician's office. The nonfacility RVUs reflect all of the direct and indirect PEs involved in furnishing a service described by a particular HCPCS code. The difference, if any, in these PE RVUs generally results in a higher payment in the nonfacility setting because in the facility settings some costs are borne by the facility. Medicare's payment to the facility (such as the outpatient prospective payment system (OPPS) payment to the

hospital outpatient department (HOPD)) would reflect costs typically incurred by the facility. Thus, payment associated with those facility resources is not made under the PFS.

Section 212 of the Balanced Budget Refinement Act of 1999 (Pub. L. 106-113, enacted on November 29, 1999) (BBRA) directed the Secretary of Health and Human Services (the Secretary) to establish a process under which we accept and use, to the maximum extent practicable and consistent with sound data practices, data collected or developed by entities and organizations to supplement the data we normally collect in determining the PE component. On May 3, 2000, we published the interim final rule (65 FR 25664) that set forth the criteria for the submission of these supplemental PE survey data. The criteria were modified in response to comments received, and published in the Federal Register (65 FR 65376) as part of a November 1, 2000 final rule. The PFS final rules published in 2001 and 2003, respectively, (66 FR 55246 and 68 FR 63196) extended the period during which we would accept these supplemental data through March 1, 2005.

In the CY 2007 PFS final rule with comment period (71 FR 69624), we revised the methodology for calculating direct PE RVUs from the top-down to the bottom-up methodology beginning in CY 2007. We adopted a 4-year transition to the new PE RVUs. This transition was completed for CY 2010. In the CY 2010 PFS final rule with comment period, we updated the practice expense per hour (PE/HR) data that are used in the calculation of PE RVUs for most specialties (74 FR 61749). In CY 2010, we began a 4-year transition to the new PE RVUs using the updated PE/HR data, which was completed for CY 2013.

#### c. Malpractice RVUs

Section 4505(f) of the BBA amended section 1848(c) of the Act to require that we implement resource-based MP RVUs for services furnished on or after CY 2000. The

resource-based MP RVUs were implemented in the PFS final rule with comment period published November 2, 1999 (64 FR 59380). The MP RVUs are based on commercial and physician-owned insurers' malpractice insurance premium data from all the states, the District of Columbia, and Puerto Rico. For more information on MP RVUs, see section II.C. of this proposed rule.

d. Refinements to the RVUs

Section 1848(c)(2)(B)(i) of the Act requires that we review RVUs no less often than every 5 years. Prior to CY 2013, we conducted periodic reviews of work RVUs and PE RVUs independently. We completed five-year reviews of work RVUs that were effective for calendar years 1997, 2002, 2007, and 2012.

Although refinements to the direct PE inputs initially relied heavily on input from the RUC Practice Expense Advisory Committee (PEAC), the shifts to the bottom-up PE methodology in CY 2007 and to the use of the updated PE/HR data in CY 2010 have resulted in significant refinements to the PE RVUs in recent years.

In the CY 2012 PFS final rule with comment period (76 FR 73057), we finalized a proposal to consolidate reviews of work and PE RVUs under section 1848(c)(2)(B) of the Act and reviews of potentially misvalued codes under section 1848(c)(2)(K) of the Act into one annual process.

In addition to the 5-year reviews, beginning for CY 2009, CMS and the RUC have identified and reviewed a number of potentially misvalued codes on an annual basis based on various identification screens. This annual review of work and PE RVUs for potentially misvalued codes was supplemented by the amendments to section 1848 of the Act, as enacted by

section 3134 of the Affordable Care Act, that require the agency to periodically identify, review and adjust values for potentially misvalued codes.

e. Application of Budget Neutrality to Adjustments of RVUs

As described in section VI.C. of this proposed rule, in accordance with section 1848(c)(2)(B)(ii)(II) of the Act, if revisions to the RVUs cause expenditures for the year to change by more than \$20 million, we make adjustments to ensure that expenditures do not increase or decrease by more than \$20 million.

2. Calculation of Payments Based on RVUs

To calculate the payment for each service, the components of the fee schedule (work, PE, and MP RVUs) are adjusted by geographic practice cost indices (GPCIs) to reflect the variations in the costs of furnishing the services. The GPCIs reflect the relative costs of work, PE, and MP in an area compared to the national average costs for each component.

RVUs are converted to dollar amounts through the application of a conversion factor (CF), which is calculated based on a statutory formula by CMS's Office of the Actuary (OACT). The formula for calculating the Medicare PFS payment amount for a given service and fee schedule area can be expressed as:

$$\text{Payment} = [(\text{RVU work} \times \text{GPCI work}) + (\text{RVU PE} \times \text{GPCI PE}) + (\text{RVU MP} \times \text{GPCI MP})] \times \text{CF}$$

3. Separate Fee Schedule Methodology for Anesthesia Services

Section 1848(b)(2)(B) of the Act specifies that the fee schedule amounts for anesthesia services are to be based on a uniform relative value guide, with appropriate adjustment of an anesthesia conversion factor, in a manner to ensure that fee schedule amounts for anesthesia services are consistent with those for other services of comparable value. Therefore, there is a

separate fee schedule methodology for anesthesia services. Specifically, we establish a separate conversion factor for anesthesia services and we utilize the uniform relative value guide, or base units, as well as time units, to calculate the fee schedule amounts for anesthesia services. Since anesthesia services are not valued using RVUs, a separate methodology for locality adjustments is also necessary. This involves an adjustment to the national anesthesia CF for each payment locality.

## B. Determination of Proposed Practice Expense (PE) Relative Value Units (RVUs)

### 1. Overview

Practice expense (PE) is the portion of the resources used in furnishing a service that reflects the general categories of physician and practitioner expenses, such as office rent and personnel wages, but excluding malpractice expenses, as specified in section 1848(c)(1)(B) of the Act. As required by section 1848(c)(2)(C)(ii) of the Act, we use a resource-based system for determining PE RVUs for each physicians' service. We develop PE RVUs by considering the direct and indirect practice resources involved in furnishing each service. Direct expense categories include clinical labor, medical supplies, and medical equipment. Indirect expenses include administrative labor, office expense, and all other expenses. The sections that follow provide more detailed information about the methodology for translating the resources involved in furnishing each service into service-specific PE RVUs. We refer readers to the CY 2010 PFS final rule with comment period (74 FR 61743 through 61748) for a more detailed explanation of the PE methodology.

### 2. Practice Expense Methodology

#### a. Direct Practice Expense

We determine the direct PE for a specific service by adding the costs of the direct resources (that is, the clinical staff, medical supplies, and medical equipment) typically involved with furnishing that service. The costs of the resources are calculated using the refined direct PE inputs assigned to each CPT code in our PE database, which are generally based on our review of recommendations received from the RUC and those provided in response to public comment periods. For a detailed explanation of the direct PE methodology, including examples, we refer readers to the 5 Year Review of Work Relative Value Units under the PFS and Proposed Changes to the Practice Expense Methodology proposed notice (71 FR 37242) and the CY 2007 PFS final rule with comment period (71 FR 69629).

b. Indirect Practice Expense per Hour Data

We use survey data on indirect PEs incurred per hour worked in developing the indirect portion of the PE RVUs. Prior to CY 2010, we primarily used the practice expense per hour (PE/HR) by specialty that was obtained from the AMA's Socioeconomic Monitoring Surveys (SMS). The AMA administered a new survey in CY 2007 and CY 2008, the Physician Practice Expense Information Survey (PPIS). The PPIS is a multispecialty, nationally representative, PE survey of both physicians and nonphysician practitioners (NPPs) paid under the PFS using a survey instrument and methods highly consistent with those used for the SMS and the supplemental surveys. The PPIS gathered information from 3,656 respondents across 51 physician specialty and health care professional groups. We believe the PPIS is the most comprehensive source of PE survey information available. We used the PPIS data to update the PE/HR data for the CY 2010 PFS for almost all of the Medicare-recognized specialties that participated in the survey.



When we began using the PPIS data in CY 2010, we did not change the PE RVU methodology itself or the manner in which the PE/HR data are used in that methodology. We only updated the PE/HR data based on the new survey. Furthermore, as we explained in the CY 2010 PFS final rule with comment period (74 FR 61751), because of the magnitude of payment reductions for some specialties resulting from the use of the PPIS data, we transitioned its use over a 4-year period from the previous PE RVUs to the PE RVUs developed using the new PPIS data. As provided in the CY 2010 PFS final rule with comment period (74 FR 61751), the transition to the PPIS data was complete for CY 2013. Therefore, PE RVUs from CY 2013 forward are developed based entirely on the PPIS data, except as noted in this section.

Section 1848(c)(2)(H)(i) of the Act requires us to use the medical oncology supplemental survey data submitted in 2003 for oncology drug administration services. Therefore, the PE/HR for medical oncology, hematology, and hematology/oncology reflects the continued use of these supplemental survey data.

Supplemental survey data on independent labs from the College of American Pathologists were implemented for payments beginning in CY 2005. Supplemental survey data from the National Coalition of Quality Diagnostic Imaging Services (NCQDIS), representing independent diagnostic testing facilities (IDTFs), were blended with supplementary survey data from the American College of Radiology (ACR) and implemented for payments beginning in CY 2007. Neither IDTFs, nor independent labs, participated in the PPIS. Therefore, we continue to use the PE/HR that was developed from their supplemental survey data. Consistent with our past practice, the previous indirect PE/HR values from the supplemental surveys for these specialties were updated to CY 2006 using the Medicare Economic Index (MEI) to put them on a comparable basis with the PPIS data.

We also do not use the PPIS data for reproductive endocrinology and spine surgery since these specialties currently are not separately recognized by Medicare, nor do we have a method to blend the PPIS data with Medicare-recognized specialty data.

Previously, we established PE/HR values for various specialties without SMS or supplemental survey data by crosswalking them to other similar specialties to estimate a proxy PE/HR. For specialties that were part of the PPIS for which we previously used a crosswalked PE/HR, we instead used the PPIS-based PE/HR. We use crosswalks for specialties that did not participate in the PPIS. These crosswalks have been generally established through notice and comment rulemaking and are available in the file called “CY 2018 PFS Proposed Rule PE/HR” on the CMS website under downloads for the CY 2018 PFS proposed rule at

<http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>.

c. Allocation of PE to Services

To establish PE RVUs for specific services, it is necessary to establish the direct and indirect PE associated with each service.

(1) Direct Costs

The relative relationship between the direct cost portions of the PE RVUs for any two services is determined by the relative relationship between the sum of the direct cost resources (that is, the clinical staff, medical supplies, and medical equipment) typically involved with furnishing each of the services. The costs of these resources are calculated from the refined direct PE inputs in our PE database. For example, if one service has a direct cost sum of \$400 from our PE database and another service has a direct cost sum of \$200, the direct portion of the

PE RVUs of the first service would be twice as much as the direct portion of the PE RVUs for the second service.

## (2) Indirect Costs

We allocate the indirect costs to the code level on the basis of the direct costs specifically associated with a code and the greater of either the clinical labor costs or the work RVUs. We also incorporate the survey data described earlier in the PE/HR discussion (see section II.B.2.b of this proposed rule). The general approach to developing the indirect portion of the PE RVUs is as follows:

- For a given service, we use the direct portion of the PE RVUs calculated as previously described and the average percentage that direct costs represent of total costs (based on survey data) across the specialties that furnish the service to determine an initial indirect allocator. That is, the initial indirect allocator is calculated so that the direct costs equal the average percentage of direct costs of those specialties furnishing the service. For example, if the direct portion of the PE RVUs for a given service is 2.00 and direct costs, on average, represent 25 percent of total costs for the specialties that furnish the service, the initial indirect allocator would be calculated so that it equals 75 percent of the total PE RVUs. Thus, in this example, the initial indirect allocator would equal 6.00, resulting in a total PE RVU of 8.00 (2.00 is 25 percent of 8.00 and 6.00 is 75 percent of 8.00).

- Next, we add the greater of the work RVUs or clinical labor portion of the direct portion of the PE RVUs to this initial indirect allocator. In our example, if this service had a work RVU of 4.00 and the clinical labor portion of the direct PE RVU was 1.50, we would add 4.00 (since the 4.00 work RVUs are greater than the 1.50 clinical labor portion) to the initial indirect allocator of 6.00 to get an indirect allocator of 10.00. In the absence of any further use

of the survey data, the relative relationship between the indirect cost portions of the PE RVUs for any two services would be determined by the relative relationship between these indirect cost allocators. For example, if one service had an indirect cost allocator of 10.00 and another service had an indirect cost allocator of 5.00, the indirect portion of the PE RVUs of the first service would be twice as great as the indirect portion of the PE RVUs for the second service.

- Next, we incorporated the specialty-specific indirect PE/HR data into the calculation.

In our example, if, based on the survey data, the average indirect cost of the specialties furnishing the first service with an allocator of 10.00 was half of the average indirect cost of the specialties furnishing the second service with an indirect allocator of 5.00, the indirect portion of the PE RVUs of the first service would be equal to that of the second service.

### (3) Facility and Nonfacility Costs

For procedures that can be furnished in a physician's office, as well as in a facility setting, where Medicare makes a separate payment to the facility for its costs in furnishing a service, we establish two PE RVUs: facility, and nonfacility. The methodology for calculating PE RVUs is the same for both the facility and nonfacility RVUs, but is applied independently to yield two separate PE RVUs. In calculating the PE RVUs for services furnished in a facility, we do not include resources that would generally not be provided by physicians when furnishing the service. For this reason, the facility PE RVUs are generally lower than the nonfacility PE RVUs.

### (4) Services with Technical Components and Professional Components

Diagnostic services are generally comprised of two components: a professional component (PC) and a technical component (TC). The PC and TC may be furnished independently or by different providers, or they may be furnished together as a global service. When services have separately billable PC and TC components, the payment for the global

service equals the sum of the payment for the TC and PC. To achieve this, we use a weighted average of the ratio of indirect to direct costs across all the specialties that furnish the global service, TCs, and PCs; that is, we apply the same weighted average indirect percentage factor to allocate indirect expenses to the global service, PCs, and TCs for a service. (The direct PE RVUs for the TC and PC sum to the global.)

#### (5) PE RVU Methodology

For a more detailed description of the PE RVU methodology, we refer readers to the CY 2010 PFS final rule with comment period (74 FR 61745 through 61746). We also direct interested readers to the file called “Calculation of PE RVUs under Methodology for Selected Codes” which is available on our website under downloads for the CY 2018 PFS proposed rule at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>. This file contains a table that illustrates the calculation of PE RVUs as described in this proposed rule for individual codes.

#### (a) Setup File

First, we create a setup file for the PE methodology. The setup file contains the direct cost inputs, the utilization for each procedure code at the specialty and facility/nonfacility place of service level, and the specialty-specific PE/HR data calculated from the surveys.

#### (b) Calculate the Direct Cost PE RVUs

Sum the costs of each direct input.

Step 1: Sum the direct costs of the inputs for each service.

Step 2: Calculate the aggregate pool of direct PE costs for the current year. We set the aggregate pool of PE costs equal to the product of the ratio of the current aggregate PE RVUs to current aggregate work RVUs and the proposed aggregate work RVUs.

Step 3: Calculate the aggregate pool of direct PE costs for use in ratesetting. This is the product of the aggregate direct costs for all services from Step 1 and the utilization data for that service.

Step 4: Using the results of Step 2 and Step 3, use the conversion factor to calculate a direct PE scaling adjustment to ensure that the aggregate pool of direct PE costs calculated in Step 3 does not vary from the aggregate pool of direct PE costs for the current year. Apply the scaling adjustment to the direct costs for each service (as calculated in Step 1).

Step 5: Convert the results of Step 4 to a RVU scale for each service. To do this, divide the results of Step 4 by the conversion factor (CF). Note that the actual value of the CF used in this calculation does not influence the final direct cost PE RVUs as long as the same CF is used in Step 4 and Step 5. Different CFs would result in different direct PE scaling adjustments, but this has no effect on the final direct cost PE RVUs since changes in the CFs and changes in the associated direct scaling adjustments offset one another.

(c) Create the Indirect Cost PE RVUs

Create indirect allocators.

Step 6: Based on the survey data, calculate direct and indirect PE percentages for each physician specialty.

Step 7: Calculate direct and indirect PE percentages at the service level by taking a weighted average of the results of Step 6 for the specialties that furnish the service. Note that for services with TCs and PCs, the direct and indirect percentages for a given service do not vary by the PC, TC, and global service.

We generally use an average of the 3 most recent years of available Medicare claims data to determine the specialty mix assigned to each code. Prior to implementing that policy, we used

the most recent year of available claims data to determine the specialty mix assigned to each code.

Under either of these approaches, codes with low Medicare service volume require special attention since billing or enrollment irregularities for a given year can result in significant changes in specialty mix assignment. Prior to adopting the 3-year average of data, for low-volume services (fewer than 100 Medicare allowed services), we assigned the values associated with the specialty that most frequently reported the service in the most recent claims data (dominant specialty). For some time, stakeholders, including the RUC, have requested that we use a recommended “expected” specialty for all low volume services instead of the information contained in the claims data. Currently, in the development of PE RVUs we use “expected specialty” overrides for only several dozen services based on several code-specific policies we established in prior rulemaking. As we stated in the CY 2016 final rule with comment period (80 FR 70894), we hoped that the 3-year average would mitigate the need to use dominant or expected specialty instead of the specialty identified using claims data. Because we incorporated CY 2015 claims data for use in the CY 2017 proposed rates, we believe that the finalized PE RVUs associated with the CY 2017 PFS final rule provided a first opportunity to determine whether service-level overrides of claims data are necessary.

Although we believe that the use of the 3-year average of claims data to determine specialty mix has led to an improvement in the stability of PE and MP RVUs from year to year, after reviewing the RVUs for low volume services, we continue to see possible distortions and wide variability from year to year in PE and MP RVUs for low volume services. Several stakeholders have suggested that CMS implement service-level overrides based on the expected specialty in order to determine the specialty mix for these low volume procedures. The RUC

previously supplied us with a list of nearly 2,000 lower volume codes and their suggested specialty overrides. After reviewing the finalized PERVUs for the CY 2017 PFS final rule, we agree that the use of service-level overrides for low volume services would help mitigate annual fluctuations and provide greater stability in the valuation of these services. While the use of the 3-year average of claims data to determine specialty mix has helped to mitigate some of the year to year variability for low volume services, it has not fully mitigated what appear to be anomalies for many of these lower volume codes.

We are, therefore, proposing to use the most recent year of claims data to determine which codes are low volume for the coming year (those that have fewer than 100 allowed services in the Medicare claims data). For codes that fall into this category, instead of assigning specialty mix based on the specialties of the practitioners reporting the services in the claims data, we are proposing to instead use the expected specialty that we identify on a list. For CY 2018, we are proposing to use a list that was developed based on our medical review of the list most recently recommended by the RUC, in addition to our own proposed expected specialty for certain other low-volume codes for which we have historically used expected specialty assignments. We would display this list as part of the annual set of data files we make available as part of notice and comment rulemaking. We propose to consider recommendations from the RUC and other stakeholders on changes to this list on an annual basis.

We are also proposing to apply these service-level overrides for both PE and MP, rather than one or the other category. We believe that this would simplify the implementation of service-level overrides for PE and MP, and would also address stakeholder concerns about the year-to-year variability for low volume services. We are soliciting public comment on the proposal to use service-level overrides to determine the specialty mix for low volume



procedures, as well as on the proposed list of expected specialty overrides itself, which is largely based on the recommendations submitted by the RUC last year. The proposed list of expected specialty assignments for individual low volume services is available on our website under downloads for the CY 2018 PFS proposed rule at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>. Services for which the specialty is automatically assigned based on previously finalized policies under our established methodology (for example, “always therapy” services) would be unaffected by this proposal.

Step 8: Calculate the service level allocators for the indirect PEs based on the percentages calculated in Step 7. The indirect PEs are allocated based on the three components: the direct PE RVUs; the clinical labor PE RVUs; and the work RVUs.

For most services the indirect allocator is: indirect PE percentage \* (direct PE RVUs/direct percentage) + work RVUs.

There are two situations where this formula is modified:

- If the service is a global service (that is, a service with global, professional, and technical components), then the indirect PE allocator is: indirect percentage (direct PE RVUs/direct percentage) + clinical labor PE RVUs + work RVUs.

- If the clinical labor PE RVUs exceed the work RVUs (and the service is not a global service), then the indirect allocator is: indirect PE percentage (direct PE RVUs/direct percentage) + clinical labor PE RVUs.

(Note: For global services, the indirect PE allocator is based on both the work RVUs and the clinical labor PE RVUs. We do this to recognize that, for the PC service, indirect PEs would be allocated using the work RVUs, and for the TC service, indirect PEs would be allocated using

the direct PE RVUs and the clinical labor PE RVUs. This also allows the global component RVUs to equal the sum of the PC and TC RVUs.)

For presentation purposes, in the examples in the download file called “Calculation of PE RVUs under Methodology for Selected Codes”, the formulas were divided into two parts for each service.

- The first part does not vary by service and is the indirect percentage (direct PE RVUs/direct percentage).
- The second part is either the work RVU, clinical labor PE RVU, or both depending on whether the service is a global service and whether the clinical PE RVUs exceed the work RVUs (as described earlier in this step).

Apply a scaling adjustment to the indirect allocators.

Step 9: Calculate the current aggregate pool of indirect PE RVUs by multiplying the result of step 8 by the average indirect PE percentage from the survey data.

Step 10: Calculate an aggregate pool of indirect PE RVUs for all PFS services by adding the product of the indirect PE allocators for a service from Step 8 and the utilization data for that service.

Step 11: Using the results of Step 9 and Step 10, calculate an indirect PE adjustment so that the aggregate indirect allocation does not exceed the available aggregate indirect PE RVUs and apply it to indirect allocators calculated in Step 8.

Calculate the indirect practice cost index.

Step 12: Using the results of Step 11, calculate aggregate pools of specialty-specific adjusted indirect PE allocators for all PFS services for a specialty by adding the product of the adjusted indirect PE allocator for each service and the utilization data for that service.

Step 13: Using the specialty-specific indirect PE/HR data, calculate specialty-specific aggregate pools of indirect PE for all PFS services for that specialty by adding the product of the indirect PE/HR for the specialty, the work time for the service, and the specialty's utilization for the service across all services furnished by the specialty.

Step 14: Using the results of Step 12 and Step 13, calculate the specialty-specific indirect PE scaling factors.

Step 15: Using the results of Step 14, calculate an indirect practice cost index at the specialty level by dividing each specialty-specific indirect scaling factor by the average indirect scaling factor for the entire PFS.

Step 16: Calculate the indirect practice cost index at the service level to ensure the capture of all indirect costs. Calculate a weighted average of the practice cost index values for the specialties that furnish the service. (Note: For services with TCs and PCs, we calculate the indirect practice cost index across the global service, PCs, and TCs. Under this method, the indirect practice cost index for a given service (for example, echocardiogram) does not vary by the PC, TC, and global service.)

Step 17: Apply the service level indirect practice cost index calculated in Step 16 to the service level adjusted indirect allocators calculated in Step 11 to get the indirect PE RVUs.

(d) Calculate the Final PE RVUs

Step 18: Add the direct PE RVUs from Step 5 to the indirect PE RVUs from Step 17 and apply the final PE budget neutrality (BN) adjustment. The final PE BN adjustment is calculated by comparing the sum of steps 5 and 17 of to the proposed aggregate work RVUs scaled by the ratio of current aggregate PE and work RVUs. This adjustment ensures that all PE RVUs in the PFS account for the fact that certain specialties are excluded from the calculation of PE RVUs

but included in maintaining overall PFS budget neutrality. (See “Specialties excluded from ratesetting calculation” later in this proposed rule.)

Step 19: Apply the phase-in of significant RVU reductions and its associated adjustment. Section 1848(c)(7) of the Act specifies that for services that are not new or revised codes, if the total RVUs for a service for a year would otherwise be decreased by an estimated 20 percent or more as compared to the total RVUs for the previous year, the applicable adjustments in work, PE, and MP RVUs shall be phased in over a 2-year period. In implementing the phase-in, we consider a 19 percent reduction as the maximum 1-year reduction for any service not described by a new or revised code. This approach limits the year one reduction for the service to the maximum allowed amount (that is, 19 percent), and then phases in the remainder of the reduction. To comply with section 1848(c)(7) of the Act, we adjust the PE RVUs to ensure that the total RVUs for all services that are not new or revised codes decrease by no more than 19 percent, and then apply a relativity adjustment to ensure that the total pool of aggregate PE RVUs remains relative to the pool of work and MP RVUs. For a more detailed description of the methodology for the phase-in of significant RVU changes, we refer readers to the CY 2016 PFS final rule with comment period (80 FR 70927 through 70931).

(e) Setup File Information

- Specialties excluded from ratesetting calculation: For the purposes of calculating the PE RVUs, we exclude certain specialties, such as certain NPPs paid at a percentage of the PFS and low-volume specialties, from the calculation. These specialties are included for the purposes of calculating the BN adjustment. They are displayed in Table 1.

**TABLE 1: Specialties Excluded from Ratesetting Calculation**

Specialty Code	Specialty Description
49	Ambulatory surgical center
50	Nurse practitioner
51	Medical supply company with certified orthotist
52	Medical supply company with certified prosthetist
53	Medical supply company with certified prosthetist-orthotist
54	Medical supply company not included in 51, 52, or 53.
55	Individual certified orthotist
56	Individual certified prosthetist
57	Individual certified prosthetist-orthotist
58	Medical supply company with registered pharmacist
59	Ambulance service supplier, e.g., private ambulance companies, funeral homes, etc.
60	Public health or welfare agencies
61	Voluntary health or charitable agencies
73	Mass immunization roster biller
74	Radiation therapy centers
87	All other suppliers (e.g., drug and department stores)
88	Unknown supplier/provider specialty
89	Certified clinical nurse specialist
96	Optician
97	Physician assistant
A0	Hospital
A1	SNF
A2	Intermediate care nursing facility
A3	Nursing facility, other
A4	HHA
A5	Pharmacy
A6	Medical supply company with respiratory therapist
A7	Department store
B2	Pedorthic personnel
B3	Medical supply company with pedorthic personnel

- Crosswalk certain low volume physician specialties: Crosswalk the utilization of certain specialties with relatively low PFS utilization to the associated specialties.
- Physical therapy utilization: Crosswalk the utilization associated with all physical therapy services to the specialty of physical therapy.

- Identify professional and technical services not identified under the usual TC and 26 modifiers: Flag the services that are PC and TC services but do not use TC and 26 modifiers (for example, electrocardiograms). This flag associates the PC and TC with the associated global code for use in creating the indirect PE RVUs. For example, the professional service, CPT code 93010 (Electrocardiogram, routine ECG with at least 12 leads; interpretation and report only), is associated with the global service, CPT code 93000 (Electrocardiogram, routine ECG with at least 12 leads; with interpretation and report).

- Payment modifiers: Payment modifiers are accounted for in the creation of the file consistent with current payment policy as implemented in claims processing. For example, services billed with the assistant at surgery modifier are paid 16 percent of the PFS amount for that service; therefore, the utilization file is modified to only account for 16 percent of any service that contains the assistant at surgery modifier. Similarly, for those services to which volume adjustments are made to account for the payment modifiers, time adjustments are applied as well. For time adjustments to surgical services, the intraoperative portion in the work time file is used; where it is not present, the intraoperative percentage from the payment files used by contractors to process Medicare claims is used instead. Where neither is available, we use the payment adjustment ratio to adjust the time accordingly. Table 2 details the manner in which the modifiers are applied.

**TABLE 2: Application of Payment Modifiers to Utilization Files**

<b>Modifier</b>	<b>Description</b>	<b>Volume Adjustment</b>	<b>Time Adjustment</b>
80,81,82	Assistant at Surgery	16%	Intraoperative portion
AS	Assistant at Surgery – Physician Assistant	14% (85% * 16%)	Intraoperative portion
50 or LT and RT	Bilateral Surgery	150%	150% of work time
51	Multiple Procedure	50%	Intraoperative portion
52	Reduced Services	50%	50%
53	Discontinued Procedure	50%	50%
54	Intraoperative Care only	Preoperative + Intraoperative Percentages on the payment files used by Medicare contractors to process Medicare claims	Preoperative + Intraoperative portion
55	Postoperative Care only	Postoperative Percentage on the payment files used by Medicare contractors to process Medicare claims	Postoperative portion
62	Co-surgeons	62.5%	50%
66	Team Surgeons	33%	33%

We also make adjustments to volume and time that correspond to other payment rules, including special multiple procedure endoscopy rules and multiple procedure payment reductions (MPPRs). We note that section 1848(c)(2)(B)(v) of the Act exempts certain reduced payments for multiple imaging procedures and multiple therapy services from the BN calculation under section 1848(c)(2)(B)(ii)(II) of the Act. These MPPRs are not included in the development of the RVUs.

For anesthesia services, we do not apply adjustments to volume since we use the average allowed charge when simulating RVUs; therefore, the RVUs as calculated already reflect the

payments as adjusted by modifiers, and no volume adjustments are necessary. However, a time adjustment of 33 percent is made only for medical direction of two to four cases since that is the only situation where a single practitioner is involved with multiple beneficiaries concurrently, so that counting each service without regard to the overlap with other services would overstate the amount of time spent by the practitioner furnishing these services.

- Work RVUs: The setup file contains the work RVUs from this proposed rule.

#### (6) Equipment Cost per Minute

The equipment cost per minute is calculated as:

$$\left( \frac{1}{(\text{minutes per year} * \text{usage})} \right) * \text{price} * \left( \frac{\text{interest rate}}{1 - (1 / ((1 + \text{interest rate})^{\text{life of equipment}}))} \right) + \text{maintenance}$$

Where:

minutes per year = maximum minutes per year if usage were continuous (that is, usage=1); generally 150,000 minutes.

usage = variable, see discussion in this proposed rule.

price = price of the particular piece of equipment.

life of equipment = useful life of the particular piece of equipment.

maintenance = factor for maintenance; 0.05.

interest rate = variable, see discussion in this proposed rule.

Usage: We currently use an equipment utilization rate assumption of 50 percent for most equipment, with the exception of expensive diagnostic imaging equipment, for which we use a 90 percent assumption as required by section 1848(b)(4)(C) of the Act.

Stakeholders have often suggested that particular equipment items are used less frequently than 50 percent of the time in the typical setting and that CMS should reduce the



equipment utilization rate based on these recommendations. We appreciate and share stakeholders’ interest in using the most accurate assumption regarding the equipment utilization rate for particular equipment items. However, we believe that absent robust, objective, auditable data regarding the use of particular items, the 50 percent assumption is the most appropriate within the relative value system. We welcome the submission of data that illustrates an alternative rate.

Maintenance: This factor for maintenance was finalized in the CY 1998 PFS final rule with comment period (62 FR 33164).

We continue to investigate potential avenues for determining equipment maintenance costs across a broad range of equipment items.

Interest Rate: In the CY 2013 PFS final rule with comment period (77 FR 68902), we updated the interest rates used in developing an equipment cost per minute calculation (see 77 FR 68902 for a thorough discussion of this issue). The interest rate was based on the Small Business Administration (SBA) maximum interest rates for different categories of loan size (equipment cost) and maturity (useful life). We are not proposing any changes to these interest rates for CY 2018. The interest rates are listed in Table 3.

**TABLE 3: SBA Maximum Interest Rates**

<b>Price</b>	<b>Useful Life</b>	<b>Interest Rate</b>
<\$25K	<7 Years	7.50%
\$25K to \$50K	<7 Years	6.50%
>\$50K	<7 Years	5.50%
<\$25K	7+ Years	8.00%
\$25K to \$50K	7+ Years	7.00%
>\$50K	7+ Years	6.00%

3. Changes to Direct PE Inputs for Specific Services

This section focuses on specific PE inputs. The direct PE inputs are included in the CY 2018 direct PE input database, which is available on the CMS website under downloads for the CY 2018 PFS proposed rule at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>.

(a) PE Inputs for Digital Imaging Services

In the CY 2017 PFS final rule (81 FR 80179 through 80184), we finalized our proposal to add a professional PACS workstation (ED053) used for interpretation of digital images to a series of CPT codes and to address costs related to the use of film that had previously been incorporated as direct PE inputs for these services. We finalized the following criteria for the inclusion of a professional PACS workstation:

- We did not add the professional PACS workstation to any code that currently lacks a technical PACS workstation (ED050) or lacks a work RVU. We continue to believe that procedures that do not include a technical workstation, or do not have physician work, would not require a professional workstation.
- We did not add the professional PACS workstation to add-on codes. Because the base codes include equipment minutes for the professional PACS workstation, we continue to believe it would be duplicative to add additional equipment time for the professional PACS workstation in the add-on code.
- We also did not add the professional PACS workstation to image guidance codes where the dominant provider is not a radiologist according to the most recent year of claims data, because we believe a single technical PACS workstation would be more typical in those cases.
- We agreed with commenters that because the clinical utility of the PACS workstation is not necessarily limited to diagnostic services, there may be therapeutic codes where it would

be reasonable to assume its use to be typical. Based on information provided by commenters and our own medical review, we stated that we believe that the use of the professional PACS workstation is typical for many of the specific codes that were identified. We added the workstation to many of the therapeutic codes requested by commenters, specifically CPT codes listed outside the 70000 series, where we agreed that use of the professional PACS workstation was typical.

- For CPT codes in the 80000 and 90000 series, we expressed our concerns about whether it is appropriate to include the technical PACS workstation in many of these services. PACS workstations were created for imaging purposes, but many of these services that include a technical PACS workstation do not appear to make use of imaging. Although we did not remove the technical PACS workstation from these codes at that time, we did not believe that a professional PACS workstation should be added to these procedures.

Prior to the publication of this CY 2018 PFS proposed rule, a stakeholder expressed concern about our decision not to include the professional PACS workstation in a series of vascular ultrasound codes that use technical PACS workstations. The stakeholder indicated that the vascular ultrasound codes in question do make use of a professional PACS workstation, and that the dominant specialty provider requirement (that is, that the code's dominant specialty provider being diagnostic radiology) would exclude codes for which the professional PACS workstation is typical based on a mistaken assumption. The stakeholder stated that to furnish vascular ultrasound services following the transition from film to digital imaging, both a technical and a professional PACS workstation are required, regardless of whether the practitioner furnishing the service is a radiologist, cardiologist, neurologist, or vascular surgeon.

We appreciate the submission of this additional information regarding the use of the professional PACS workstation in vascular ultrasound codes. Therefore, we seek comments regarding whether or not the use of the professional PACS workstation would be typical in the following list of CPT and HCPCS codes. The codes brought to our attention by the stakeholder are CPT codes 93880, 93882, 93886, 93888, 93890, 93892, 93893, 93922, 93923, 93924, 93925, 93926, 93930, 93931, 93965, 93970, 93971, 93975, 93976, 93978, 93979, 93980, 93981, 93990, and 76706, and HCPCS code G0365. We will consider information submitted in comments to determine whether the professional PACS workstation should be included as a direct PE input for these codes.

## (2) Standardization of Clinical Labor Tasks

As we noted in the CY 2015 PFS final rule with comment period (79 FR 67640-67641), we continue to make improvements to the direct PE input database to provide the number of clinical labor minutes assigned for each task for every code in the database instead of only including the number of clinical labor minutes for the preservice, service, and postservice periods for each code. In addition to increasing the transparency of the information used to set PE RVUs, this improvement would allow us to compare clinical labor times for activities associated with services across the PFS, which we believe is important to maintaining the relativity of the direct PE inputs. This information would facilitate the identification of the usual numbers of minutes for clinical labor tasks and the identification of exceptions to the usual values. It would also allow for greater transparency and consistency in the assignment of equipment minutes based on clinical labor times. Finally, we believe that the information can be useful in maintaining standard times for particular clinical labor tasks that can be applied consistently to many codes as they are valued over several years, similar in principle to the use of

physician preservice time packages. We believe such standards would provide greater consistency among codes that share the same clinical labor tasks and could improve relativity of values among codes. For example, as medical practice and technologies change over time, changes in the standards could be updated simultaneously for all codes with the applicable clinical labor tasks, instead of waiting for individual codes to be reviewed.

In the following paragraphs, we address a series of issues related to clinical labor tasks, particularly relevant to services currently being reviewed under the misvalued code initiative.

a. Preservice Clinical Labor for 0-Day and 10-Day Global Services

Several years ago, the RUC's PE Subcommittee reviewed the preservice clinical labor times for CPT codes with 0-day and 10-day global periods. The RUC concluded that these codes are assumed to have no preservice clinical staff time (standard time of 0 minutes) unless the specialty can provide evidence that the preservice time is appropriate. In other words, for minor procedures, it is assumed that there is no clinical staff time typically spent preparing for the specific procedure prior to the patient's arrival. However, we note that for CY 2018, 41 of the 53 reviewed codes with 0-day or 10-day global periods include preservice clinical labor of some kind, suggesting that it is typical for clinical staff to prepare for the procedure prior to the patient's arrival. As we review misvalued codes, we believe that the general adherence to values that we have established as standards supports relativity within the PFS. Because 77 percent of the reviewed codes for the current calendar year deviate from the "standard," we are seeking comment on the value and appropriate application of the standard in our review of RUC recommendations in future rulemaking. In reviewing the inputs included in the direct PE inputs database, we found that for the 1,142 total 0-day global codes, 741 of them had preservice clinical labor of some kind (65 percent). We also noticed a general correlation between

preservice clinical labor time and the recent review. We are seeking comment specifically on whether the standard preservice clinical labor time of 0 minutes should be consistently applied for 0-day and 10-day global codes in future rulemaking.

b. Obtain Vital Signs Clinical Labor

The direct PE inputs for each CPT code paid under the PFS include minutes assigned to a series of standard clinical labor tasks assumed to be typical for the service in question. The minutes assigned to each of these tasks for each CPT code have been developed over several decades, and what was previously considered to be a standard value in the review of the codes has changed over time. Because each year we perform a detailed review of all of the inputs for only several hundred of the over 7,000 CPT codes paid under the PFS, valuation for individual services can be influenced by shifts in review standards over time rather than purely based on changes in practice.

For example, we traditionally assigned a clinical labor time of 3 minutes for the “Obtain vital signs” clinical labor activity, based on the amount of time typically required to check a patient’s vitals. Over time, that number of minutes has increased as codes are reviewed. For example, many of the reviewed codes for the current CY 2018 rulemaking cycle have a recommended clinical labor time of 5 minutes for “Obtain vital signs,” based on the understanding that these services are measuring two additional vital signs: the patient’s height and weight. We do not have any reason to believe that measuring a patient’s height and weight is only typical for services described by recently reviewed codes. Instead, we believe that the review standards have changed, perhaps in conjunction with changes in medical practice, and that the change in the minutes assigned for the “Obtain vital signs” task for newer-reviewed services is detrimental to relativity among PFS services.

Therefore, to preserve relativity among the PFS codes, we are proposing to assign 5 minutes of clinical labor time for all codes that include the “Obtain vital signs” task, regardless of the date of last review. We are proposing to assign this 5 minutes of clinical labor time for all codes that include at least 1 minute previously assigned to this task. We are also proposing to update the equipment times of the codes with this clinical labor task accordingly to match the changes in clinical labor time. For codes that were not recently reviewed and for which we lacked a breakdown of how the equipment time was derived from the clinical labor tasks, we could not determine if the equipment time included time assigned for the “Obtain vital signs” task. In these cases, we are proposing to adjust the equipment time of any equipment item that matched the clinical labor time of the full service period to match the change in the “Obtain vital signs” clinical labor time. The proposed list of all codes affected by these proposed vital signs changes to direct PE inputs is available on the CMS website under downloads for the CY 2018 PFS proposed rule at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>.

#### c. Establishment of Clinical Labor Activity Codes

Historically, the RUC has submitted a “PE worksheet” that details the recommended direct PE inputs for our use in developing PE RVUs. The format of the PE worksheet has varied over time and among the medical specialties developing the recommendations. These variations have made it difficult for both the RUC’s development and our review of code values for individual codes. Beginning for the CY 2019 PFS rulemaking cycle, we understand that the RUC intends to mandate the use of a new PE worksheet for purposes of their recommendation development process that standardizes the clinical labor tasks and assigns them a clinical labor activity code. We believe the RUC’s use of the new PE worksheet in developing and submitting

recommendations to us would, in turn, help us to simplify and standardize the hundreds of different clinical labor tasks currently listed in our direct PE database.

To help facilitate this transition to the new clinical labor activity codes, we have developed a crosswalk to link the old clinical labor tasks to the new clinical labor activity codes. Our crosswalk is for informational purposes only, and would not change either the direct PE input values or the PE RVUs for codes. Instead, we hope that the crosswalk would help us to translate the sprawling, existing data set into a condensed version that would significantly improve the standardization of clinical labor recommendations and improve the ability of commenters to identify concerns with our proposed valuation. For CY 2018 rulemaking, we are displaying two versions of the Labor Task Detail public use file: one version with the old listing of clinical labor tasks, and one with the same tasks as described by the new listing of clinical labor activity codes. These lists are available on the CMS website under downloads for the CY 2018 PFS proposed rule at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>.

### (3) Equipment Recommendations for Scope Systems

During our routine reviews of direct PE input recommendations, we have regularly found unexplained inconsistencies involving the use of scopes and the video systems associated with them. Some of the scopes include video systems bundled into the equipment item, some of them include scope accessories as part of their price, and some of them are standalone scopes with no other equipment included. It is not always clear which equipment items related to scopes fall into which of these categories. We have also frequently found anomalies in the equipment recommendations, with equipment items that consist of a scope and video system bundle



recommended, along with a separate scope video system. Based on our review, the variations do not appear to be consistent with the different code descriptions.

To promote appropriate relativity among the services and facilitate the transparency of our review process, during review of recommended direct PE inputs for the CY 2017 PFS proposed rule, we developed a structure that separates the scope and the associated video system as distinct equipment items for each code. Under this approach, we proposed standalone prices for each scope, and separate prices for the video systems that are used with scopes. We proposed to define the scope video system as including: (1) a monitor; (2) a processor; (3) a form of digital capture; (4) a cart; and (5) a printer. We believe that these equipment components represent the typical case for a scope video system. Our model for this system was the “video system, endoscopy (processor, digital capture, monitor, printer, cart)” equipment item (ES031), which we proposed to re-price as part of this separate pricing approach. We obtained current pricing invoices for the endoscopy video system as part of our investigation of these issues involving scopes, which we proposed to use for this re-pricing. We understand that there may be other accessories associated with the use of scopes; we proposed to separately price any scope accessories, and individually evaluate their inclusion or exclusion as direct PE inputs for particular codes as usual under our current policy based on whether they are typically used in furnishing the services described by the particular codes.

We also proposed standardizing refinements to the way scopes have been defined in the direct PE input database. We believe that there are four general types of scopes: non-video scopes; flexible scopes; semi-rigid scopes, and rigid scopes. Flexible scopes, semi-rigid scopes, and rigid scopes would typically be paired with one of the scope video systems, while the non-video scopes would not. The flexible scopes can be further divided into diagnostic (or non-

channeled) and therapeutic (or channeled) scopes. We proposed to identify for each anatomical application: (1) a rigid scope; (2) a semi-rigid scope; (3) a non-video flexible scope; (4) a non-channeled flexible video scope; and (5) a channeled flexible video scope. We proposed to classify the existing scopes in our direct PE database under this classification system, to improve the transparency of our review process and improve appropriate relativity among the services. We planned to propose input prices for these equipment items through future rulemaking.

We proposed these changes only for the reviewed codes for CY 2017 that made use of scopes, along with updated prices for the equipment items related to scopes utilized by these services. But, we did not propose to apply these policies to codes with inputs reviewed prior to CY 2017. We also solicited comment on this separate pricing structure for scopes, scope video systems, and scope accessories, which we could consider proposing to apply to other codes in future rulemaking. In response to comments, we finalized the addition of a digital capture device to the endoscopy video system (ES031) in the CY 2017 PFS final rule. We finalized our proposal to price the system at \$33,391, based on component prices of \$9,000 for the processor, \$18,346 for the digital capture device, \$2,000 for the monitor, \$2,295 for the printer, and \$1,750 for the cart. We also finalized a price of \$16,843.87 for the stroboscopy system scope accessory (ES065). We did not finalize price increases for a series of other scopes and scope accessories, as the invoices submitted for these components indicated that they are different forms of equipment with different product IDs and different prices. We did not receive any data to indicate that the equipment on the newly submitted invoices was more typical in its use than the equipment that we were currently using for pricing.

We did not make further changes to existing scope equipment in CY 2017 in order to allow the RUC's PE Subcommittee the opportunity to provide feedback. However, we believe

there was some miscommunication on this point, as the RUC's PE Subcommittee workgroup that was created to address scope systems stated that no further action was required following the finalization of our proposal. We are making further proposals to continue clarifying scope equipment inputs, and seek comments regarding the new set of scope proposals. We welcome feedback from all stakeholders, including practitioners with direct experience in the use of scope equipment.

We are seeking comment on several potential categories of scope system PE inputs. We are considering creating a single scope equipment code for each of the five categories detailed in this proposed rule: (1) a rigid scope; (2) a semi-rigid scope; (3) a non-video flexible scope; (4) a non-channeled flexible video scope; and (5) a channeled flexible video scope. Under the current classification system, there are many different scopes in each category depending on the medical specialty furnishing the service and the part of the body affected. We believe that the variation between these scopes is not significant enough to warrant maintaining these distinctions, and we believe that creating and pricing a single scope equipment code for each category would help provide additional clarity. We are seeking public comment on the merits of this potential scope organization, as well as any pricing information regarding these five new scope categories.

For CY 2018, we are proposing two minor changes to PE inputs related to scopes. We are proposing to add an LED light source into the cost of the scope video system (ES031), which would remove the need for a separate light source in these procedures. If this proposal were to be finalized, we would remove the equipment time for the separate light source from CPT codes that include the scope video system. We are also proposing an increase to the price of the scope video system of \$1,000.00 to cover the expense of miscellaneous small equipment associated with the system that falls below the threshold of individual equipment pricing as scope

accessories (such as cables, microphones, foot pedals, etc.) We seek comments on the inclusion of the LED light in the scope video system, and the appropriate pricing of the system with the inclusion of these additional equipment items.

We anticipate adopting detailed changes to scope systems at the code level through rulemaking for CY 2019, because we believe that additional feedback from expert stakeholders will improve the details of the proposed changes. We are not proposing any additional pricing changes to scope equipment for CY 2018 due to the proposed reorganization into a single type of scope equipment for each of the five scope categories. However, we would consider updating prices for these equipment items through the public request process for price updates, or based on information submitted as part of RUC recommendations.

#### (4) Clarivein Kit for Mechanochemical Vein Ablation

In the CY 2017 PFS final rule, we finalized work RVUs and direct PE inputs for two new codes related to mechanochemical vein ablation, CPT codes 36473 and 36474. Following the publication of the final rule, stakeholders contacted CMS and requested that a Clarivein kit supply item (SA122) be added to the direct PE inputs for CPT code 36474, the add-on code for ablation of subsequent veins. They stated that the Clarivein kit was accidentally omitted from the RUC recommendations, and that an additional kit is necessary to perform the service described by the add-on procedure. We are soliciting comment regarding the use of multiple kits during procedures described by the base and add-on codes to determine whether or not this supply should be included as a direct PE input for CPT code 36474 for CY 2018.

#### (5) Removal of Oxygen from Non-Moderate Sedation Post-Procedure Monitoring

After finalizing the creation of separately billable codes for moderate sedation during the CY 2017 PFS final rule, we received additional recommendations to remove the oxygen gas

supply item (SD084) from a series of CPT codes that were previously valued with moderate sedation as an inherent part of the procedure. Because oxygen gas is included in the moderate sedation pack contained within the separately billed moderate sedation codes, we believe that the continued inclusion of the oxygen gas in these codes is a duplicative supply. We are therefore proposing to remove the oxygen gas from the following codes (see Table 4):

**TABLE 4: CY 2018 Proposed Removal of Oxygen (SD084) from Non-Moderate Sedation Post-Procedure Monitoring**

HCPCS	NF/F	Current (Liters)	Cost
31622	NF	90	-0.27
31625	NF	105	-0.32
31626	NF	135	-0.41
31627	NF	150	-0.45
31628	NF	120	-0.36
31629	NF	105	-0.32
31632	NF	54	-0.16
31633	NF	60	-0.18
31645	NF	175	-0.53
31652	NF	180	-0.54
31653	NF	225	-0.68
31654	NF	90	-0.27
52647	NF	10	-0.03
52648	NF	10	-0.03
90870	NF	198	-0.59

(6) Technical Corrections to Direct PE Input Database and Supporting Files

Subsequent to the publication of the CY 2017 PFS final rule, stakeholders alerted us to several clerical inconsistencies in the direct PE database. We are proposing to correct these inconsistencies as described in this proposed rule and reflected in the CY 2018 proposed direct PE input database displayed on the CMS website under downloads for the CY 2018 PFS

proposed rule at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>.

For CY 2018, we are proposing to address the following inconsistencies:

- For CY 2018, we are proposing to make direct PE changes for CPT code 96416 (Chemotherapy administration, intravenous infusion technique; initiation of prolonged chemotherapy infusion (more than 8 hours), requiring use of a portable or implantable pump) to improve payment accuracy, in response to a stakeholder inquiry regarding the use of the ambulatory IV pump equipment for this service. We are proposing to add 6 additional minutes of RN/OCN clinical labor (L056A), 4 minutes for the “Review charts by chemo nurse regarding course of treatment & obtain chemotherapy-related medical hx” task, and 2 minutes for the “Greet patient and provide gowning” task. We are proposing to add 1 quantity of the IV infusion set supply (SC018) and proposing to lower the quantity from 2 to 1 of the 20 ml syringe supply (SC053). We are proposing to add 1800 minutes for the new ambulatory IV pump equipment, and we are proposing to increase the equipment time of the medical recliner chair (EF009) from 83 minutes to 89 minutes to match the increase in RN/OCN clinical labor. For CY 2018, these proposed direct PE changes would be used to calculate the PE RVU for CPT code 96416. We seek comments on these proposed direct PE refinements.

- We propose to correct an anomaly in the postservice work time for CPT code 91200 (Liver elastography, mechanically induced shear wave (eg, vibration), without imaging, with interpretation and report) by changing it from 5 minutes to 3 minutes, which also results in a refinement in the total work time for the code from 18 minutes to 16 minutes.

- In the process of making updates to our direct PE database, we discovered a series of discrepancies between the finalized direct PE inputs and the values entered into the database

from previous calendar years. To reconcile these discrepancies, we are proposing the following direct PE refinements:

**TABLE 5: Direct PE Database Data Discrepancies and Proposed Changes**

HCPCS	Input Code	Input code description	NF/F	Old	New	Cost
11307	SF033	scalpel with blade, surgical (#10-20)	NF	1	2	0.69
11311	SG056	gauze, sterile 4in x 4in (10 pack uou)	NF	1	2	0.80
11311	SH046	lidocaine 1% w-epi inj (Xylocaine w-epi)	NF	10	4	-0.38
11719	L037D	Greet patient, provide gowning, ensure appropriate medical records are available	NF	1	3	0.74
11719	L037D	Provide pre-service education/obtain consent	NF	1	2	0.37
11719	L037D	Prepare room, equipment, supplies	NF	1	2	0.37
11719	L037D	Clean room/equipment by physician staff	NF	1	3	0.74
17312	SL097	OCT Tissue-Tek	NF	8	6	-0.12
17313	SF004	blade, microtome	NF	1	0	-1.72
17313	SF044	blade, surgical, super-sharp	NF	0	1	4.17
17313	SG056	gauze, sterile 4in x 4in (10 pack uou)	NF	3	0	-2.39
17313	SG088	tape, foam, elastic, 2in (Microfoam)	NF	10	8	-0.01
17314	SG056	gauze, sterile 4in x 4in (10 pack uou)	NF	2	0	-1.60
17314	SL097	OCT Tissue-Tek	NF	8	6	-0.12
17315	SL078	histology freezing spray (Freeze-It)	NF	0	0.2	0.29
19283	L043A	Service total costs	NF	55	54	-0.43
19286	L051B	Service total costs	NF	30	31	0.51
19286	EL015	room, ultrasound, general	NF	19	20	1.40
19286	EQ168	light, exam	NF	19	20	0.00
23333	L037D	Post service total costs	F	63	90	9.99
28045	SC029	needle, 18-27g	NF	2	1	-0.09
32405	L041B	Service total costs	NF	52	57	2.05
37765	L037D	Service total costs	NF	91	94	1.11
37766	L037D	Service total costs	NF	121	124	1.11
45171	SJ052	swab, procto 16in	F	2	3	0.12
45172	L037D	Service total costs	F	6	12	2.22
45172	SJ052	swab, procto 16in	F	2	3	0.12
52214	SH047	lidocaine 1%-2% inj (Xylocaine)	NF	1	50	1.72
72120	EL012	room, basic radiology	NF	16	17	0.48
72148	L047A	Service total costs	NF	47	49	0.84
74230	L041B	Technologist QC's images in PACS, checking for all images, reformats, and dose page	NF	0	2	0.82
91013	EF023	table, exam	NF	0	9	0.03
91013	EF015	mayo stand	NF	0	9	0.01

HCPCS	Input Code	Input code description	NF/F	Old	New	Cost
91013	EQ235	suction machine (Gomco)	NF	0	9	0.02
91013	EQ181	manometry system(computer, transducers, catheter)	NF	0	9	1.15
91013	EQ339	manometry accessory cable	NF	0	9	0.05
91013	ED050	PACS Workstation Proxy	NF	0	9	0.20
91132	EQ019	EGG monitoring system	NF	22	30	0.83
92227	EL006	lane, screening (oph)	NF	12	0	-1.07
92227	EL005	lane, exam (oph)	NF	0	12	1.15
93017	L051A	Preservice total costs	NF	15	5	-5.10
95819	SG079	tape, surgical paper lin (Micropore)	NF	6	42	0.07

The proposed PE RVUs displayed in Addendum B on our website were calculated with the inputs displayed in the CY 2018 proposed direct PE input database.

#### (7) Updates to Prices for Existing Direct PE Inputs

In the CY 2011 PFS final rule with comment period (75 FR 73205), we finalized a process to act on public requests to update equipment and supply price and equipment useful life inputs through annual rulemaking, beginning with the CY 2012 PFS proposed rule. For CY 2018, we are proposing the following price updates for existing direct PE inputs.

We are proposing to update the price of thirteen supplies and one equipment item in response to the public submission of invoices. For the details of these proposed price updates, please refer to section II.H, of this proposed rule, Table 14: Invoices Received for Existing Direct PE Inputs.

We are not proposing to update the price of the blood warmer (EQ072), the cell separator system (EQ084), or the photopheresor system (EQ206) equipment items. The only pricing information that we received for these three equipment items was an invoice that included a hand-written price over redacted information. We were unable to verify the accuracy of this invoice. We are also not proposing to update the price of the DNA image analyzer (ACIS)



(EP001) equipment item, due to the inclusion of many components on the submitted invoice that are not part of the price of the DNA image analyzer. We were unable to determine which of these components were included in the cost of the DNA image analyzer, and which of these components were unrelated types of equipment. To price these equipment items accurately, we believe that we need additional information. We continue to use the current price for these equipment items pending the submission of additional pricing information. We welcome the submission of updated pricing information regarding these equipment items through valid invoices from commenters and other stakeholders.

We are also proposing to change the name of the ED050 equipment from the “PACS Workstation Proxy” to the “Technologist PACS workstation.” In the CY 2017 final rule (81 FR 80180-80182), we finalized a policy to add a professional PACS workstation (ED053) to the list of approved equipment items, and we believe that renaming ED050 to the technologist PACS workstation would help to alleviate potential confusion between the two PACS workstations.

We routinely accept public submission of invoices as part of our process for developing payment rates for new, revised, and potentially misvalued codes. Often these invoices are submitted in conjunction with the RUC-recommended values for the codes. For CY 2018, we note that some stakeholders have submitted invoices for new, revised, or potentially misvalued codes after the February 10<sup>th</sup> deadline established for code valuation recommendations. To be included in a given year’s proposed rule, we generally need to receive invoices by the same February 10<sup>th</sup> deadline. However, we would consider invoices submitted as public comments during the comment period following the publication of the proposed rule, and would consider any invoices received after February or outside of the public comment process as part of our established annual process for requests to update supply and equipment prices.

#### 4. Adjustment to Allocation of Indirect PE for Some Office-Based Services

As we explain in section II.B.2.c.(2) of this proposed rule, we allocate indirect costs for each code on the basis of the direct costs specifically associated with a code and the greater of either the clinical labor costs or the work RVUs. Indirect expenses include administrative labor, office expense, and all other expenses. For PFS services priced in both the facility and non-facility settings, the difference in indirect PE RVUs between the settings is driven by differences in direct PE inputs for those settings since the other allocator of indirect PE, the work RVU, does not differ between settings. For most services, the direct PE input costs are higher in the nonfacility setting than in the facility setting. As a result, indirect PE RVUs allocated to these services are higher in the nonfacility setting than in the facility setting. When direct PE inputs for a service are very low, however, the allocation of indirect PE RVUs is almost exclusively based on work RVUs, which results in a very small (or no) site of service differential between the total PE RVUs in the facility and nonfacility setting.

Some stakeholders have suggested that for codes in which direct PE inputs for a service are very low, this allocation methodology does not allow for a site of service differential that accurately reflects the relative indirect costs involved in furnishing services in nonfacility settings. Among the services most affected by this anomaly are the primary therapy and counseling services available to Medicare beneficiaries for treatment of behavioral health conditions, including substance use disorders. For example, for the most commonly reported psychotherapy service (CPT code 90834), the difference between the nonfacility and facility PE RVUs is only 0.02 RVUs, which seems unlikely to represent the difference in relative resource costs in terms of administrative labor, office expense, and all other expenses incurred by the

billing practitioner for 45 minutes of psychotherapy services when furnished in the office setting versus the facility setting.

We agree with these stakeholders that the site of service differential for these services that is produced by our PE methodology seems unlikely to reflect the relative resource costs for the practitioners furnishing these services in nonfacility settings. For example, we believe the 0.02 RVUs, which translates to approximately \$0.72, would be unlikely to reflect the relative administrative labor, office rent, and other overhead involved in furnishing the 45 minute psychotherapy service in a nonfacility setting. Consequently, we believe it would be appropriate to modify the existing methodology for allocating indirect PE RVUs in order to better reflect the relative indirect PE resources involved in furnishing these kinds of services in the nonfacility setting.

In examining the range of services furnished in the nonfacility setting that are most affected by this circumstance, we identified HCPCS codes that describe face-to-face services, have work RVUs greater than zero, and are priced in both the facility and nonfacility setting. From among these codes, we further selected those with the lowest ratio between nonfacility PE RVUs and work RVUs. We selected 0.4 as an appropriate threshold based on several factors, including the range of nonfacility PE RVU to work RVU ratios among the codes identified. Based on these criteria, there were fewer than 50 codes that we identified with a ratio of less than 0.4 nonfacility PE RVUs for each work RVU, most of which are primarily furnished by behavioral health professionals, for a potential modification to our indirect PE allocation methodology.

In considering how to address the anomaly and ensure that an appropriate number of indirect PE RVUs are allocated to these services in the nonfacility setting, we looked at the

indirect, nonfacility PE RVU for the most commonly billed physician office visit, CPT code 99213, which is billed by a wide range of physicians and non-physician practitioners under the PFS. We believe that the indirect PE costs allocated to services reported with CPT code 99213, including administrative labor and office rent, would be common for a broad range of physicians and non-physician practitioners across the PFS. We recognize that the services we seek to address are primarily furnished by behavioral health professionals who may be unlikely to incur some of the costs incurred by other practitioners furnishing a broader range of medical services. For instance, a practitioner furnishing a broader range of primary care services likely requires separate office and examination room space, and storage for disposable medical supplies and equipment. Some costs, however, such as those for office staff and records maintenance, would be analogous.

We looked at the relationship between indirect PE and work RVUs for CPT code 99213 as a marker because that is the most commonly and broadly reported PFS code that describes face-to-face office-based services. We compared the relationship between indirect PE and work RVUs for the set of HCPCS codes that we identified using the criteria discussed above and found that for the significant majority of codes, that ratio was at least 0.4 nonfacility PE RVUs for each work RVU. We believe the 0.4 nonfacility PE RVUs can serve as an appropriate marker that appropriately reflects the relative resources involved in furnishing these services.

For the fewer than 50 outlier codes identified using the criteria above, we believe it would be appropriate to establish a minimum nonfacility indirect PE RVU that would be a better reflection the resources involved in furnishing these services. We propose to set the nonfacility indirect PE RVUs for these codes using the indirect PE RVU to work RVU ratio for the most commonly furnished office-based, face-to-face service (CPT 99213) as a marker. Specifically,

for each of these outlier codes, we propose to compare the ratio between indirect PE RVUs and work RVUs that result from the preliminary application of the standard methodology to the ratio for the marker code, CPT code 99213. Our proposed change in the methodology would then increase the allocation of indirect PE RVUs to the outlier codes to at least one quarter of the difference between the two ratios. We believe this approach reflects a reasonable minimum allocation of indirect PE RVUs, but we do not currently have empirical data that would be useful in establishing a more precise number.

In developing the proposed PE RVUs for CY 2018, we propose to implement only one quarter of this proposed minimum value for nonfacility indirect PE for the outlier codes. We recognize that this change in the PE methodology could have a significant impact on the allocation of indirect PE RVUs across all PFS services. In making significant changes to the PE methodology in previous years, we have implemented such changes using 4 year transitions, based largely on concerns that some specialties experience significant payment reductions with changes in PE relativity, and a transition period allows for a more gradual adjustment for affected practitioners. Under the approach we are proposing, we estimate that approximately \$40 million, or approximately 0.04 percent of total PFS allowed charges, would shift within the PE methodology for each year of the proposed 4-year transition, including for CY 2018. We also note that we are proposing to exclude the codes directly subject to this proposed change from the misvalued code target calculation because the proposed change is a methodological change to address an anomaly produced by our indirect PE allocation process as opposed to a change to address misvalued codes. The PE RVUs displayed in Addendum B on our website were calculated with the one quarter of the indirect PE adjustment factor implemented.

### C. Determination of Malpractice Relative Value Units (RVUs)

#### 1. Overview

Section 1848(c) of the Act requires that each service paid under the PFS be composed of three components: work, PE, and malpractice (MP) expense. As required by section 1848(c)(2)(C)(iii) of the Act, beginning in CY 2000, MP RVUs are resource based. Section 1848(c)(2)(B)(i) of the Act also requires that we review, and if necessary adjust, RVUs no less often than every 5 years. In the CY 2015 PFS final rule with comment period, we implemented the third review and update of MP RVUs. For a comprehensive discussion of the third review and update of MP RVUs see the CY 2015 proposed rule (79 FR 40349 through 40355) and final rule with comment period (79 FR 67591 through 67596).

To determine MP RVUs for individual PFS services, our MP methodology is composed of three factors: (1) specialty-level risk factors derived from data on specialty-specific MP premiums incurred by practitioners, (2) service level risk factors derived from Medicare claims data of the weighted average risk factors of the specialties that furnish each service, and (3) an intensity/complexity of service adjustment to the service level risk factor based on either the higher of the work RVU or clinical labor RVU. Prior to CY 2016, MP RVUs were only updated once every 5 years, except in the case of new and revised codes.

As explained in the CY 2011 PFS final rule with comment period (75 FR 73208), MP RVUs for new and revised codes effective before the next 5-year review of MP RVUs were determined either by a direct crosswalk from a similar source code or by a modified crosswalk to account for differences in work RVUs between the new/revised code and the source code. For the modified crosswalk approach, we adjusted (or scaled) the MP RVU for the new/revised code to reflect the difference in work RVU between the source code and the new/revised work

RVU (or, if greater, the difference in the clinical labor portion of the fully implemented PE RVU) for the new code. For example, if the proposed work RVU for a revised code were 10 percent higher than the work RVU for its source code, the MP RVU for the revised code would be increased by 10 percent over the source code MP RVU. Under this approach, the same risk factor was applied for the new/revised code and source code, but the work RVU for the new/revised code was used to adjust the MP RVUs for risk.

In the CY 2016 PFS final rule with comment period (80 FR 70906 through 70910), we finalized a policy to begin conducting annual MP RVU updates to reflect changes in the mix of practitioners providing services (using Medicare claims data), and to adjust MP RVUs for risk, intensity and complexity (using the work RVU or clinical labor RVU). We also finalized a policy to modify the specialty mix assignment methodology (for both MP and PE RVU calculations) to use an average of the 3 most recent years of data instead of a single year of data. Under this approach, for new and revised codes, we generally assign a specialty risk factor to individual codes based on the same utilization assumptions we make regarding specialty mix we use for calculating PE RVUs and for PFS budget neutrality. We continue to use the work RVU or clinical labor RVU to adjust the MP RVU for each code for intensity and complexity. In finalizing this policy, we stated that the specialty-specific risk factors would continue to be updated through notice and comment rulemaking every 5 years using updated premium data, but would remain unchanged between the 5-year reviews.

In CY 2017, we finalized the eighth GPCI update, which reflected updated MP premium data. We did not propose to use the updated MP premium data to propose updates for CY 2017 to the specialty risk factors used in the calculation of MP RVUs because it was inconsistent with the policy we previously finalized in the CY 2016 PFS final rule with comment period, whereby

we indicated that the specialty-specific risk factors would continue to be updated through notice and comment rulemaking every 5 years using updated premium data, but would remain unchanged between the 5-year reviews. However, we solicited comment on whether we should consider doing so, perhaps as early as for CY 2018, prior to the fourth review and update of MP RVUs that must occur no later than CY 2020. After consideration of the comments received, we stated that we would consider the possibility of using the updated MP data to update the specialty risk factors used in the calculation of the MP RVUs prior to the next 5-year update in future rulemaking (81 FR 80191 through 80192). Since MP premium data are used to update both the MP GPCIs and the MP RVUs, going forward we believe it would be logical to align the update of MP premium data used to determine the MP RVUs with the update of the MP GCPI. Section 1848(e)(1)(C) of the Act requires us to review and, if necessary, adjust the GPCIs at least every 3 years. The next review of the GPCIs must occur by CY 2020.

We propose to use the most recent data for the proposed MP RVUs for CY 2018 and to align the update of MP premium data and MP GPCIs to once every 3 years. We are seeking comment on these proposals, and we are also seeking comment on methodologies and sources that we might use to improve the next update of MP premium data.

## 2. Methodology for the Proposed Revision of Resource Based Malpractice RVUs

### a. General Discussion

The proposed MP RVUs were calculated based on updated malpractice premium data obtained from state insurance rate filings by a CMS contractor. The methodology used in calculating the proposed CY 2018 review and update of resource based MP RVUs largely parallels the process used in the CY 2015 update. The calculation requires using information on specialty-specific malpractice premiums linked to specific services based upon the relative risk



factors of the various specialties that furnish a particular service. Because malpractice premiums vary by state and specialty, the malpractice premium information must be weighted geographically and by specialty. Accordingly, the proposed MP RVUs are based upon four data sources: CY 2014 and CY 2015 malpractice premium data; CY 2016 and 2017 Medicare payment and utilization data; CY 2017 geographic practice cost indices (GPCIs), and CY 2018 proposed work and clinical labor RVUs.

Similar to the previous update, we calculated the proposed MP RVUs using specialty-specific malpractice premium data because they represent the actual expense incurred by practitioners to obtain malpractice insurance. We obtained malpractice premium data exclusively from the most recently available data published in the 2014 and 2015 Market Share Reports accessed from the National Association of Insurance Commissioners (NAIC) website. We used information obtained from malpractice insurance rate filings with effective dates in 2014 and 2015. These were the most current data available during our data collection process.

We collected malpractice insurance premium data from all 50 States, and the District of Columbia, and Puerto Rico. Rate filings were not available in American Samoa, Guam or the Virgin Islands. Premiums were for \$1 million/\$3 million, mature, claims-made policies (policies covering claims made, rather than those covering services furnished, during the policy term). A \$1 million/\$3 million liability limit policy means that the most that would be paid on any claim is \$1 million and the most that the policy would pay for claims over the timeframe of the policy is \$3 million. We made adjustments to the premium data to reflect mandatory surcharges for patient compensation funds (funds to pay for any claim beyond the statutory amount, thereby limiting an individual physician's liability in cases of a large suit) in states where participation in such funds is mandatory.

We included premium information for all physician and NPP specialties, and all risk classifications available in the collected rate filings. Although we collected premium data from all states, the District of Columbia, and Puerto Rico, not all specialties had distinct premium data in the rate filings from all states. Additionally, for some specialties, MP premiums were not available from the rate filings in any state. Therefore, for specialties for which there were not premium data for at least 35 states, and specialties for which there were not distinct premium data in the rate filings, we crosswalked the specialty to a similar specialty, either conceptually or by available premium data, for which we did have sufficient and reliable data. These specialties and the specialty data that we propose to use are shown in Table 6.

For example, for radiation oncology, data were only available from 23 states, and therefore this specialty does not meet our 35-state threshold, which determines whether or not a specialty is deemed to have premium data sufficient to construct a unique risk factor. However, based on the 23 states' worth of rate filings for radiation oncology, the resource costs for the premiums suggests a similar, though slightly lesser average than that of the premiums for diagnostic radiology. We developed the proposed MP RVUs for radiation oncology by crosswalking the risk factor for diagnostic radiology as a similar specialty with similar premium data. We are seeking comment as to the appropriateness of this and the other crosswalks used in developing MP RVUs.

For the proposed CY 2018 MP RVU update, sufficient and reliable premium data were available for 43 specialty types, representing over 76 percent of allowed Medicare PFS services, which we used to develop specialty specific malpractice risk factors. (See Table 8 for a list of these specialties.)

**TABLE 6: Proposed Crosswalk of Specialties to Similar Specialties**

<b>Specialty Code</b>	<b>Medicare Specialty Name</b>	<b>Crosswalk Specialty Code</b>	<b>Crosswalk Specialty</b>
12	Osteopathic Manipulative Medicine	03	Allergy/ Immunology
15	Speech Language Pathology	03	Allergy/ Immunology
17	Hospice and Palliative Care	03	Allergy/ Immunology
19	Oral Surgery (Dentist only)	24	Plastic and Reconstructive Surgery
23	Sports Medicine	01	General Practice
27	Geriatric Psychiatry	26	Psychiatry
32	Anesthesiology Assistant	05	Anesthesiology
35	Chiropractic	03	Allergy/ Immunology
36	Nuclear Medicine	30	Diagnostic Radiology
40	Hand Surgery	20	Orthopedic Surgery
41	Optometry	03	Allergy/ Immunology
42	Certified Nurse Midwife	16	Obstetrics & Gynecology
43	Certified Registered Nurse Anesthetist (CRNA)	05	Anesthesiology
48	Podiatry	07	Dermatology
62	Psychologist	03	Allergy/ Immunology
64	Audiologist	03	Allergy/ Immunology
65	Physical Therapist in Private Practice	03	Allergy/ Immunology
67	Occupational Therapist in Private Practice	03	Allergy/ Immunology
68	Psychologist, Clinical	03	Allergy/ Immunology
76	Peripheral Vascular Disease	77	Vascular Surgery
79	Addiction Medicine	03	Allergy/ Immunology
80	Licensed Clinical Social Worker	03	Allergy/ Immunology
81	Critical Care (Intensivists)	29	Pulmonary Disease
85	Maxillofacial Surgery	24	Plastic and Reconstructive Surgery
86	Neuropsychiatry	26	Psychiatry
89	Certified Clinical Nurse Specialist	01	General Practice
92	Radiation Oncology	30	Diagnostic Radiology
94	Interventional Radiology	30	Diagnostic Radiology
97	Physician Assistant	03	Allergy/ Immunology
98	Gynecological Oncology	02	General Surgery
C0	Sleep Medicine	01	General Practice

b. Steps for Calculating Malpractice RVUs

Calculation of the proposed MP RVUs conceptually follows the specialty-weighted approach used in the CY 2015 final rule with comment period (79 FR 67591). The specialty-weighted approach bases the MP RVUs for a given service upon a weighted average of the risk factors of all specialties furnishing the service. This approach ensures that all specialties furnishing a given service are accounted for in the calculation of the MP RVUs. The steps for calculating the proposed MP RVUs are described below.

Step (1): Compute a preliminary national average premium for each specialty.

Insurance rating area malpractice premiums for each specialty are mapped to the county level. The specialty premium for each county is then multiplied by its share of the total U.S. population (from the U.S. Census Bureau's 2014 American Community (ACS) estimates). This is in contrast to the method used for creating national average premiums for each specialty in the 2015 update; in that update, specialty premiums were weighted by the total RVU per county, rather than by the county share of the total U.S. population. We refer readers to the PFS 2016 Final Rule with comment period (80 FR 70909) for a discussion of why we have adopted a weighting method based on share of total U.S. population. This calculation is then divided by the average MP GPCI across all counties for each specialty to yield a normalized national average premium for each specialty. The specialty premiums are normalized for geographic variation so that the locality cost differences (as reflected by the GPICs) would not be counted twice. Without the geographic variation adjustment, the cost differences among fee schedule areas would be reflected once under the methodology used to calculate the MP RVUs and again when computing the service specific payment amount for a given fee schedule area.

Step (2): Determine which premium class(es) to use within each specialty.

Some specialties had premium rates that differed for surgery, surgery with obstetrics, and non-surgery. These premium classes are designed to reflect differences in risk of professional liability and the cost of malpractice claims if they occur. To account for the presence of different classes in the malpractice premium data and the task of mapping these premiums to procedures, we calculated distinct risk factors for surgical, surgical with obstetrics, and nonsurgical procedures. However, the availability of data by surgery and non-surgery varied across specialties. Consistent with the CY 2015 MP RVU update, because no single approach

accurately addressed the variability in premium class among specialties, we employed several methods for calculating average premiums by specialty. These methods are discussed below.

(a) Substantial Data for Each Class: For 10 out of 86 specialties, we determined that there were sufficient data for surgery and non-surgery premiums, as well as sufficient differences in rates between classes. These specialties are listed in Table 7. Therefore, we calculated a national average surgical premium and non-surgical premium. We note that, unlike in the CY 2015 MP RVU update, for CY 2018, there were no specialties that fell under the “unspecified dominates” specialty/surgery class scenario, therefore we have omitted that surgical class category.

(b) Major Surgery Dominates: For 9 surgical specialties, rate filings that included non-surgical premiums were relatively rare. For most of these surgical specialties, the rate filings did not include an “unspecified” premium. When it did, the unspecified premium was lower than the major surgery rate. For these surgical specialties, we calculated only a surgical premium and used the premium for major surgery for all procedures furnished by this specialty.

(c) Blend All Available: For the remaining specialties, there was wide variation across the rate filings in terms of whether or not premium classes were reported and which categories were reported. Because there was no clear strategy for these remaining specialties, we blended the available rate information into one general premium rate. For these specialties, we developed a weighted average “blended” premium at the national level, according to the percentage of work RVUs correlated with the premium classes within each specialty. For example, the surgical premiums for a given specialty were weighted by that specialty’s work RVUs for surgical services; the nonsurgical premiums were weighted by the work RVUs for non-surgical services and the unspecified premiums were weighted by all work RVUs for the specialty type.

The three methods for calculating premiums by specialty type are summarized in Table 7. (See Table 8: “Proposed Risk Factors by Specialty Type” for the specialty names associated with the specialty codes listed in Table 7.)

**TABLE 7: Proposed Premium Calculation Approach by Specialty Type**

Method	Medicare Specialty Codes
(a) Substantial Data for Each Class (10)	01, 04, 08, 09, 13, 16, 18, 34, 72, 93
(b) Major Surgery Dominates (9)	02, 14, 20, 24, 28, 33, 77, 78, 91
(c) Blend all Available (24)	03, 05, 06, 07, 10, 11, 22, 25, 26, 29, 30, 37, 38, 39, 44, 46, 50, 66, 71, 82, 83, 84, 90, 99

Step (3): Calculate a risk factor for each specialty.

The relative differences in national average premiums between specialties are expressed in our methodology as a specialty risk factor. These risk factors are an index calculated by dividing the national average premium for each specialty by the national average premium for the specialty with the lowest premiums for which we had sufficient and reliable data, allergy and immunology. For specialties with sufficient surgical and non-surgical premium data, we calculated both a surgical and non-surgical risk factor. For specialties with rate filings that distinguished surgical premiums with obstetrics, we calculated a separate surgical with obstetrics risk factor. For all other specialties we calculated a single risk factor and applied the specialty risk factor to both surgery and non-surgery services.

We note that for determining the risk factor for suppliers of TC-only services in the CY 2015 update, we updated the premium data for independent diagnostic testing facilities (IDTFs) that we used in the CY 2010 update. These data were obtained from a survey conducted by the Radiology Business Management Association (RBMA) in 2009; we ultimately used these data to calculate an updated TC specialty risk factor. We applied the updated TC specialty risk factor to suppliers of TC-only services. In the CY 2015 final rule with comment period (79 FR

67595), RBMA voluntarily submitted updated MP premium information collected from independent diagnostic testing facilities (IDTFs) in 2014, and requested that we use the data for calculating the CY 2015 MP RVUs for TC services. We declined to utilize the data and stated that we believe further study is necessary and we would consider this matter and propose any changes through future rulemaking. We believe that data for a broader set of technical component services are needed, and seek comment on appropriate, comparable data sources for such information. We also seek comment on whether the data for IDTFs are comparable and appropriate as a proxy for the broader set of TC services. We endeavor to, in the next update of specialty risk factors, collect more data across a broader set of the technical component services, not just for radiology (as is currently reflected in the RBMA data), but data for services performed by other non-physician practitioners including cytotechnologists, and cardiovascular technologists. In the interim, for CY 2018, we propose to assign a TC risk factor of 1.0, which corresponds to the lowest physician specialty risk factor.

We assigned the risk factor of 1.0 to the TC services because we do not have comparable professional liability premium data for the full range of clinicians that furnish these services. In lieu of comprehensive, comparable data, we used 1.0 as the default minimum risk factor, though we seek information on the best available data sources for use in the next update, as well as empirical information that would support assignment of an alternative risk factor for these services. Table 8 shows the proposed risk factors by specialty type.

**TABLE 8: Proposed Risk Factors by Specialty Type**

<b>Specialty Code</b>	<b>Medicare Specialty Name</b>	<b>Non-Surgical Risk Factor</b>	<b>Surgical Risk Factor</b>
01	General Practice	1.80	3.72
01	General Practice w/OB		4.30
02	General Surgery		6.75
03	Allergy/ Immunology	1.00	1.00
04	Otolaryngology	1.53	4.08
05	Anesthesiology	2.58	2.58

<b>Specialty Code</b>	<b>Medicare Specialty Name</b>	<b>Non-Surgical Risk Factor</b>	<b>Surgical Risk Factor</b>
06	Cardiovascular Disease (Cardiology)	1.90	1.90
07	Dermatology	2.77	2.77
08	Family Practice	1.67	3.74
08	Family Practice w/OB		4.31
09	Interventional Pain Management	2.08	2.97
10	Gastroenterology	2.40	2.40
11	Internal Medicine	2.70	2.70
12	Osteopathic Manipulative Medicine	1.00	1.00
13	Neurology	2.46	13.02
14	Neurosurgery		10.66
15	Speech Language Pathology	1.00	1.00
16	Obstetrics & Gynecology	1.59	4.52
16	Obstetrics & Gynecology w/OB		8.67
17	Hospice and Palliative Care	1.00	1.00
18	Ophthalmology	1.03	2.16
19	Oral Surgery (Dentist only)		4.93
20	Orthopedic Surgery		6.22
22	Pathology	1.60	1.60
23	Sports Medicine	1.80	3.72
24	Plastic and Reconstructive Surgery		4.93
25	Physical Medicine and Rehabilitation	1.49	1.49
26	Psychiatry	1.27	1.27
27	Geriatric Psychiatry	1.27	1.27
28	Colorectal Surgery (Proctology)		4.19
29	Pulmonary Disease	1.82	1.82
30	Diagnostic Radiology	2.82	2.82
32	Anesthesiology Assistant	2.58	2.58
33	Thoracic Surgery		6.06
34	Urology	1.66	2.97
35	Chiropractic	1.00	1.00
36	Nuclear Medicine	2.82	2.82
37	Pediatric Medicine	1.82	1.82
38	Geriatric Medicine	1.52	1.52
39	Nephrology	1.56	1.56
40	Hand Surgery		6.22
41	Optometry	1.00	1.00
42	Certified Nurse Midwife	1.59	4.52
42	Certified Nurse Midwife w/OB		8.67
43	Certified Registered Nurse Anesthetist (CRNA)	2.58	2.58
44	Infectious Disease	2.03	2.03
46	Endocrinology	1.75	1.75
48	Podiatry	2.77	2.77
50	Nurse Practitioner	1.95	1.95
62	Psychologist	1.00	1.00
64	Audiologist	1.00	1.00
65	Physical Therapist in Private Practice	1.00	1.00
66	Rheumatology	1.58	1.58
67	Occupational Therapist in Private Practice	1.00	1.00
68	Psychologist, Clinical	1.00	1.00
71	Registered Dietitian or Nutrition Professional	1.37	1.37
72	Pain Management	2.65	3.65
76	Peripheral Vascular Disease		6.67



Specialty Code	Medicare Specialty Name	Non-Surgical Risk Factor	Surgical Risk Factor
77	Vascular Surgery		6.67
78	Cardiac Surgery		6.87
79	Addiction Medicine	1.00	1.00
80	Licensed Clinical Social Worker	1.00	1.00
81	Critical Care (Intensivists)	1.82	1.82
82	Hematology	1.77	1.77
83	Hematology-Oncology	1.85	1.85
84	Preventive Medicine	1.15	1.15
85	Maxillofacial Surgery		4.93
86	Neuropsychiatry	1.27	1.27
89	Certified Clinical Nurse Specialist	1.80	3.72
90	Medical Oncology	1.82	1.82
91	Surgical Oncology		4.32
92	Radiation Oncology	2.82	2.82
93	Emergency Medicine	2.29	5.03
94	Interventional Radiology	2.82	2.82
97	Physician Assistant	1.95	1.95
98	Gynecological Oncology		6.75
99	Undefined Physician type	1.95	1.95
C0	Sleep Medicine	1.80	3.72

Step (4): Calculate malpractice RVUs for each HCPCS code.

Resource-based MP RVUs were calculated for each HCPCS code that has work or PE RVUs. The first step was to identify the percentage of services furnished by each specialty for each respective HCPCS code. This percentage was then multiplied by each respective specialty's risk factor as calculated in Step 3. The products for all specialties for the HCPCS code were then added together, yielding a specialty-weighted service specific risk factor reflecting the weighted malpractice costs across all specialties furnishing that procedure. The service specific risk factor was multiplied by the greater of the work RVU or PE clinical labor index for that service to reflect differences in the complexity and risk-of-service between services.

Low volume service codes: As we discussed in section II.B. of this proposed rule, we are proposing to use a list of expected specialties instead of the claims-based specialty mix for low volume services in order to address stakeholder concerns about the year to year variability in PE

and MP RVUs for low volume services. We are soliciting comments on the proposal to use these service-level overrides to determine the specialty for low volume procedures, as well as on the list of overrides itself. The proposed list of codes and expected specialties is available on our website under downloads for the CY 2018 PFS proposed rule at

<http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>. In previous MP RVU updates, as discussed in the CY 2015 final rule with comment period (79 FR 40354), we assigned specialty for low volume services based on dominant specialty. As discussed in the CY 2012 final rule with comment period (76 FR 73187 through 73189), we applied an additional list of service-level overrides for purposes of calculating MP RVUs for a number of cardiothoracic surgery codes. Therefore, we note that there are certain codes for which we have previously applied expected specialty overrides for purposes of calculating MP RVUs based on assumptions regarding low Medicare volume. Because we are consolidating policies for low volume service expected specialty overrides into a single list for PE and MP, and because we do not believe that there is a reason to assume different specialties for purposes of calculating PE RVUs than for MP RVUs for any particular code, we are also proposing to assign the specialty mix solely based on the claims data for any code that does not meet the low volume threshold of 99 allowed services or fewer in the previous year, for the purposes of calculating MP RVUs.

Given that we now annually recalibrate MP RVUs based on claims data, and in light of our proposed introduction of the service-level specialty override for low volume services, we believe that there would no longer be a need to apply service-level MP crosswalks in order to assign a specialty-mix risk factor. Contingent on finalizing this proposal, we are also proposing to eliminate general use of an MP-specific specialty-mix crosswalk for new and revised codes.

However, we would continue to consider, in conjunction with annual recommendations, specific recommendations from the public and the RUC regarding specialty mix assignments for new and revised codes, particularly in cases where coding changes are expected to result in differential reporting of services by specialty, or where the new or revised code is expected to be low-volume. Absent such information, we would derive the specialty mix assumption for the first year for a new or revised code from the specialty mix used for purposes of ratesetting. In subsequent years when claims data are available, we would assign the specialty based on claims data unless the service does not exceed the low volume threshold (99 or fewer allowed services). If the service is low volume, we would assign the expected specialty, establishing a new expected specialty through rulemaking as needed, which is consistent with our approach for developing PE RVUs.

Step (5): Rescale for budget neutrality.

The statute requires that changes to fee schedule RVUs must be budget neutral. Thus, the last step is to adjust for relativity by rescaling the proposed MP RVUs so that the total proposed resource based MP RVUs are equal to the total current resource based MP RVUs scaled by the ratio of current aggregate MP and work RVUs. This scaling is necessary in order to maintain the work RVUs for individual services from year to year while also maintaining the overall relationship among work, PE, and MP RVUs.

The proposed resource based MP RVUs are shown in Addendum B, which is available on the CMS website under the downloads section of the CY 2018 PFS proposed rule at

<https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/index.html>.

Because a different share of the resources involved in furnishing PFS services is reflected in each of the three fee schedule components, implementation of the resource based MP RVU update will have much smaller payment effects than implementing updates of resource based work RVUs and resource based PE RVUs. On average, work represents about 50.9 percent of payment for a service under the fee schedule, PE about 44.8 percent, and MP about 4.3 percent. Therefore, a 25 percent change in PE RVUs or work RVUs for a service would result in a change in payment of about 11 to 13 percent. In contrast, a corresponding 25 percent change in MP values for a service would yield a change in payment of only about one percent. Estimates of the effects on payment by specialty type can be found in section VI. of this proposed rule.

Additional information on our proposed methodology for updating the MP RVUs may be found in our contractor's report, "Interim Report on Malpractice RVUs for the CY 2018 PFS Proposed Rule," which is available on the CMS website under the downloads section of the CY 2018 PFS proposed rule located at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/index.html>.

We are seeking comments on these proposals for calculating the MP RVUs for CY 2018.

## C. Medicare Telehealth Services

### 1. Billing and Payment for Telehealth Services

Several conditions must be met for Medicare to make payments for telehealth services under the PFS. The service must be on the list of Medicare telehealth services and meet all of the following additional requirements:

- The service must be furnished via an interactive telecommunications system.
- The service must be furnished by a physician or other authorized practitioner.
- The service must be furnished to an eligible telehealth individual.
- The individual receiving the service must be located in a telehealth originating site.

When all of these conditions are met, Medicare pays a facility fee to the originating site and makes a separate payment to the distant site practitioner furnishing the service.

Section 1834(m)(4)(F)(i) of the Act defines Medicare telehealth services to include professional consultations, office visits, office psychiatry services, and any additional service specified by the Secretary, when furnished via a telecommunications system. We first implemented this statutory provision, which was effective October 1, 2001, in the CY 2002 PFS final rule with comment period (66 FR 55246). We established a process for annual updates to the list of Medicare telehealth services as required by section 1834(m)(4)(F)(ii) of the Act in the CY 2003 PFS final rule with comment period (67 FR 79988).

As specified at §410.78(b), we generally require that a telehealth service be furnished via an interactive telecommunications system. Under §410.78(a)(3), an interactive telecommunications system is defined as multimedia communications equipment that includes, at a minimum, audio and video equipment permitting two-way, real-time interactive communication between the patient and distant site physician or practitioner.

Telephones, facsimile machines, and stand-alone electronic mail systems do not meet the definition of an interactive telecommunications system. An interactive telecommunications system is generally required as a condition of payment; however, section 1834(m)(1) of the Act allows the use of asynchronous “store-and-forward” technology when the originating site is part of a federal telemedicine demonstration program in Alaska or Hawaii. As specified in §410.78(a)(1), asynchronous store-and-forward is the transmission of medical information from an originating site for review by the distant site physician or practitioner at a later time.

Medicare telehealth services may be furnished to an eligible telehealth individual notwithstanding the fact that the practitioner furnishing the telehealth service is not at the same location as the beneficiary. An eligible telehealth individual is an individual enrolled under Part B who receives a telehealth service furnished at a telehealth originating site.

Practitioners furnishing Medicare telehealth services are reminded that these services are subject to the same non-discrimination laws as other services, including the effective communication requirements for persons with disabilities of section 504 of the Rehabilitation Act and language access for persons with limited English proficiency, as required under Title VI of the Civil Rights Act of 1964. For more information, see [http://www.hhs.gov/ocr/civilrights/resources/specialtopics/hospitalcommunication\\_](http://www.hhs.gov/ocr/civilrights/resources/specialtopics/hospitalcommunication_)

Practitioners furnishing Medicare telehealth services submit claims for telehealth services to the Medicare Administrative Contractors (MACs) that process claims for the service area where their distant site is located. Section 1834(m)(2)(A) of the Act requires that a practitioner who furnishes a telehealth service to an eligible telehealth individual be paid an amount equal to the amount that the practitioner would have been paid if the service had been furnished without the use of a telecommunications system.

Originating sites, which can be one of several types of sites specified in the statute where an eligible telehealth individual is located at the time the service is being furnished via a telecommunications system, are paid a facility fee under the PFS for each Medicare telehealth service. The statute specifies both the types of entities that can serve as originating sites and the geographic qualifications for originating sites. For geographic qualifications, our regulation at §410.78(b)(4) limits originating sites to those located in rural health professional shortage areas (HPSAs) or in a county that is not included in a metropolitan statistical area (MSA).

Historically, we have defined rural HPSAs to be those located outside of MSAs. Effective January 1, 2014, we modified the regulations regarding originating sites to define rural HPSAs as those located in rural census tracts as determined by the Federal Office of Rural Health Policy of the Health Resources and Services Administration (HRSA) (78 FR 74811). Defining “rural” to include geographic areas located in rural census tracts within MSAs allows for broader inclusion of sites within HPSAs as telehealth originating sites. Adopting the more precise definition of “rural” for this purpose expands access to health care services for Medicare beneficiaries located in rural areas. HRSA has developed a website tool to provide assistance to potential originating sites to determine their geographic status. To access this tool, see our website at <https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/index.html>.

An entity participating in a federal telemedicine demonstration project that has been approved by, or received funding from, the Secretary as of December 31, 2000 is eligible to be an originating site regardless of its geographic location.

Effective January 1, 2014, we also changed our policy so that geographic status for an originating site would be established and maintained on an annual basis, consistent with other telehealth payment policies (78 FR 74400). Geographic status for Medicare telehealth

originating sites for each calendar year is now based upon the status of the area as of December 31 of the prior calendar year.

For a detailed history of telehealth payment policy, see 78 FR 74399.

## 2. Adding Services to the List of Medicare Telehealth Services

As noted previously, in the CY 2003 PFS final rule with comment period (67 FR 79988), we established a process for adding services to or deleting services from the list of Medicare telehealth services. This process provides the public with an ongoing opportunity to submit requests for adding services. Under this process, we assign any qualifying request to make additions to the list of telehealth services to one of two categories. Revisions to criteria that we use to review requests in the second category were finalized in the CY 2012 PFS final rule with comment period (76 FR 73102). The two categories are:

- Category 1: Services that are similar to professional consultations, office visits, and office psychiatry services that are currently on the list of telehealth services. In reviewing these requests, we look for similarities between the requested and existing telehealth services for the roles of, and interactions among, the beneficiary, the physician (or other practitioner) at the distant site and, if necessary, the telepresenter, a practitioner who is present with the beneficiary in the originating site. We also look for similarities in the telecommunications system used to deliver the service; for example, the use of interactive audio and video equipment.

- Category 2: Services that are not similar to the current list of telehealth services. Our review of these requests includes an assessment of whether the service is accurately described by the corresponding code when furnished via telehealth and whether the use of a telecommunications system to furnish the service produces demonstrated clinical benefit to the patient. Submitted evidence should include both a description of relevant clinical studies that



demonstrate the service furnished by telehealth to a Medicare beneficiary improves the diagnosis or treatment of an illness or injury or improves the functioning of a malformed body part, including dates and findings, and a list and copies of published peer reviewed articles relevant to the service when furnished via telehealth. Our evidentiary standard of clinical benefit does not include minor or incidental benefits.

Some examples of clinical benefit include the following:

- Ability to diagnose a medical condition in a patient population without access to clinically appropriate in-person diagnostic services.
- Treatment option for a patient population without access to clinically appropriate in-person treatment options.
- Reduced rate of complications.
- Decreased rate of subsequent diagnostic or therapeutic interventions (for example, due to reduced rate of recurrence of the disease process).
- Decreased number of future hospitalizations or physician visits.
- More rapid beneficial resolution of the disease process treatment.
- Decreased pain, bleeding, or other quantifiable symptom.
- Reduced recovery time.

The list of telehealth services, including the proposed additions described below, is included in the Downloads section to this proposed rule at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>.

Requests to add services to the list of Medicare telehealth services must be submitted and received no later than December 31 of each calendar year to be considered for the next

rulemaking cycle. For example, qualifying requests submitted before the end of CY 2017 will be considered for the CY 2019 proposed rule. Each request to add a service to the list of Medicare telehealth services must include any supporting documentation the requester wishes us to consider as we review the request. Because we use the annual PFS rulemaking process as a vehicle for making changes to the list of Medicare telehealth services, requesters should be advised that any information submitted is subject to public disclosure for this purpose. For more information on submitting a request for an addition to the list of Medicare telehealth services, including where to mail these requests, see our website at <https://www.cms.gov/Medicare/Medicare-General-Information/Telehealth/index.html>.

### 3. Submitted Requests to Add Services to the List of Telehealth Services for CY 2018

Under our existing policy, we add services to the telehealth list on a category 1 basis when we determine that they are similar to services on the existing telehealth list for the roles of, and interactions among, the beneficiary, physician (or other practitioner) at the distant site and, if necessary, the telepresenter. As we stated in the CY 2012 final rule with comment period (76 FR 73098), we believe that the category 1 criteria not only streamline our review process for publicly requested services that fall into this category, but also expedite our ability to identify codes for the telehealth list that resemble those services already on this list.

We received several requests in CY 2016 to add various services as Medicare telehealth services effective for CY 2018. The following presents a discussion of these requests, and our proposals for additions to the CY 2018 telehealth list. Of the requests received, we found that three services were sufficiently similar to services currently on the telehealth list to qualify on a category 1 basis. Therefore, we are proposing to add the following services to the telehealth list on a category 1 basis for CY 2018:

- HCPCS code G0296 (Counseling visit to discuss need for lung cancer screening using low dose ct scan (ldct) (service is for eligibility determination and shared decision making))

We found that the service described by HCPCS code G0296 is sufficiently similar to office visits currently on the telehealth list. We believe that all the components of this service, which include assessment of the patient's risk for lung cancer, shared decision making, and counseling on the risks and benefits of LDCT, can be furnished via interactive telecommunications technology.

- CPT codes 90839 and 90840 (Psychotherapy for crisis; first 60 minutes) and (Psychotherapy for crisis; each additional 30 minutes (List separately in addition to code for primary service))

We are proposing to add CPT codes 90839 and 90840 on a Category 1 basis. We found that these services are sufficiently similar to the psychotherapy services currently on the telehealth list, even though these codes describe patients requiring more urgent care and psychotherapeutic interventions to minimize the potential for psychological trauma. However, we did identify one specific element of the services as described in the CPT prefatory language that we concluded may or may not be able to be furnished via telehealth, depending on the circumstances of the particular service. The CPT prefatory language specifies that the treatment described by these codes requires, "mobilization of resources to defuse the crisis and restore safety." In many cases, we believe that a distant site practitioner would have access (via telecommunication technology, presumably) to the resources at the originating site that would allow for the kind of mobilization required to restore safety. However, we also believe that it would be possible that a distant site practitioner would not have access to such resources. Therefore we are proposing to add the codes to the telehealth list with the explicit condition of

payment that the distant site practitioner be able to mobilize resources at the originating site to defuse the crisis and restore safety, when applicable, when the codes are furnished via telehealth. “Mobilization of resources” is a description used in the CPT prefatory language. We believe the critical element of “mobilizing resources” is the ability to communicate with and inform staff at the originating site to the extent necessary to restore safety. We solicit comment on whether our assumption that the remote practitioner is able to mobilize resources at the originating site to defuse the crisis and restore safety is valid.

Although we did not receive specific requests, we are also proposing to add four additional services to the telehealth list based on our review of services. All four of these codes are add-on codes that describe additional elements of services currently on the telehealth list and would only be considered telehealth services when billed as an add-on to codes already on the telehealth list. The four codes are:

- CPT code 90785 (Interactive complexity (List separately in addition to the code for primary procedure))
- CPT codes 96160 and 96161 (Administration of patient-focused health risk assessment instrument (eg, health hazard appraisal) with scoring and documentation, per standardized instrument) and (Administration of caregiver-focused health risk assessment instrument (eg, depression inventory) for the benefit of the patient, with scoring and documentation, per standardized instrument))
- HCPCS code G0506 (Comprehensive assessment of and care planning for patients requiring chronic care management services (list separately in addition to primary monthly care management service))

In the case of CPT codes 96160 and 96161, and HCPCS code G0506, we recognize that these services may not necessarily be ordinarily furnished in-person with a physician or billing practitioner. Ordinarily, services that are typically not considered to be face-to-face services do not need to be on the list of Medicare telehealth services; however, these services would only be considered Medicare telehealth services when billed with a base code that is also on the telehealth list and would not be considered Medicare telehealth services when billed with codes not on the Medicare telehealth list. We believe that by adding these services to the telehealth list it will be administratively easier for practitioners who report these services in association with a visit code that is furnished via telehealth as both the base code and the add-on code would be reported with the telehealth place of service.

We also received requests to add services to the telehealth list that do not meet our criteria for Medicare telehealth services. We are not proposing to add the following procedures for physical, occupational, and speech therapy, initial hospital care, and online E/M by physician/qualified healthcare professional to the telehealth list, or changing the requirements for ESRD procedure codes furnished via telehealth, for the reasons noted in the paragraphs that follow.

a. Physical and Occupational Therapy and Speech-Language Pathology Services: CPT Codes—

- CPT code 97001: now deleted and reported as CPT code 97161 (Physical therapy evaluation: low complexity, requiring these components: A history with no personal factors and/or comorbidities that impact the plan of care; An examination of body system(s) using standardized tests and measures addressing 1-2 elements from any of the following: body structures and functions, activity limitations, and/or participation restrictions; A clinical presentation with stable and/or uncomplicated characteristics; and Clinical decision making of

low complexity using standardized patient assessment instrument and/or measurable assessment of functional outcome.)

- CPT code 97002: now deleted and reported as CPT code 97162 (Physical therapy evaluation: moderate complexity, requiring these components: A history of present problem with 1-2 personal factors and/or comorbidities that impact the plan of care; An examination of body systems using standardized tests and measures in addressing a total of 3 or more elements from any of the following: body structures and functions, activity limitations, and/or participation restrictions; An evolving clinical presentation with changing characteristics; and Clinical decision making of moderate complexity using standardized patient assessment instrument and/or measurable assessment of functional outcome)

- CPT code 97003: now deleted and reported as CPT code 97165 (Occupational therapy evaluation, low complexity, requiring these components: An occupational profile and medical and therapy history, which includes a brief history including review of medical and/or therapy records relating to the presenting problem; An assessment(s) that identifies 1-3 performance deficits (ie, relating to physical, cognitive, or psychosocial skills) that result in activity limitations and/or participation restrictions; and Clinical decision making of low complexity, which includes an analysis of the occupational profile, analysis of data from problem-focused assessment(s), and consideration of a limited number of treatment options. Patient presents with no comorbidities that affect occupational performance. Modification of tasks or assistance (eg, physical or verbal) with assessment(s) is not necessary to enable completion of evaluation component)

- CPT code 97004: now deleted and reported as CPT code 97166 (Occupational therapy evaluation, moderate complexity, requiring these components: An occupational profile and

medical and therapy history, which includes an expanded review of medical and/or therapy records and additional review of physical, cognitive, or psychosocial history related to current functional performance; An assessment(s) that identifies 3-5 performance deficits (ie, relating to physical, cognitive, or psychosocial skills) that result in activity limitations and/or participation restrictions; and Clinical decision making of moderate analytic complexity, which includes an analysis of the occupational profile, analysis of data from detailed assessment(s), and consideration of several treatment options. Patient may present with comorbidities that affect occupational performance. Minimal to moderate modification of tasks or assistance (eg, physical or verbal) with assessment(s) is necessary to enable patient to complete evaluation component))

- CPT code 97110 (Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility)
- CPT code 97112 (Therapeutic procedure, 1 or more areas, each 15 minutes; neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and/or proprioception for sitting and/or standing activities)
- CPT code 97116 (Therapeutic procedure, 1 or more areas, each 15 minutes; gait training (includes stair climbing))
- CPT code 97535 (Self-care/home management training (eg, activities of daily living (ADL) and compensatory training, meal preparation, safety procedures, and instructions in use of assistive technology devices/adaptive equipment) direct one-on-one contact, each 15 minutes)
- CPT code 97750 (Physical performance test or measurement (eg, musculoskeletal, functional capacity), with written report, each 15 minutes)

- CPT code 97755 (Assistive technology assessment (eg, to restore, augment or compensate for existing function, optimize functional tasks and/or maximize environmental accessibility), direct one-on-one contact, with written report, each 15 minutes)
- CPT code 97760 (Orthotic(s) management and training (including assessment and fitting when not otherwise reported), upper extremity(s), lower extremity(s) and/or trunk, each 15 minutes)
- CPT code 97761 (Prosthetic training, upper and/or lower extremity(s), each 15 minutes)
- CPT code 97762 (Checkout for orthotic/prosthetic use, established patient, each 15 minutes)

In section 1834(m)(4)(E) of the Act, the statute specifies the types of practitioners who may furnish and bill for Medicare telehealth services as those practitioners under section 1842(b)(18)(C) of the Act. Physical therapists, occupational therapists and speech-language pathologists are not among the practitioners identified in section 1842(b)(18)(C) of the Act. We stated in the CY 2017 PFS final rule (81 FR 80198) that because these services are predominantly furnished by physical therapists, occupational therapists and speech-language pathologists, we did not believe it would be appropriate to add them to the list of telehealth services at this time. In an ensuing submission for 2018, the original requester suggested that we might propose these services to be added to the list so that they can be furnished via telehealth when furnished by eligible distant site practitioners. We considered that possibility; however, since the majority of the codes are furnished by therapy professionals over 90 percent of the time, we believe that adding therapy services to the telehealth list that explicitly describe the services of the kinds of professionals not included on the statutory list of distant site practitioners



could result in confusion about who is authorized to furnish and bill for these services when furnished via telehealth. We also note that several of these services, such as CPT code 97761, require directly physically manipulating the beneficiary, which is not possible to do through telecommunications technology. Therefore, we are not proposing to add these codes to the list of Medicare telehealth services.

b. Initial Hospital Care Services: CPT Codes—

- CPT code 99221 (Initial hospital care, per day, for the evaluation and management of a patient, which requires these 3 key components: A detailed or comprehensive history; A detailed or comprehensive examination; and Medical decision making that is straightforward or of low complexity. Counseling and/or coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the problem(s) requiring admission are of low severity.)

- CPT code 99222 (Initial hospital care, per day, for the evaluation and management of a patient, which requires these 3 key components: A comprehensive history; A comprehensive examination; and Medical decision making of moderate complexity. Counseling and/or coordination of care with other physicians, other qualified health care professionals, or agencies are provided consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the problem(s) requiring admission are of moderate severity.)

- CPT code 99223 (Initial hospital care, per day, for the evaluation and management of a patient, which requires these 3 key components: A comprehensive history; A comprehensive examination; and Medical decision making of high complexity. Counseling and/or coordination of care with other physicians, other qualified health care professionals, or agencies are provided

consistent with the nature of the problem(s) and the patient's and/or family's needs. Usually, the problem(s) requiring admission are of high severity.)

We previously considered a request to add these codes to the telehealth list. As we stated in the CY 2011 PFS final rule with comment period (75 FR 73315), while initial inpatient consultation services are currently on the list of approved telehealth services, there are no services on the current list of telehealth services that resemble initial hospital care for an acutely ill patient by the admitting practitioner who has ongoing responsibility for the patient's treatment during the hospital course. Therefore, consistent with prior rulemaking, we are not proposing initial hospital care services be added to the Medicare telehealth services list on a category 1 basis.

The initial hospital care codes describe the first visit of the hospitalized patient by the admitting practitioner who may or may not have seen the patient in the decision-making phase regarding hospitalization. Based on the description of the services for these codes, we believe it is critical that the initial hospital visit by the admitting practitioner be conducted in person to ensure that the practitioner with ongoing treatment responsibility comprehensively assesses the patient's condition upon admission to the hospital through a thorough in-person examination. Additionally, the requester submitted no additional research or evidence that the use of a telecommunications system to furnish the service produces demonstrated clinical benefit to the patient; therefore, we also are not proposing to add initial hospital care services to the Medicare telehealth services list on a category 2 basis.

We note that Medicare beneficiaries who are being treated in the hospital setting can receive reasonable and necessary E/M services using other HCPCS codes that are currently on the Medicare telehealth list including those for subsequent hospital care, initial and followup

telehealth inpatient and emergency department consultations, as well as initial and followup critical care telehealth consultations.

Therefore, we do not propose to add the initial hospital care services to the list of Medicare telehealth services for CY 2018.

c. Online E/M by physician/QHP: CPT Code—

- CPT code 99444 (Online evaluation and management service provided by a physician or other qualified health care professional who may report evaluation and management services provided to an established patient or guardian, not originating from a related E/M service provided within the previous 7 days, using the Internet or similar electronic communications network)

As we indicated in the CY 2016 final rule with comment period (80 FR 71061), CPT code 99444 is assigned a status indicator of “N” (Non-covered service). Under section 1834(m)(2)(A) of the Act, Medicare pays the physician or practitioner furnishing a telehealth service an amount equal to the amount that would have been paid if the service was furnished without the use of a telecommunications system. Because CPT code 99444 is currently non-covered, there would be no Medicare payment if this service were furnished without the use of a telecommunications system. Because this code is a non-covered service for which no Medicare payment may be made under the PFS, we do not propose to add online E/M services to the list of Medicare telehealth services for CY 2018.

d. Monthly Capitation Payment (MCP) for ESRD-related services for home dialysis, by age:

CPT Codes—

- CPT codes 90963 (End-stage renal disease (ESRD) related services for home dialysis per full month, for patients younger than 2 years of age to include monitoring for the adequacy of

nutrition, assessment of growth and development, and counseling of parents); 90964 (End-stage renal disease (ESRD) related services for home dialysis per full month, for patients 2–11 years of age to include monitoring for the adequacy of nutrition, assessment of growth and development, and counseling of parents); 90965 (End-stage renal disease (ESRD) related services for home dialysis per full month, for patients 12–19 years of age to include monitoring for the adequacy of nutrition, assessment of growth and development, and counseling of parents); and 90966 (End-stage renal disease (ESRD) related services for home dialysis per full month, for patients 20 years of age and older)

- 90967 (End-stage renal disease (ESRD) related services for dialysis less than a full month of service, per day; for patients younger than 2 years of age); 90968 (End-stage renal disease (ESRD) related services for dialysis less than a full month of service, per day; for patients 2-11 years of age); and 90969 (End-stage renal disease (ESRD) related services for dialysis less than a full month of service, per day; for patients 12-19 years of age); and 90970 (End-stage renal disease (ESRD) related services for dialysis less than a full month of service, per day; for patients 20 years of age and older).

In the CY 2004 PFS final rule (68 FR 63216), we established G-codes for ESRD monthly capitation payments (MCPs), which were replaced by CPT codes in CY 2009 (73 FR 69898). The services described by CPT codes 90963 through 90966 were added to the Medicare telehealth list in CY 2005 (69 FR 66276) and CPT codes 90967 through 90970 were added to the Medicare telehealth list in the CY 2017 PFS final rule (81 FR 80194); however, we specified that the required clinical examination of the vascular access site must be furnished face-to-face “hands on” (without the use of an interactive telecommunications system) by a physician, clinical nurse specialist (CNS), nurse practitioner (NP), or physician assistant (PA). The

American Telemedicine Association (ATA) submitted a new request for CY 2018 requesting that we allow telehealth coverage of ESRD procedure codes without in-person exam of the catheter access site monthly. Our current policy reflects our understanding that evaluation of the integrity and functionality of the access site is a critical element of the services described by the codes and that this element cannot be performed via telecommunications technology. The requester did not submit evidence to support the assertion that effective examination of the access site can be executed via telecommunications technology. Therefore, for CY 2018, we are not proposing any changes to the policy requiring that the MCP practitioner must furnish at least one face-to-face encounter with the home dialysis patient per month for clinical examination of the catheter access site. However, we are interested in more information about current clinically accepted care practices and to what extent telecommunications technology can be used to examine the access site. We are also interested in information about the clinical standards of care regarding the frequency of the evaluation of the access site.

In summary, we are proposing to add the following codes to the list of Medicare telehealth services beginning in CY 2018 on a category 1 basis:

- HCPCS code G0296 (Counseling visit to discuss need for lung cancer screening using low dose CT scan (ldct) (service is for eligibility determination and shared decision making))
- HCPCS code G0506 (Comprehensive assessment of and care planning for patients requiring chronic care management services (list separately in addition to primary monthly care management service))
- CPT code 90785 (Interactive complexity (List separately in addition to the code for primary procedure))

- CPT codes 90839 and 90840 (Psychotherapy for crisis; first 60 minutes) and (Psychotherapy for crisis; each additional 30 minutes (List separately in addition to code for primary procedure))
- CPT codes 96160 and 96161 (Administration of patient-focused health risk assessment instrument (eg, health hazard appraisal) with scoring and documentation, per standardized instrument) and (Administration of caregiver-focused health risk assessment instrument (eg, depression inventory) for the benefit of the patient, with scoring and documentation, per standardized instrument)

#### 4. Elimination of the Required Use of the GT Modifier on Professional Claims

Medicare has required distant site practitioners to report one of two longstanding HCPCS modifiers when reporting telehealth services. Current guidance instructs practitioners to submit claims for telehealth services using the appropriate CPT or HCPCS code for the professional service along with the telehealth modifier GT (via interactive audio and video telecommunications systems). For federal telemedicine demonstration programs in Alaska or Hawaii, practitioners are instructed to submit claims using the appropriate CPT or HCPCS code for the professional service along with the telehealth modifier GQ if telehealth services are performed “via an asynchronous telecommunications system.” By coding and billing these modifiers with a service code, practitioners are certifying that both the broad and code-specific telehealth requirements have been met.

In the CY 2017 PFS final rule (81 FR 80201), we finalized payment policies regarding Medicare’s use of a new Place of Service (POS) Code describing services furnished via telehealth. The new POS code became effective January 1, 2017, and we believe its use is redundant with the requirements to apply the GT modifier for telehealth services. We did not

propose to implement a change to the modifier requirements during CY 2017 rulemaking because at the time of the CY 2017 PFS proposed rule, we did not know whether the telehealth POS code would be made effective for January 1, 2017. However, we noted in the CY 2017 PFS final rule that, like the modifiers, use of the telehealth POS code certifies that the service meets the telehealth requirements.

Because a valid POS code is required on professional claims for all services, and the appropriate reporting of the telehealth POS code serves to indicate both the provision of the service via telehealth and certification that the requirements have been met, we believe that it is unnecessary to also require the distant site practitioner report the GT modifier on the claim. Therefore, we are proposing to eliminate the required use of the GT modifier on professional claims. Because institutional claims do not use a POS code, we propose for distant site practitioners billing under CAH Method II to continue to use the GT modifier on institutional claims. For purposes of the federal telemedicine demonstration programs in Alaska or Hawaii, we propose to retain the GQ modifier to maintain the distinction between synchronous and asynchronous telehealth services, as reflected in statute.

##### 5. Comment Solicitation on Medicare Telehealth Services

We have received numerous requests from stakeholders to expand access to telehealth services. As noted above, Medicare payment for telehealth services is restricted by statute, which establishes the services initially eligible for Medicare telehealth and limits the use of telehealth by defining both eligible originating sites (the location of the beneficiary) and the distant site practitioners who may furnish and bill for telehealth services. Originating sites are limited both by geography and provider setting. We have the authority to add to the list of eligible services based on our annual process, but cannot change the limitations relating to

geography, patient setting, or type of furnishing practitioner because these requirements are specified in statute. For CY 2018, we are seeking information regarding ways that we might further expand access to telehealth services within the current statutory authority and pay appropriately for services that take full advantage of communication technologies.

#### 6. Comment Solicitation on Remote Patient Monitoring

In addition to the broad comment solicitation regarding Medicare telehealth services, we are also specifically seeking comment on whether to make separate payment for CPT codes that describe remote patient monitoring. We note that remote patient monitoring services would generally not be considered Medicare telehealth services as defined under section 1834(m) of the Act. Rather, like the interpretation by a physician of an actual electrocardiogram or electroencephalogram tracing that has been transmitted electronically, these services involve the interpretation of medical information without a direct interaction between the practitioner and beneficiary. As such, they are paid under the same conditions as in-person physicians' services with no additional requirements regarding permissible originating sites or use of the telehealth place of service code.

We are particularly interested in comments regarding CPT code 99091 (Collection and interpretation of physiologic data (eg, ECG, blood pressure, glucose monitoring) digitally stored and/or transmitted by the patient and/or caregiver to the physician or other qualified health care professional, qualified by education, training, licensure/regulation (when applicable) requiring a minimum of 30 minutes of time). This code is currently assigned a procedure status of B (bundled). As with many other bundled codes, we currently assign RVUs for this code based on existing RUC recommendations, even though we have considered the services described by the code to be bundled with other services. In addition to comments on the payment status and



valuation for this code (the RUC-recommended value, specifically) we are seeking information about the circumstances under which this code might be reported for separate payment, including how to differentiate the time related to these services from other services, including care management services. For example, PFS payment for analysis of patient-generated health data is considered included in chronic care management (CCM) services (CPT codes 99487, 99489, and 99490) to the extent that this activity is medically necessary and performed as part of CCM (see the CY 2015 PFS final rule (79 FR 67727), CY 2016 PFS final rule (81 FR 80244), and the CMS FAQ available at: [https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/Downloads/Payment\\_for\\_CCM\\_Services\\_FAQ.pdf](https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/Downloads/Payment_for_CCM_Services_FAQ.pdf)). We also seek comment from beneficiaries and beneficiary advocacy organizations on the value of such services and what protections might be necessary to assure that beneficiaries are properly informed that they are receiving a remote monitoring service, since beneficiaries would be required to pay standard cost sharing for such services. Finally, regarding CPT code 99091, we are seeking available information regarding potential utilization assumptions we might make for the service for purposes of PFS ratesetting, were we to make it payable for CY 2018 or in the future; since making such assumptions would be necessary to implement separate payment. We note that since the PFS is a budget neutral system, any increase in payment made for particular services would result in decreases in payment for other services, and the degree of that decrease would depend, in large part, on the utilization assumptions.

We are also seeking comment on other existing codes that describe extensive use of communications technology for consideration for future rulemaking, including CPT code 99090 (Analysis of clinical data stored in computers (eg, ECGs, blood pressures, hematologic data)).

CPT code 99090 is also assigned a procedure status of B (bundled). However, we do not have RUC recommended values for this service, and therefore, currently do not assign RVUs.

## E. Proposed Potentially Misvalued Services under the Physician Fee Schedule

### 1. Background

Section 1848(c)(2)(B) of the Act directs the Secretary to conduct a periodic review, not less often than every 5 years, of the RVUs established under the PFS. Section 1848(c)(2)(K) of the Act requires the Secretary to periodically identify potentially misvalued services using certain criteria and to review and make appropriate adjustments to the relative values for those services. Section 1848(c)(2)(L) to the Act also requires the Secretary to develop a process to validate the RVUs of certain potentially misvalued codes under the PFS, using the same criteria used to identify potentially misvalued codes, and to make appropriate adjustments.

As discussed in section II.H. of this proposed rule, each year we develop appropriate adjustments to the RVUs taking into account recommendations provided by the American Medical Association/Specialty Society Relative Value Scale Update Committee (RUC), the Medicare Payment Advisory Commission (MedPAC), and others. For many years, the RUC has provided us with recommendations on the appropriate relative values for new, revised, and potentially misvalued PFS services. We review these recommendations on a code-by-code basis and consider these recommendations in conjunction with analyses of other data, such as claims data, to inform the decision-making process as authorized by law. We may also consider analyses of work time, work RVUs, or direct PE inputs using other data sources, such as Department of Veteran Affairs (VA), National Surgical Quality Improvement Program (NSQIP), the Society for Thoracic Surgeons (STS), and the Physician Quality Reporting System (PQRS) databases. In addition to considering the most recently available data, we assess the results of physician surveys and specialty recommendations submitted to us by the RUC for our review. We also consider information provided by other stakeholders. We conduct a review to assess the

appropriate RVUs in the context of contemporary medical practice. We note that section 1848(c)(2)(A)(ii) of the Act authorizes the use of extrapolation and other techniques to determine the RVUs for physicians' services for which specific data are not available and requires us to take into account the results of consultations with organizations representing physicians who provide the services. In accordance with section 1848(c) of the Act, we determine and make appropriate adjustments to the RVUs.

In its March 2006 Report to the Congress ([http://www.medpac.gov/documents/reports/Mar06\\_EntireReport.pdf?sfvrsn=0](http://www.medpac.gov/documents/reports/Mar06_EntireReport.pdf?sfvrsn=0)), MedPAC discussed the importance of appropriately valuing physicians' services, noting that misvalued services can distort the market for physicians' services, as well as for other health care services that physicians order, such as hospital services. In that same report MedPAC postulated that physicians' services under the PFS can become misvalued over time. MedPAC stated, "When a new service is added to the physician fee schedule, it may be assigned a relatively high Ol value because of the time, technical skill, and psychological stress that are often required to furnish that service. Over time, the work required for certain services would be expected to decline as physicians become more familiar with the service and more efficient in furnishing it." We believe services can also become overvalued when PE declines. This can happen when the costs of equipment and supplies fall, or when equipment is used more frequently than is estimated in the PE methodology, reducing its cost per use. Likewise, services can become undervalued when physician work increases or PE rises.

As MedPAC noted in its March 2009 Report to Congress (<http://www.medpac.gov/documents/reports/march-2009-report-to-congress-medicare-payment-policy.pdf?sfvrsn=0>), in the intervening years since MedPAC made the initial recommendations,

CMS and the RUC have taken several steps to improve the review process. Also, section 1848(c)(2)(K)(ii) of the Act augments our efforts by directing the Secretary to specifically examine, as determined appropriate, potentially misvalued services in the following categories:

- Codes that have experienced the fastest growth.
- Codes that have experienced substantial changes in practice expenses.
- Codes that describe new technologies or services within an appropriate time period (such as 3 years) after the relative values are initially established for such codes.
- Codes which are multiple codes that are frequently billed in conjunction with furnishing a single service.
- Codes with low relative values, particularly those that are often billed multiple times for a single treatment.
- Codes that have not been subject to review since implementation of the fee schedule.
- Codes that account for the majority of spending under the physician fee schedule.
- Codes for services that have experienced a substantial change in the hospital length of stay or procedure time.
- Codes for which there may be a change in the typical site of service since the code was last valued.
- Codes for which there is a significant difference in payment for the same service between different sites of service.
- Codes for which there may be anomalies in relative values within a family of codes.
- Codes for services where there may be efficiencies when a service is furnished at the same time as other services.
- Codes with high intra-service work per unit of time.

- Codes with high practice expense relative value units.
- Codes with high cost supplies.
- Codes as determined appropriate by the Secretary.

Section 1848(c)(2)(K)(iii) of the Act also specifies that the Secretary may use existing processes to receive recommendations on the review and appropriate adjustment of potentially misvalued services. In addition, the Secretary may conduct surveys, other data collection activities, studies, or other analyses, as the Secretary determines to be appropriate, to facilitate the review and appropriate adjustment of potentially misvalued services. This section also authorizes the use of analytic contractors to identify and analyze potentially misvalued codes, conduct surveys or collect data, and make recommendations on the review and appropriate adjustment of potentially misvalued services. Additionally, this section provides that the Secretary may coordinate the review and adjustment of any RVU with the periodic review described in section 1848(c)(2)(B) of the Act. Section 1848(c)(2)(K)(iii)(V) of the Act specifies that the Secretary may make appropriate coding revisions (including using existing processes for consideration of coding changes) that may include consolidation of individual services into bundled codes for payment under the physician fee schedule.

## 2. Progress in Identifying and Reviewing Potentially Misvalued Codes

To fulfill our statutory mandate, we have identified and reviewed numerous potentially misvalued codes as specified in section 1848(c)(2)(K)(ii) of the Act, and we plan to continue our work examining potentially misvalued codes in these areas over the upcoming years. As part of our current process, we identify potentially misvalued codes for review, and request recommendations from the RUC and other public commenters on revised work RVUs and direct PE inputs for those codes. The RUC, through its own processes, also identifies potentially

misvalued codes for review. Through our public nomination process for potentially misvalued codes established in the CY 2012 PFS final rule with comment period, other individuals and stakeholder groups submit nominations for review of potentially misvalued codes as well.

Since CY 2009, as a part of the annual potentially misvalued code review and Five-Year Review process, we have reviewed approximately 1,700 potentially misvalued codes to refine work RVUs and direct PE inputs. We have assigned appropriate work RVUs and direct PE inputs for these services as a result of these reviews. A more detailed discussion of the extensive prior reviews of potentially misvalued codes is included in the CY 2012 PFS final rule with comment period (76 FR 73052 through 73055). In the CY 2012 PFS final rule with comment period (76 FR 73055 through 73958), we finalized our policy to consolidate the review of physician work and PE at the same time, and established a process for the annual public nomination of potentially misvalued services.

In the CY 2013 PFS final rule with comment period, we built upon the work we began in CY 2009 to review potentially misvalued codes that have not been reviewed since the implementation of the PFS (so-called “Harvard-valued codes”). In CY 2009 (73 FR 38589), we requested recommendations from the RUC to aid in our review of Harvard-valued codes that had not yet been reviewed, focusing first on high-volume, low intensity codes. In the fourth Five-Year Review (76 FR 32410), we requested recommendations from the RUC to aid in our review of Harvard-valued codes with annual utilization of greater than 30,000. In the CY 2013 PFS final rule with comment period, we identified specific Harvard-valued services with annual allowed charges that total at least \$10,000,000 as potentially misvalued. In addition to the Harvard-valued codes, in the CY 2013 PFS final rule with comment period we finalized for

review a list of potentially misvalued codes that have stand-alone PE (codes with physician work and no listed work time and codes with no physician work that have listed work time).

In the CY 2016 PFS final rule with comment period, we finalized for review a list of potentially misvalued services, which included eight codes in the neurostimulators analysis-programming family (CPT 95970–95982). We also finalized as potentially misvalued 103 codes identified through our screen of high expenditure services across specialties.

In the CY 2017 PFS final rule, we finalized for review a list of potentially misvalued services, which included eight codes in the end-stage renal disease home dialysis family (CPT codes 90963-90970). We also finalized as potentially misvalued 19 codes identified through our screen for 0-day global services that are typically billed with an evaluation and management (E/M) service with modifier 25.

### 3. CY 2018 Identification and Review of Potentially Misvalued Services

In the CY 2012 PFS final rule with comment period (76 FR 73058), we finalized a process for the public to nominate potentially misvalued codes. The public and stakeholders may nominate potentially misvalued codes for review by submitting the code with supporting documentation by February 10 of each year. Supporting documentation for codes nominated for the annual review of potentially misvalued codes may include the following:

- Documentation in peer reviewed medical literature or other reliable data that there have been changes in physician work due to one or more of the following: technique, knowledge and technology, patient population, site-of-service, length of hospital stay, and work time.
- An anomalous relationship between the code being proposed for review and other codes.
- Evidence that technology has changed physician work.



- Analysis of other data on time and effort measures, such as operating room logs or national and other representative databases.
- Evidence that incorrect assumptions were made in the previous valuation of the service, such as a misleading vignette, survey, or flawed crosswalk assumptions in a previous evaluation.
- Prices for certain high cost supplies or other direct PE inputs that are used to determine PE RVUs are inaccurate and do not reflect current information.
- Analyses of work time, work RVU, or direct PE inputs using other data sources (for example: Department of Veteran Affairs (VA) National Surgical Quality Improvement Program (NSQIP), the Society for Thoracic Surgeons (STS) National Database, and the Physician Quality Reporting System (PQRS) databases).
- National surveys of work time and intensity from professional and management societies and organizations, such as hospital associations.

We evaluate the supporting documentation submitted with the nominated codes and assess whether the nominated codes appear to be potentially misvalued codes appropriate for review under the annual process. In the following year's PFS proposed rule, we publish the list of nominated codes and indicate whether we are proposing each nominated code as a potentially misvalued code. The public has the opportunity to comment on these and all other proposed potentially misvalued codes. In that year's final rule, we finalize our list of potentially misvalued codes.

After we issued the CY 2017 PFS final rule, we received a nomination and supporting documentation for one code to be considered as potentially misvalued. We evaluated the

supporting documentation for this nominated code to ascertain whether the submitted information demonstrated that the code should be proposed as potentially misvalued.

CPT code 27279 (Arthrodesis, sacroiliac joint, percutaneous or minimally invasive (indirect visualization), with image guidance, includes obtaining bone graft when performed, and placement of transfixing device) was nominated for review as a potentially misvalued code because the current work RVU is potentially undervalued and stakeholders recommend that it should be increased to 14.23. We are proposing this code as a potentially misvalued code.

In the CY 2017 PFS final rule, we noted that some assertions regarding appropriate values for the dialysis vascular access codes newly created in CY 2017 (CPT codes 36901 through 36909) did not include data that would warrant increases to the work RVUs. However, we urged interested stakeholders to consider submitting robust data regarding costs for these and other services (81 FR 80294). We have continued to receive feedback from stakeholders regarding the work valuation of these codes. Stakeholders have expressed concerns regarding the typical patient for these procedures as reflected in the information included in the RUC recommendations for CY 2017 and the importance of appropriate payment for ensuring access to care for Medicare beneficiaries. Therefore, we are seeking additional comment and continuing to request robust data regarding the potentially misvalued work RVUs for CPT codes 36901 through 36909 and considering alternate work valuations for CY 2018, such as the RUC-recommended work RVUs from CY 2017, or other potential values based on submission of data through the public comment process. We note that the RUC recommended work RVUs for these services are displayed in the CY 2017 PFS final rule (81 FR 80290 through 80296).

We have received conflicting information about the direct PE inputs for CPT codes 88184 (Flow cytometry, cell surface, cytoplasmic, or nuclear marker, technical component only;

first marker) and 88185 (Flow cytometry, cell surface, cytoplasmic, or nuclear marker, technical component only; each additional marker (List separately in addition to code for first marker)), and we are proposing these codes as potentially misvalued so that they can be reviewed again because some stakeholders have suggested the clinical labor and supplies that were previously finalized are no longer accurate.

We have received information suggesting that the work RVUs for emergency department visits may not appropriately reflect the full resources involved in furnishing these services. Specifically, stakeholders have expressed concerns that the work RVUs for these services have been undervalued given the increased acuity of the patient population and the heterogeneity of the sites, such as freestanding and off-campus emergency departments, where emergency department visits are furnished. We are, therefore, seeking comment on whether CPT codes 99281-99385 (Emergency department visits for the evaluation and management of a patient) should be reviewed under the misvalued code initiative.

For over a decade, CMS has collaborated with the RUC to regularly prioritize codes for review by using the categories specified in the statute or as determined appropriate. We generally have referred to these categories as “misvalued code screens.” To supplement ongoing RUC identification of potentially misvalued codes through established screens, CMS regularly uses PFS rulemaking to identify other screens for use in identifying potentially misvalued codes. For example, in recent years, CMS has prioritized the following screens:

- Codes with low work RVUs commonly billed in multiple units per single encounter.
- Codes with high volume and low work RVUs.
- Codes with site-of-service-anomalies.
- E/M codes.

- PFS high expenditure services.
- Services with standalone PE procedure time.
- Services with anomalous time.
- Contractor Medical Director identified potentially misvalued codes.
- Codes with higher total Medicare payments in office than in hospital or ASC.
- Publicly nominated potentially misvalued codes.
- 0-day global services that are typically billed with an evaluation and management

(E/M) service with modifier 25.

Although we are not proposing a new screen for CY 2018, we continue to believe that it is important to prioritize codes for review under the misvalued code initiative. As a result, we are seeking public comment on the best approach for developing screens, as well as what particular new screens we might consider. We will consider these comments for future rulemaking.

F. Payment Incentive for the Transition from Traditional X-Ray Imaging to Digital Radiography and Other Imaging Services

Section 502(a)(1) of Division O, Title V of the Consolidated Appropriations Act of 2016 (Pub. L. 114-113) amended section 1848(b) of the Act by establishing a new paragraph (9) of subsection (b). Section 1848(b)(9)(B) of the Act provides for a 7 percent reduction in payments for the technical component (TC) for imaging services made under the PFS that are X-rays (including the technical component portion of a global service) taken using computed radiography technology furnished during CYs 2018, 2019, 2020, 2021, or 2022, and for a 10 percent reduction for the technical component of such imaging services furnished during CY 2023 or a subsequent year. Computed radiography technology is defined for purposes of this paragraph as cassette-based imaging that utilizes an imaging plate to create the image involved. Section 1848(b)(9) of the Act also requires implementation of the reduction in payments through appropriate mechanisms, which can include the use of modifiers. In accordance with section 1848(c)(2)(B)(v)(X) of the Act, the adjustments under section 1848(b)(9)(A) of the Act are exempt from the budget neutrality requirement.

We stated in the CY 2017 PFS proposed rule that because the required reductions in PFS payment for the TC of imaging services (including the TC portion of a global service) that are X-rays taken using computed radiography technology did not apply for CY 2017, we would address implementation of section 1848(b)(9)(B) of the Act in future rulemaking. Therefore, to implement the provisions of section 1848(b)(9)(B) of the Act relating to the payment reduction for the TC (including the TC portion of a global service) of X-rays taken using computed radiography technology during CY 2018 or subsequent years, we are proposing to establish a new modifier to be used on claims for these services.

We are proposing that beginning January 1, 2018, this modifier would be required to be used when reporting imaging services for which payment is made under the PFS that are X-rays (including the X-ray component of a packaged service) taken using computed radiography technology. The modifier would be required on claims for the technical component of the X-ray service, including when the service is billed globally because the PFS payment adjustment is made to the technical component regardless of whether it is billed globally, or billed separately using the –TC modifier. The modifier must be used to report the specific services that are subject to the payment reduction and accurate use is subject to audit. The use of this proposed modifier to indicate an X-ray taken using computed radiography would result in a 7 percent reduction for CYs 2018 through 2022 and a 10 percent reduction for CY 2023 or a subsequent calendar year to the payments for the TC for such imaging services furnished as specified under section 1848(b)(9)(B) of the Act.

G. Proposed Payment Rates under the Medicare Physician Fee Schedule for Nonexcepted Items and Services Furnished by Nonexcepted Off-Campus Provider-Based Departments of a Hospital

1. Background

Sections 1833(t)(1)(B)(v) and (t)(21) of the Act require that certain items and services furnished by certain off-campus provider-based departments (PBDs) (collectively referenced here as nonexcepted items and services furnished by nonexcepted off-campus PBDs) shall not be considered covered OPD services for purposes of payment under the OPPS, and payment for those nonexcepted items and services furnished on or after January 1, 2017 shall be made under the applicable payment system. In the CY 2017 OPPS/ASC final rule with comment period (81 FR 79713), we finalized the PFS as the “applicable payment system” for most nonexcepted items and services furnished by off-campus PBDs.

As part of that discussion, we indicated that, in response to public comments received on the proposed payment policies for nonexcepted items and services, we would issue an interim final rule with comment period (the CY 2017 interim final rule, 81 FR 79720 through 79729) to establish payment policies under the PFS for nonexcepted items and services furnished on or after January 1, 2017. In the following paragraphs, we propose the payment policies under the PFS for nonexcepted items and services furnished during CY 2018. The CY 2017 interim final rule can be found on the Internet at <https://www.gpo.gov/fdsys/pkg/FR-2016-11-14/pdf/2016-26515.pdf>. We anticipate responding to public comments and finalizing the CY 2017 interim final rule in future PFS rulemaking.

2. Payment Mechanism

Coding and payment policies under the PFS have long recognized the differences between the portions of services for which direct costs generally are incurred by practitioners and the portions of services for which direct costs generally are incurred by facilities. At present, the

coding and RVUs established for particular groups of services under the PFS generally reflect such direct cost differences. As described in section II.B of this proposed rule, we establish separate nonfacility and facility RVUs for many HCPCS codes describing particular services paid under the PFS. For many other services, we establish separate RVUs for the professional component and the technical component of the service described by the same HCPCS code. For other services, we establish RVUs for the different HCPCS codes that segregate and describe the discrete professional and technical aspects of particular services.

Because hospitals with nonexcepted off-campus PBDs that furnish nonexcepted items and services are likely to furnish a broader range of services than other provider or supplier types for which there is a separately valued technical component under the PFS, for CY 2017, we established a new set of payment rates under the PFS that reflected the relative resource costs of furnishing the technical component of a broad range of services to be paid under the PFS specific to the off-campus PBD of a hospital with packaging (bundling) rules that are unique to the hospital outpatient setting under the OPFS.

In principle, the coding and billing mechanisms required to make appropriate payment to hospitals for nonexcepted items and services furnished by nonexcepted off-campus PBDs are parallel to those used to make payment for the technical component services for a range of supplier types paid under the PFS. That is, payments to hospitals are made for the technical aspect of services, while physicians and other practitioners report the professional aspect of these same services. In some cases, the entities reporting the technical aspect of services use the same coding that is used by the individuals reporting the professional services. In other cases, different coding applies. We are proposing to maintain this mechanism for CY 2018.

### 3. Establishment of Payment Rates



Using the relativity among OPPS payments to establish rates for the nonexcepted items and services furnished by nonexcepted off-campus PBDs and billed by hospitals under the PFS was only one aspect of establishing the necessary relativity of these services under the PFS more broadly. It was necessary to estimate the relativity of these services compared to PFS services furnished in other settings. For CY 2017, we used our best estimate of the more general relativity between the technical component of PFS services furnished in nonexcepted off-campus PBDs and all other PFS services furnished in other settings using the limited information available to us at that time. As described in the CY 2017 interim final rule (81 FR 79722 through 79726), we estimated that for CY 2017, scaling the OPPS payment rates by 50 percent would strike an appropriate balance that avoided potentially underestimating the relative resources involved in furnishing services in nonexcepted off-campus PBDs as compared to the services furnished in other settings for which payment was made under the PFS. Specifically, we established site-specific rates under the PFS for the technical component of the broad range of nonexcepted items and services furnished by nonexcepted off-campus PBDs to be paid under the PFS that was based on the OPPS payment amount for the same items and services, scaled downward by 50 percent. We called this adjustment the “PFS Relativity Adjuster.” The PFS Relativity Adjuster refers to the percentage of the OPPS payment amount paid under the PFS for a nonexcepted item or service to the non-excepted off-campus PBD under this policy.

a. Methodology for Establishing CY 2017 PFS Relativity Adjuster

In developing the CY 2017 interim final rule, we began by analyzing hospital outpatient claims data from January 1 through August 26, 2016, that contained the “PO” modifier signifying that they were billed by an off-campus department of a hospital paid under the OPPS other than a remote location, a satellite facility, or a dedicated emergency department (ED). We noted that the use of the “PO” modifier was a new mandatory reporting requirement for CY

2016. We limited our analysis to those claims billed on the 13X Type of Bill because those claims were used for Medicare Part B billing under the OPSS. We then identified the top (most frequently billed) 25 major codes that were billed by claim line; that is, items and services that were separately payable or conditionally packaged. Specifically, we restricted our analysis to codes with OPSS status indicators “J1”, “J2”, “Q1”, “Q2”, “Q3”, “S”, “T”, or “V”. We did not include separately payable drugs or biologicals in this analysis because those drugs or biologicals were not paid under the PFS under the CY 2017 interim final rule. As such, under the CY 2017 interim final rule, the PFS Relativity Adjuster did not apply to separately payable drugs and biologicals furnished by a nonexcepted PBD. Similarly, we excluded codes assigned an OPSS status indicator “A” because the services described by those codes were already paid at a rate under a fee schedule other than the OPSS and payment for those nonexcepted items and services was not changed by the rates established under the CY 2017 interim final rule. Next, for the same major codes (or analogous codes in the rare instance that different coding applies under the OPSS than the PFS), we compared the CY 2016 payment rate under the OPSS to a CY 2016 payment rate under the PFS attributable to the nonprofessional relative resource costs involved in furnishing the services.

The most frequently billed service with the “PO” modifier was described by HCPCS code G0463 (Hospital outpatient clinic visit for assessment and management of a patient), which is paid under APC 5012; the total number of CY 2016 claim lines for that service was approximately 6.7 million as of August 2016. In CY 2016, the OPSS payment rate for APC 5012 was \$102.12. Because there were multiple CPT codes (CPT codes 99201 through 99215) used under the PFS for billing that service, an exact comparison between the \$102.12 OPSS payment rate for APC 5012 and the payment rate for a single CPT code billed under the PFS was not possible. However, for purposes of the analysis, we examined the difference between the

nonfacility payment rates and the facility payment rates under the PFS for CPT codes 99213 and 99214, which were the billing codes for a Level III and a Level IV office visit. While we did not have data to precisely determine the equivalent set of PFS visit codes to use for the comparison, we believed that, based on the distribution of services billed for the visit codes under the PFS and the distribution of the visit codes under the OPPS from the last time period the CPT codes were used under the OPPS in CY 2014, those two codes provided reliable points of comparison. For CPT code 99213, the difference between the nonfacility payment rate and the facility payment rate under the PFS in CY 2016 was \$21.86, which was 21 percent of the OPPS payment rate for APC 5012 of \$102.12. For CPT code 99214, the difference between the nonfacility payment rate and the facility payment rate under the PFS in CY 2016 was \$29.02, which was 28 percent of the OPPS payment rate for APC 5012. However, we recognized that, due to the more extensive packaging that occurred under the OPPS for services provided along with clinic visits relative to the more limited packaging that occurred under the PFS for office visits, those payment rates were not entirely comparable.

We then assessed the next 24 major codes most frequently billed on the 13X claim form by hospitals. We removed HCPCS code 36591 (Collection of blood specimen from a completely implantable venous access device) because, under current PFS policies, the code is used only to pay separately under the PFS when no other service was on the claim. We also removed HCPCS code G0009 (Administration of Pneumococcal Vaccine) because there was no payment for the code under the PFS. For the remaining 22 major codes most frequently billed, we estimated the amount that would have been paid to the physician in the office setting under the PFS for practice expenses not associated with the professional component of the service. As indicated in Table 9, this amount reflected (1) the difference between the PFS nonfacility payment rate and the PFS facility rate, (2) the technical component, or (3) in instances where payment would have

been made only to the facility or only to the physician, the full nonfacility rate. This estimate ranged from zero percent to 137.8 percent of the OPPS payment rate for a code. Overall, the average (weighted by claim line volume times rate) of the nonfacility payment rate estimate for the PFS compared to the estimate for the OPPS for the 22 remaining major codes was 45 percent.

**TABLE 9: Comparison of CY 2016 OPPS Payment Rate to CY 2016 PFS Payment Rate for Top Hospital Codes Billed Using the “PO” Modifier**

HCPCS Code (1)	Code Description (2)	Total Claim Lines (3)	CY 2016 OPPS Payment Rate (4)	CY 2016 Applicable PFS Technical Payment Amount Estimate (5)	Col (5) as a Percent of OPPS	PFS Estimate (6)
96372	Injection beneath the skin or into muscle for therapy, diagnosis, or prevention	338,444	\$42.31	\$25.42	60.1%	Single rate paid exclusively to either practitioner or facility: Full nonfacility rate
71020	X-ray of chest, 2 views, front and side	333,203	\$60.80	\$16.83	27.7%	Technical component: Full nonfacility rate
93005	Routine electrocardiogram (EKG) with tracing using at least 12 leads	318,099	\$55.94	\$8.59	15.4%	Technical component: Full nonfacility rate
96413	Infusion of chemotherapy into a vein up to 1 hour	254,704	\$280.27	\$136.41	48.7%	Single rate paid exclusively to either practitioner or facility: Full nonfacility rate
93798	Physician services for outpatient heart rehabilitation with continuous EKG monitoring per session	203,926	\$103.92	\$11.10	10.7%	Nonfacility rate – Facility rate
96375	Injection of different drug or substance into a vein for therapy, diagnosis, or prevention	189,140	\$42.31	\$22.56	53.3%	Single rate paid exclusively to either practitioner or facility: Full nonfacility rate
93306	Ultrasound examination of heart including color-depicted blood flow rate, direction, and valve function	179,840	\$416.80	\$165.77	39.8%	Technical component: Full nonfacility rate
77080	Bone density measurement using dedicated X-ray machine	155,513	\$100.69	\$31.15	30.9%	Technical component: Full nonfacility rate
77412	Radiation treatment delivery	137,241	\$194.35	\$267.86	137.8%	Technical component (Full nonfacility rate) based on weighted averages for the following PFS codes: G6011; G6012; G6013; and G6014
90853	Group psychotherapy	123,282	\$69.65	\$0.36	0.5%	Nonfacility rate – Facility rate
96365	Infusion into a vein for therapy, prevention, or diagnosis up to 1 hour	122,641	\$173.18	\$69.82	40.3%	Nonfacility rate – Facility rate

<b>HCPCS Code (1)</b>	<b>Code Description (2)</b>	<b>Total Claim Lines (3)</b>	<b>CY 2016 OPPS Payment Rate (4)</b>	<b>CY 2016 Applicable PFS Technical Payment Amount Estimate (5)</b>	<b>Col (5) as a Percent of OPPS</b>	<b>PFS Estimate (6)</b>
20610	Aspiration and/or injection of large joint or joint capsule	106,769	\$223.76	\$13.96	6.2%	Nonfacility rate – Facility rate
11042	Removal of skin and tissue first 20 sq cm or less	99,134	\$225.55	\$54.78	24.3%	Nonfacility rate - Facility rate
96367	Infusion into a vein for therapy prevention or diagnosis additional sequential infusion up to 1 hour	98,930	\$42.31	\$30.79	72.8%	Single rate paid exclusively to either practitioner or facility: Full nonfacility rate
93017	Exercise or drug-induced heart and blood vessel stress test with EKG tracing and monitoring	96,312	\$220.35	\$39.74	18.0%	Technical component: Full nonfacility rate
77386	Radiation therapy delivery	81,925	\$505.51	\$347.30	68.7%	Technical component: Nonfacility rate for CPT code G6015 (analogous code used under the PFS)
78452	Nuclear medicine study of vessels of heart using drugs or exercise multiple studies	79,242	\$1,108.46	\$412.82	37.2%	Technical component: Full nonfacility rate
74177	CT scan of abdomen and pelvis with contrast	76,393	\$347.72	\$220.20	63.3%	Technical component: Full nonfacility rate
71260	CT scan chest with contrast	75,052	\$236.86	\$167.21	70.6%	Technical component: Full nonfacility rate
71250	CT scan chest	74,570	\$112.49	\$129.61	115.2%	Technical component: Full nonfacility rate
73030	X-ray of shoulder, minimum of 2 views	71,330	\$60.80	\$19.33	31.8%	Technical component: Full nonfacility rate
90834	Psychotherapy, 45 minutes with patient and/or family member	70,524	\$125.04	\$0.36	0.3%	Nonfacility rate – Facility rate
<b>Weighted Average (claim line volume*rate) of the PFS payment compared to OPPS payment for the 22 major codes:</b>						<b>45%</b>

As noted with the clinic visits, we recognized that there were limitations to our data analysis, including that OPPS payment rates include the costs of packaged items or services billed with the separately payable code, and therefore the comparison to rates under the PFS was not a one-to-one comparison. Also, we included only a limited number of services, and noted that additional services may have different patterns than the services described. After considering the payment differentials for major codes billed by off-campus departments of hospitals with the “PO” modifier and based on the data limitations of our analysis, we adopted,

with some exceptions noted below, a set of PFS payment rates that were based on a 50-percent PFS Relativity Adjuster to the OPPS payment rates (inclusive of packaging) for nonexcepted items and services furnished by nonexcepted off-campus PBDs in the CY 2017 interim final rule. Generally speaking, we arrived at the 50 percent PFS Relativity Adjuster by examining the 45-percent comparison noted above, the ASC payment rate--which was roughly 55 percent of the OPPS payment rate on average--and the payment rate differential for the large number of OPPS and PFS evaluation and management services, as described above. We recognized that the equivalent PFS nonfacility rates may be higher or lower on a code-specific basis than the rates that result from applying the overall PFS Relativity Adjuster to the OPPS payment rates on a code specific basis. However, we believed that, on the whole, the percentage reduction did not underestimate the overall relativity between the OPPS and the PFS based on the limited data that was available. We were concerned, however, that the 50 percent PFS Relativity Adjuster might overestimate PFS nonfacility payments relative to OPPS payments. For example, if we were able at the time to sufficiently estimate the effect of the packaging differences between the OPPS and PFS, we suspected that the equivalent portion of PFS payments for evaluation and management codes, and for PFS services on average, would likely have been less than 50 percent for the same services. We considered the 50 percent PFS Relativity Adjuster for CY 2017 to be a transitional policy until such time that we had more precise data to better identify and value nonexcepted items and services furnished by nonexcepted off-campus PBDs and billed by hospitals.

We established several significant exceptions to the application of the 50 percent PFS Relativity Adjuster. For example, we did not apply the 50 percent PFS Relativity Adjuster to services that are currently paid under the OPPS based on payment rates from other Medicare fee schedules (including the PFS) on an institutional claim. The items and services that are assigned

status indicator “A” in Addendum B to the CY 2017 OPPS/ASC final rule with comment period (available on the CMS Web site at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS/Hospital-Outpatient-Regulations-and-Notices-Items/CMS-1656-FC.html>) continue to be reported on an institutional claim and paid under the PFS, the CLFS, or the Ambulance Fee Schedule (ASC) without a payment reduction. Similarly, drugs and biologicals that are separately payable under the OPPS (identified by status indicator “G” or “K” in Addendum B to the CY 2017 OPPS/ASC final rule with comment period) are paid in accordance with section 1847A of the Act (that is, typically ASP + 6 percent), consistent with payment rules in the physician office setting. Drugs and biologicals that are unconditionally packaged under the OPPS and are not separately payable (that is, those drugs and biologicals assigned status indicator of “N” in Addendum B to the CY 2017 OPPS/ASC final rule with comment period) are bundled into the PFS payment and are not separately paid to hospitals billing for nonexcepted items and services furnished by nonexcepted off-campus PBDs. The full range of exceptions and adjustments to the otherwise applicable OPPS payment rate that were adopted in the new PFS site-of-service payment rates in the CY 2017 interim final rule can be found on the CMS Website at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/HospitalOutpatientPPS/Downloads/CMS-1656-FC-2017-OPPS-Status-Indicator.zip>.

All nonexcepted items and services furnished by nonexcepted off-campus PBDs and billed by a hospital on an institutional claim with modifier “PN” (Nonexcepted service provided at an off-campus, outpatient, provider-based department of a hospital) are currently paid under the PFS at the rate established in the CY 2017 interim final rule. Specifically, nonexcepted off campus PBDs must report modifier “PN” on each UB-04 claim line to indicate a nonexcepted item or service, and otherwise continue to bill as they currently do. Further billing instructions on the PN modifier can be found in the January 2017 OPPS Quarterly Update (transmittal 3685,

Change Request 9930) released December 22, 2016, available on the CMS website at

<https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R3685CP.pdf>.

b. PFS Relativity Adjuster

As noted in the CY 2017 interim final rule, we considered the CY 2017 50 percent PFS Relativity Adjuster to be a transitional policy until such time that we had more precise data to better identify and value nonexcepted items and services furnished by nonexcepted off-campus PBDs and billed by hospitals. At present, we do not have more precise data than were available when we established the PFS Relativity Adjuster in the CY 2017 interim final rule, and we do not anticipate having such data until after the end of CY 2017, at the earliest. However, in developing a proposed policy for CY 2018, we have continued to explore options for modifying the calculation of the CY 2018 PFS Relativity Adjuster.

There is no consensus among stakeholders regarding the appropriate PFS Relativity Adjuster. Many stakeholders have suggested that making separate facility fee payments to hospitals under the PFS for all services that are separately paid under the OPPS itself undermines site-neutral payment because practitioners are only paid a single combined fee for many services when furnished in an office setting, while there are two separate fees (professional and facility) paid when the service is furnished in the hospital setting. We acknowledge that there are many cases where single fees are paid to practitioners for services furnished in an office setting while fees for comparable services when furnished in the hospital setting are paid to both the professional and facility entities. However, we do not agree that this necessarily means that overall payment cannot be site neutral. We point out that the sum of the professional and the facility portions of payment for a service furnished in a nonexcepted off-campus PBD or in a different institutional setting could be equivalent to a single fee paid to the professional in the



office setting. In the case of some services, in fact, the single payment made under the PFS at the nonfacility rate exceeds the sum of the separate payments Medicare makes to the professional at the facility rate under the PFS and to the facility under the OPPS. We also note that there are many separately reportable services under the PFS (for example, the vast majority of services described by add-on codes) for which separate payment is made to physician offices but no separate payment is made under either the OPPS or under the site-specific PFS payments made to hospitals billing for nonexcepted items and services furnished by nonexcepted off-campus PBDs. For these reasons, we believe that the overall total payment made for services is more relevant to the goal of site neutrality than the quantity of individual payments made. Nonetheless, we continue to recognize and share stakeholders' concerns regarding the importance of equivalent overall payment for services, regardless of setting.

In considering the appropriate PFS Relativity Adjuster for CY 2018, we continue to believe that claims data from CY 2017, which are not yet available, are needed to guide potential changes to our general approach. In the absence of such data, however, we have continued to consider the appropriate PFS Relativity Adjuster based on the information that is available. In the analysis we used to establish the PFS Relativity Adjuster for CY 2017, we attempted to identify the appropriate value by comparing OPPS and PFS payment rates for services frequently reported in PBDs and described by the same codes under the two payment systems. As we acknowledged in the CY 2017 interim final rule, that data analysis did not include the most frequently billed service furnished in nonexcepted off-campus hospital PBDs, outpatient visits. Outpatient visits are reported using a single code under the OPPS and by one of ten different codes under the PFS.

Consistent with our previously stated concern that the PFS Relativity Adjuster for CY 2017 might be too small, generally resulting in greater overall payments to hospitals for services

furnished by nonexcepted off-campus PBDs than would otherwise be paid under the PFS in the non-facility setting, we believe it is appropriate to propose changing the PFS Relativity Adjuster in order to ensure that payment made to these nonexcepted PBDs better aligns with these services that are the most frequently furnished in this setting.

For CY 2018, we propose to revise the PFS Relativity Adjuster for nonexcepted items and services furnished by nonexcepted off-campus PBDs to be 25 percent of the OPPS payment rate. We arrived at this proposed PFS Relativity Adjuster by making a code-level comparison for the service most commonly billed in the off-campus PBD setting under the OPPS: a clinic visit reported using HCPCS code G0463. In order to determine the analogous payment for the technical aspects of this service under the PFS in nonfacility settings, we compared the CY 2017 OPPS national payment rate for HCPCS code G0463 (\$102.12) to the difference between the nonfacility and facility PFS payment amounts under the PFS using CY 2017 rates for the weighted average of outpatient visits (CPT codes 99201-99205 and CPT codes 99211-99215) billed by physicians and other professionals in an outpatient hospital place of service.

This proposed 25 percent PFS Relativity Adjuster is based solely on the comparison for the visit services that reflect greater than 50 percent of services billed in off-campus PBDs. We continue to recognize that the comparison between the OPPS and PFS rates for other services varies greatly, and that there are other factors, including the specific mix of services furnished by non-accepted PBDs, policies related to packaging of codes under OPPS, and payment adjustments like MPPRs and bundling under the PFS that rely on empirical information about whether or not codes are billed on the same day, that contribute to the differences in aggregate payment amounts for a broader range of services. However, for CY 2018, as for CY 2017, we must set the PFS Relativity Adjuster prior to studying the CY 2017 claims data that might allow us to consider and incorporate many more factors, including the ones stated above. When we

established the 50 percent PFS Relativity Adjuster for CY 2017, we stated that we did so with the goal of ensuring adequate payment but remained concerned that the resulting reduction was too small. For CY 2018, we are focused on ensuring that we do not overestimate the appropriate overall payments for these services. Until we are able to study claims data, we believe that the comparison between PFS and OPPS payment for the most common services furnished in off-campus PBDs, outpatient visits, is a better proxy than our previous approach.

We welcome stakeholder input with regard to this analysis and the resulting rate. We also request comment on whether we should adopt a different PFS Relativity Adjuster, such as 40 percent, that represents a relative middle ground between the CY 2017 PFS Relativity Adjuster, selected to ensure adequate payment to hospitals and our proposed CY 2018 PFS Relativity Adjuster, selected to ensure that hospitals are not paid more than others would be paid through the PFS nonfacility rate. We intend to continue to study this issue and welcome comments regarding potential future refinements to payment rates for non-excepted items and services furnished by non-excepted off-campus PBDs as we gain more experience with these new site-of-service PFS rates.

Finally, we note that for CY 2018, as in recent years, the proposed annual update to OPPS payments exceeds the proposed annual update to PFS payments. Because we are proposing to make a single, across-the-board and, by necessity, imprecise adjustment to OPPS payment rates to establish PFS payment rates for nonexcepted items and services furnished by nonexcepted off-campus PBDs, we expect that the actual difference between OPPS and PFS payment rates for nonexcepted items and services furnished by nonexcepted off-campus PBDs falls in a range which includes our proposed PFS Relativity Adjuster (that is, the actual differential may differ from our proposed PFS Relativity Adjuster). As such, taking into account the differential between the OPPS and PFS annual updates by making an adjustment to the PFS

Relativity Adjuster our proposal for CY 2018 would presume a level of precision in our estimates that is simply not present in our analysis. Therefore, we will not adjust our proposal to reflect the relative updates to PFS and OPFS between CY 2017 and CY 2018, and instead note that the differential between the OPFS and PFS payment update for CY 2018 is a factor that suggests that the proposed PFS Relativity Adjuster may overestimate PFS nonfacility payment relative to OPFS payments; in future years, we intend to more precisely account for any differential between these two update factors.

#### c. Geographic Adjustments

For CY 2017, we established class-specific geographic practice cost indices (GPCIs) under the PFS exclusively used to adjust these site-specific, technical component rates for nonexcepted items and services furnished in nonexcepted off-campus PBDs. These class-specific GPCIs are parallel to the geographic adjustments made under the OPFS based on the hospital wage index. We believed it was appropriate to adopt the hospital wage index areas for purposes of geographic adjustment because non-excepted off-campus PBDs are still considered to be part of a hospital, and the PFS payments to these entities will be limited to the subset of PFS services furnished by hospitals. We also believed it was appropriate, as an initial matter for CY 2017, to adopt the actual wage index values for these hospitals in addition to the wage index areas. The PFS GPCIs that would otherwise currently apply are not based on the hospital wage index areas. For CY 2018, we are proposing to continue using the authority under section 1848 (e)(1)(B) of the Act to maintain a class-specific set of GPCIs for these site-specific technical component rates that are based both on the hospital wage index areas and the hospital wage index value themselves. For purposes of payment to hospitals, this means that the geographic adjustments used under the OPFS continue to apply.

#### d. Coding Consistency

For most services, the same HCPCS codes are used to describe services paid under both the PFS and the OPSS. There are two notable exceptions that describe high-volume services. The first is the set of codes that describe evaluation and management (E/M) services which are reported under the PFS using the 5 levels of CPT codes describing new or established patient visits (for a total of 10 codes). However, since CY 2014, these visits have been reported under the OPSS using the single HCPCS code G0463 (Hospital Outpatient Clinic Visit) (see 78 FR 75042). We are proposing to maintain the current PFS payment rate for HCPCS code G0463 based on the OPSS payment rate modified by the PFS Relativity Adjuster.

The second is a set of radiation treatment delivery and imaging guidance services that are reported using different codes under the PFS and the OPSS. CMS established HCPCS Level II G codes to describe radiation treatment delivery services when furnished in the physician office setting (see 79 FR 67666 through 67667). However, these HCPCS G codes are not recognized under the OPSS; rather, CPT codes are used to describe these services when furnished in the HOPD. Both sets of codes were implemented for CY 2015 and were maintained for CY 2016. Under the PFS, there is a particular statutory provision under section 1848(c)(2)(K) of the Act that required maintenance of the CY 2016 coding and payment inputs for these services for CY 2017 and also for CY 2018. Accordingly, the proposed CY 2018 PFS rates for these services are calculated based on the maintenance of the CY 2016 coding and payment inputs. Because non-excepted items and services furnished by a nonexcepted off-campus PBD are paid under the PFS, and we are required to maintain the CY 2016 coding and payment inputs for these services under the CY 2018 PFS, we are proposing to maintain payment amounts for nonexcepted items and services furnished by a nonexcepted off-campus PBD consistent with the payments that would be made to other facilities under the PFS. That is, nonexcepted off-campus PBDs submitting claims for these nonexcepted items and services will continue to bill the HCPCS G

codes established under the PFS to describe radiation treatment delivery services. Under this proposal, the nonexcepted off-campus PBD must append modifier PN to each applicable claim line for these nonexcepted items and services, even though the PFS Relativity Adjuster will not apply. The payment amount for these services would be set to reflect the technical component rate for the code under the PFS.

#### 4. OPSS Payment Adjustments

In the CY 2017 interim final rule, we adopted the packaging payment rates and multiple procedure payment reduction (MPPR) percentage that applied under the OPSS to establish the PFS payment rates for nonexcepted items and services furnished by nonexcepted off-campus PBDs and billed by hospitals. That is, the claims processing logic that was used for payments under the OPSS for comprehensive APCs (C-APCs), conditionally and unconditionally packaged items and services, and major procedures, was incorporated into the newly established PFS rates. We continue to believe it is necessary to incorporate the OPSS payment policies for C-APCs, packaged items and services, and the MPPR in order to maintain the integrity of the PFS Relativity Adjuster because the adjuster is intended in part to account for the methodological differences between the OPSS and the PFS rates that would otherwise apply. We also direct interested stakeholders to related proposed policies under the OPSS, since prospective changes in the applicable adjustments and policies would generally apply to non-excepted items and services furnished by nonexcepted off-campus PBDs for CY 2018. We are interested in comments regarding the applicability of particular prospective OPSS adjustments to non-excepted items and services.

In order to apply these OPSS payment policies and adjustments to non-excepted items and services, we propose that hospitals continue to bill on an institutional claim form that will pass through the Outpatient Code Editor and into the OPSS PRICER for calculation of payment.

This approach will yield data based on claims for non-excepted items and services furnished by nonexcepted off-campus PBDs, which can be used to refine PFS payment rates for these services in future years.

There were several OPSS payment adjustments that we did not adopt in the CY 2017 interim final rule, including, but not limited to, outlier payments, the rural sole community hospital (SCH) adjustment, the cancer hospital adjustments, transitional outpatient payments, the hospital outpatient quality reporting payment adjustment, and the inpatient hospital deductible cap to the cost-sharing liability for a single hospital outpatient service. We believed these payment adjustments were expressly authorized for, and should be limited to, hospitals that are paid under the OPSS for covered OPD services in accordance with section 1833(t) of the Act. We continue to believe that these policies should not apply to non-excepted items and services furnished by nonexcepted off-campus PBDs, and are not proposing that they apply for CY 2018.

##### 5. Partial Hospitalization Services

With respect to partial hospitalization programs (PHP) (intensive outpatient psychiatric day treatment programs furnished to patients as an alternative to inpatient psychiatric hospitalization or as a stepdown to shorten an inpatient stay and transition a patient to a less intensive level of care), section 1861(ff)(3)(A) of the Act specifies that a PHP is a program furnished by a hospital, to its outpatients, or by a CMHC. In the CY 2017 OPSS/ASC proposed rule (81 FR 45690), in the discussion of the proposed implementation of section 603 of Pub. L. 114-74, we noted that because CMHCs also furnish PHP services and are ineligible to be provider-based to a hospital, a nonexcepted off-campus PBD would be eligible for PHP payment if the entity enrolls and bills as a CMHC for payment under the OPSS. We further noted that a hospital may choose to enroll a nonexcepted off-campus PBD as a CMHC, provided it meets all Medicare requirements and conditions of participation.

Commenters expressed concern that without a clear payment mechanism for PHP services furnished by nonexcepted off-campus PBDs, access to partial hospitalization services would be limited, and pointed out the critical role PHPs play in the continuum of mental health care. Many commenters believed that Congress did not intend for partial hospitalization services to no longer be paid for by Medicare when such services are furnished by nonexcepted off-campus PBDs. Several commenters disagreed with the notion of enrolling as a CMHC in order to receive payment for PHP services. These commenters stated that hospital-based PHPs and CMHCs are inherently different in structure, operation, and payment, and noted that the conditions of participation for hospital departments and CMHCs are different. Several commenters requested that CMS find a mechanism to pay hospital-based PHPs in nonexcepted off-campus PBDs.

Because we shared the commenters' concerns, in the CY 2017 OPPS/ASC final rule with comment period and the CY 2017 interim final rule (81 FR 79727), we adopted payment for partial hospitalization items and services furnished by nonexcepted off-campus hospital-based PBDs under the PFS. When billed in accordance with the CY 2017 interim final rule, these partial hospitalization services are paid at the CMHC per diem rate for APC 5853, for providing three or more partial hospitalization services per day (81 FR 79727).

In the CY 2017 OPPS/ASC proposed rule (81 FR 45681), the CY 2017 OPPS/ASC final rule with comment period, and the CY 2017 interim final rule (81 FR 79727), we noted that when a beneficiary receives outpatient services in an off-campus department of a hospital, the total Medicare payment for those services is generally higher than when those same services are provided in a physician's office. Similarly, when partial hospitalization services are provided in a hospital-based PHP, Medicare pays more than when those same services are provided by a CMHC. Our rationale for adopting the CMHC per diem rate for APC 5853 as the PFS payment



amount for nonexcepted off-campus PBDs providing PHP services is because CMHCs are freestanding entities that are not part of a hospital, but they provide the same PHP services as hospital-based PHPs (81 FR 79727). This is similar to the differences between freestanding entities paid under the PFS that furnish other services also provided by hospital-based entities. Similar to other entities currently paid for their technical component services under the PFS, we believe CMHCs would typically have lower cost structures than hospital-based PHPs, largely due to lower overhead costs and other indirect costs such as administration, personnel, and security. We believe that paying for nonexcepted hospital-based partial hospitalization services at the lower CMHC per diem rate aligns with section 603 of Pub. L. 114-74, while also preserving access to PHP services. In addition, nonexcepted off-campus PBDs will not be required to enroll as CMHCs in order to bill and be paid for providing partial hospitalization services. However, a nonexcepted off-campus PBD that wishes to provide PHP services may still enroll as a CMHC if it chooses to do so and meets the relevant requirements. Finally, we recognize that because hospital-based PHPs are providing partial hospitalization services in the hospital outpatient setting, they can offer benefits that CMHCs do not have, such as an easier patient transition to and from inpatient care, and easier sharing of health information between the PHP and the inpatient staff. We are not proposing to require these PHPs to enroll as CMHCs but instead we are proposing to continue to pay non-excepted off-campus PBDs providing PHP items and services under the PFS. Further, we are proposing to continue to adopt the CMHC per diem rate for APC 5853 as the PFS payment amount for nonexcepted off-campus PBDs providing three or more PHP services per day in CY 2018.

## 6. Supervision Rules

The supervision rules that apply for hospitals continue to apply for nonexcepted off-campus PBDs that furnish nonexcepted items and services. The amendments made by

section 603 of the Bipartisan Budget Act of 2015 (Pub. L. 114-74, enacted November 2, 2015) did not change the status of these PBDs, only the status of, and payment mechanism for, the services they furnish. These supervision requirements are specified in §410.27.

#### 7. Beneficiary Cost-Sharing

Under the PFS, the beneficiary copayment is generally 20 percent of the fee schedule amount, unless there is an applicable exception in accordance with the statute. All cost-sharing rules that apply under the PFS in accordance with section 1848(g) of the Act and section 1866(a)(2)(A) of the Act continue to apply for all nonexcepted items and services furnished by nonexcepted off-campus PBDs, regardless of the cost-sharing obligation under the OPFS.

#### 8. CY 2019 and Future Years

We continue to believe the amendments made to the statute by section 603 of the Bipartisan Budget Act of 2015 intended to eliminate the Medicare payment incentive for hospitals to purchase physician offices, convert them to off-campus PBDs, and bill under the OPFS for items and services they furnish there. Therefore, we continue to believe the payment policy under this provision should ultimately equalize payment rates between nonexcepted off-campus PBDs and physician offices to the greatest extent possible, while allowing nonexcepted off-campus PBDs to bill in a straight-forward way for services they furnish.

We note that a full year of claims data regarding the mix of services reported using the “PN” modifier (from CY 2017) will first be available for use in PFS ratesetting for CY 2019. Under the current methodology, we would expect to use that data in order to ensure that Medicare payment to hospitals billing for non-excepted items and services furnished by nonexcepted off-campus PBDs under the PFS would reflect the relative resources involved in furnishing the items and services relative to other PFS services. We recognize that under our current approach, the payment rates would not be equal on a procedure-by-procedure basis,

application of the PFS Relativity Adjuster would move toward equalizing payment rates in the aggregate between physician offices and nonexcepted off-campus PBDs to the extent appropriate. Therefore, for certain specialties, service lines, and nonexcepted off-campus PBD types, total Medicare payments for the same services might be either higher or lower when furnished by a nonexcepted off-campus PBD rather than in a physician office.

Depending on the mix of services for particular off-campus PBDs, we remain concerned that such specialty-specific patterns in payment differentials could result in continued incentives for hospitals to buy certain types of physician offices and convert them to nonexcepted off-campus PBDs; these are the incentives we believe Congress intended to avoid. However, continuing a policy similar to the one we are proposing in this proposed rule would allow hospitals to continue billing through a facility claim form and would allow for continuation of the packaging rules and cost report-based relative payment rate determinations under OPPS, which we believe are preferable to using the current valuation methodologies under the PFS that are not well-suited for nonexcepted items and services furnished by nonexcepted off-campus PBDs. Therefore, for CY 2019 and for future years, we intend to examine the claims data in order to determine not only the appropriate PFS Relativity Adjuster(s), but also to determine whether additional adjustments to the methodology are appropriate – especially with the goal of attaining site neutral payments to promote a level playing field under Medicare between physician office settings and nonexcepted off-campus PBD settings, without regard to the kinds of services furnished by particular off-campus PBDs. We solicit comments on potential changes to our methodology that would better account for these specialty-specific patterns.

## H. Proposed Valuation of Specific Codes

### 1. Background: Process for Valuing New, Revised, and Potentially Misvalued Codes

Establishing valuations for newly created and revised CPT codes is a routine part of maintaining the PFS. Since inception of the PFS, it has also been a priority to revalue services regularly to make sure that the payment rates reflect the changing trends in the practice of medicine and current prices for inputs used in the PE calculations. Initially, this was accomplished primarily through the 5-year review process, which resulted in revised work RVUs for CY 1997, CY 2002, CY 2007, and CY 2012, and revised PE RVUs in CY 2001, CY 2006, and CY 2011. Under the 5-year review process, revisions in RVUs were proposed and finalized via rulemaking. In addition to the 5-year reviews, beginning with CY 2009, CMS and the RUC have identified a number of potentially misvalued codes each year using various identification screens, as discussed in section II.E.4 of this proposed rule. Historically, when we received RUC recommendations, our process had been to establish interim final RVUs for the potentially misvalued codes, new codes, and any other codes for which there were coding changes in the final rule for a year. Then, during the 60-day period following the publication of the final rule, we accepted public comment about those valuations. For services furnished during the calendar year following the publication of interim final rates, we paid for services based upon the interim final values established in the final rule. In the final rule with comment period for the subsequent year, we considered and responded to public comments received on the interim final values, and typically made any appropriate adjustments and finalized those values.

In the CY 2015 PFS final rule with comment period, we finalized a new process for establishing values for new, revised and potentially misvalued codes. Under the new process, we include proposed values for these services in the proposed rule, rather than establishing them as interim final in the final rule with comment period. Beginning with the CY 2017 PFS proposed rule, the new process was

applicable to all codes, except for new codes that describe truly new services. For CY 2017, we proposed new values in the CY 2017 PFS proposed rule for the vast majority of new, revised, and potentially misvalued codes for which we received complete RUC recommendations by February 10, 2016. To complete the transition to this new process, for codes where we established interim final values in the CY 2016 PFS final rule with comment period, we reviewed the comments received during the 60-day public comment period following release of the CY 2016 PFS final rule with comment period, and re-proposed values for those codes in the CY 2017 PFS proposed rule.

We considered public comments received during the 60-day public comment period for the proposed rule before establishing final values in the CY 2017 PFS final rule. As part of our established process we will adopt interim final values only in the case of wholly new services for which there are no predecessor codes or values and for which we do not receive recommendations in time to propose values. For CY 2017, we were not aware of any new codes that described such wholly new services. Therefore, we did not establish any code values on an interim final basis.

## 2. Methodology for Proposing Work RVUs

We conduct a review of each code identified in this section and review the current work RVU (if any), RUC-recommended work RVU, intensity, time to furnish the preservice, intraservice, and postservice activities, as well as other components of the service that contribute to the value. Our reviews of recommended work RVUs and time inputs have generally included, but have not been limited to, a review of information provided by the RUC, the Health Care Professionals Advisory Committee (HCPAC), and other public commenters, medical literature, and comparative databases, as well as a comparison with other codes within the PFS, consultation with other physicians and health care professionals within CMS and the federal government, as well as Medicare claims data. We have also assessed the methodology and data used to develop the recommendations submitted to us by the RUC

and other public commenters and the rationale for the recommendations. In the CY 2011 PFS final rule with comment period (75 FR 73328 through 73329), we discussed a variety of methodologies and approaches used to develop work RVUs, including survey data, building blocks, crosswalks to key reference or similar codes, and magnitude estimation (see the CY 2011 PFS final rule with comment period (75 FR 73328 through 73329) for more information). When referring to a survey, unless otherwise noted, we mean the surveys conducted by specialty societies as part of the formal RUC process. We have used the building block methodology to construct, or deconstruct, the work RVU for a CPT code based on component pieces of the code.

Components that we have used in the building block approach may have included preservice, intraservice, or postservice time and post-procedure visits. When referring to a bundled CPT code, the building block components could be the CPT codes that make up the bundled code and the inputs associated with those codes. Magnitude estimation refers to a methodology for valuing work that determines the appropriate work RVU for a service by gauging the total amount of work for that service relative to the work for a similar service across the PFS without explicitly valuing the components of that work. In addition to these methodologies, we have frequently utilized an incremental methodology in which we value a code based upon its incremental difference between another code and another family of codes. The statute specifically defines the work component as the resources in time and intensity required in furnishing the service. Also, the published literature on valuing work has recognized the key role of time in overall work. For particular codes, we have refined the work RVUs in direct proportion to the changes in the best information regarding the time resources involved in furnishing particular services, either considering the total time or the intraservice time.

Several years ago, to aid in the development of preservice time recommendations for new and revised CPT codes, the RUC created standardized preservice time packages. The packages include

preservice evaluation time, preservice positioning time, and preservice scrub, dress and wait time.

Currently there are preservice time packages for services typically furnished in the facility setting (for example: preservice time packages reflecting the different combinations of straightforward or difficult procedure, and straightforward or difficult patient). Currently, there are three preservice time packages for services typically furnished in the nonfacility setting.

We developed several standard building block methodologies to value services appropriately when they have common billing patterns. In cases where a service is typically furnished to a beneficiary on the same day as an E/M service, we believe that there is overlap between the two services in some of the activities furnished during the preservice evaluation and postservice time. Our longstanding adjustments have reflected a broad assumption that at least one-third of the work time in both the preservice evaluation and postservice period is duplicative of work furnished during the E/M visit.

Accordingly, in cases where we have believed that the RUC has not adequately accounted for the overlapping activities in the recommended work RVU and/or times, we have adjusted the work RVU and/or times to account for the overlap. The work RVU for a service is the product of the time involved in furnishing the service multiplied by the intensity of the work. Preservice evaluation time and postservice time both have a long-established intensity of work per unit of time (IWPUT) of 0.0224, which means that 1 minute of preservice evaluation or postservice time equates to 0.0224 of a work RVU.

Therefore, in many cases when we have removed 2 minutes of preservice time and 2 minutes of postservice time from a procedure to account for the overlap with the same day E/M service, we have also removed a work RVU of 0.09 (4 minutes  $\times$  0.0224 IWPUT) if we have not believed the overlap in time had already been accounted for in the work RVU. The RUC has recognized this valuation policy

and, in many cases, now addresses the overlap in time and work when a service is typically furnished on the same day as an E/M service.

We note that many commenters and stakeholders have expressed concerns with our ongoing adjustment of work RVUs based on changes in the best information we have had regarding the time resources involved in furnishing individual services. We have been particularly concerned with the RUC's and various specialty societies' objections to our approach given the significance of their recommendations to our process for valuing services and since much of the information we have used to make the adjustments is derived from their survey process. We are statutorily obligated to consider both time and intensity in establishing work RVUs for PFS services. As explained in the CY 2016 PFS final rule with comment period (80 FR 70933), we recognize that adjusting work RVUs for changes in time is not always a straightforward process, so we have applied various methodologies to identify several potential work values for individual codes.

We have observed that for many codes reviewed by the RUC, recommended work RVUs have appeared to be incongruous with recommended assumptions regarding the resource costs in time. This has been the case for a significant portion of codes for which we have recently established or proposed work RVUs that are based on refinements to the RUC-recommended values. When we have adjusted work RVUs to account for significant changes in time, we have begun by looking at the change in the time in the context of the RUC-recommended work RVU. When the recommended work RVUs have not appeared to account for significant changes in time, we have employed the different approaches to identify potential values that reconcile the recommended work RVUs with the recommended time values. Many of these methodologies, such as survey data, building block, crosswalks to key reference or similar codes, and magnitude estimation have long been used in developing work RVUs under the PFS. In addition to these, we have sometimes used the relationship between the old time values and the



new time values for particular services to identify alternative work RVUs based on changes in time components.

In so doing, rather than ignoring the RUC-recommended value, we have used the recommended values as a starting reference and then applied one of these several methodologies to account for the reductions in time that we believe had not otherwise been reflected in the RUC-recommended value. When we have believed that such changes in time have already been accounted for in the RUC recommendation, then we have not made such adjustments. Likewise, we have not arbitrarily applied time ratios to current work RVUs to calculate proposed work RVUs. We have used the ratios to identify potential work RVUs and considered these work RVUs as potential options relative to the values developed through other options.

We do not imply that the decrease in time as reflected in survey values must equate to a one-to-one or linear decrease in newly valued work RVUs. Instead, we have believed that, since the two components of work are time and intensity, absent an obvious or explicitly stated rationale for why the relative intensity of a given procedure has increased, significant decreases in time should be reflected in decreases to work RVUs. If the RUC recommendation had appeared to disregard or dismiss the changes in time, without a persuasive explanation of why such a change should not be accounted for in the overall work of the service, then we have generally used one of the aforementioned referenced methodologies to identify potential work RVUs, including the methodologies intended to account for the changes in the resources involved in furnishing the procedure.

Several stakeholders, including the RUC, in general have objected to our use of these methodologies and deemed our actions in adjusting the recommended work RVUs as inappropriate; other stakeholders have also expressed concerns with CMS refinements to RUC recommended values in general. In the CY 2017 PFS final rule (81 FR 80272 through 80277) we responded in detail to several

comments that we received regarding this issue. In the CY 2017 PFS proposed rule, we requested comments regarding potential alternatives to making adjustments that would recognize overall estimates of work in the context of changes in the resource of time for particular services; however, we did not receive any specific potential alternatives as requested.

In developing proposed values for new, revised, and potentially misvalued codes for CY 2018, we considered the lack of alternative approaches to making the adjustments, especially since many stakeholders have routinely urged us to propose and finalize the RUC recommended values. We also considered the RUC's consistent reassurance that these kinds of concerns (regarding changes in time, for example) had already been considered, and either incorporated or dismissed, as part of the development of their recommended values. These have led us to shift our approach to reviewing RUC recommendations, especially as we believe that the majority of practitioners paid under the PFS, though not necessarily those in any particular specialty, would prefer CMS rely more heavily on RUC recommended values in establishing payment rates under the PFS.

For CY 2018, we have generally proposed RUC-recommended work RVUs for new, revised, and potentially misvalued codes. We are proposing these values based on our understanding that the RUC generally considers the kinds of concerns we have historically raised regarding appropriate valuation of work RVUs. During our review of these recommended values, however, we identified some concerns similar to those we have recognized in prior years. Given the relative nature of the PFS and our obligation to ensure that the RVUs reflect relative resource use, we have included descriptions of potential approaches we might have taken in developing work RVUs that differ from the RUC recommended values. We are seeking comment on both the RUC-recommended values as well as the alternatives considered.

Table 10 contains a list of codes for which we proposed work RVUs; this includes all codes for which we received RUC recommendations by February 10, 2017. The proposed work RVUs, work time and other payment information for all proposed CY 2018 payable codes are available on the CMS website under downloads for the CY 2018 PFS proposed rule at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>. Table 10 also contains the CPT code descriptors for all proposed, new, revised, and potentially misvalued codes discussed in this section.

### 3. Methodology for Proposing the Direct PE Inputs to Develop PE RVUs

#### a. Background

On an annual basis, the RUC provides us with recommendations regarding PE inputs for new, revised, and potentially misvalued codes. We review the RUC-recommended direct PE inputs on a code by code basis. Like our review of recommended work RVUs, our review of recommended direct PE inputs generally includes, but is not limited to, a review of information provided by the RUC, HCPAC, and other public commenters, medical literature, and comparative databases, as well as a comparison with other codes within the PFS, and consultation with physicians and health care professionals within CMS and the federal government, as well as Medicare claims data. We also assess the methodology and data used to develop the recommendations submitted to us by the RUC and other public commenters and the rationale for the recommendations. When we determine that the RUC's recommendations appropriately estimate the direct PE inputs (clinical labor, disposable supplies, and medical equipment) required for the typical service, are consistent with the principles of relativity, and reflect our payment policies, we use those direct PE inputs to value a service. If not, we refine the recommended PE inputs to better reflect our estimate of the PE resources required for the service. We also confirm whether CPT codes should have facility and/or nonfacility direct PE inputs and refine the inputs accordingly.

Our review and refinement of RUC-recommended direct PE inputs includes many refinements that are common across codes, as well as refinements that are specific to particular services. Table 11 details our proposed refinements of the RUC's direct PE recommendations at the code-specific level. In this proposed rule, we address several refinements that are common across codes, and refinements to particular codes are addressed in the portions of this section that are dedicated to particular codes. We note that for each refinement, we indicate the proposed impact on direct costs for that service. We note that, on average, in any case where the impact on the direct cost for a particular refinement is \$0.30 or less, the refinement has no impact on the proposed PE RVUs. This calculation considers both the impact on the direct portion of the PE RVU, as well as the impact on the indirect allocator for the average service. We also note that nearly half of the proposed refinements listed in Table 11 result in changes under the \$0.30 threshold and are unlikely to result in a change to the proposed RVUs.

We also note that the proposed direct PE inputs for CY 2018 are displayed in the CY 2018 direct PE input database, available on the CMS website under the downloads for the CY 2018 PFS proposed rule at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>. The inputs displayed there have also been used in developing the proposed CY 2018 PE RVUs as displayed in Addendum B.

#### b. Common Refinements

##### (1) Changes in Work Time

Some direct PE inputs are directly affected by revisions in work time. Specifically, changes in the intraservice portions of the work time and changes in the number or level of postoperative visits associated with the global periods result in corresponding changes to direct PE inputs. The direct PE input recommendations generally correspond to the work time values associated with services. We

believe that inadvertent discrepancies between work time values and direct PE inputs should be refined or adjusted in the establishment of proposed direct PE inputs to resolve the discrepancies.

## (2) Equipment Time

Prior to CY 2010, the RUC did not generally provide CMS with recommendations regarding equipment time inputs. In CY 2010, in the interest of ensuring the greatest possible degree of accuracy in allocating equipment minutes, we requested that the RUC provide equipment times along with the other direct PE recommendations, and we provided the RUC with general guidelines regarding appropriate equipment time inputs. We continue to appreciate the RUC's willingness to provide us with these additional inputs as part of its PE recommendations.

In general, the equipment time inputs correspond to the service period portion of the clinical labor times. We have clarified this principle over several years of rulemaking, indicating that we consider equipment time as the time within the intraservice period when a clinician is using the piece of equipment plus any additional time that the piece of equipment is not available for use for another patient due to its use during the designated procedure. For those services for which we allocate cleaning time to portable equipment items, because the portable equipment does not need to be cleaned in the room where the service is furnished, we do not include that cleaning time for the remaining equipment items, as those items and the room are both available for use for other patients during that time. In addition, when a piece of equipment is typically used during follow-up post-operative visits included in the global period for a service, the equipment time would also reflect that use.

We believe that certain highly technical pieces of equipment and equipment rooms are less likely to be used during all of the preservice or postservice tasks performed by clinical labor staff on the day of the procedure (the clinical labor service period) and are typically available for other patients even when one member of the clinical staff may be occupied with a preservice or postservice task related to the

procedure. We also note that we believe these same assumptions would apply to inexpensive equipment items that are used in conjunction with and located in a room with non-portable highly technical equipment items since any items in the room in question would be available if the room is not being occupied by a particular patient. For additional information, we refer readers to our discussion of these issues in the CY 2012 PFS final rule with comment period (76 FR 73182) and the CY 2015 PFS final rule with comment period (79 FR 67639).

### (3) Standard Tasks and Minutes for Clinical Labor Tasks

In general, the preservice, intraservice, and postservice clinical labor minutes associated with clinical labor inputs in the direct PE input database reflect the sum of particular tasks described in the information that accompanies the RUC-recommended direct PE inputs, commonly called the “PE worksheets.” For most of these described tasks, there are a standardized number of minutes, depending on the type of procedure, its typical setting, its global period, and the other procedures with which it is typically reported. The RUC sometimes recommends a number of minutes either greater than or less than the time typically allotted for certain tasks. In those cases, we review the deviations from the standards and any rationale provided for the deviations. When we do not accept the RUC-recommended exceptions, we refine the proposed direct PE inputs to conform to the standard times for those tasks. In addition, in cases when a service is typically billed with an E/M service, we remove the preservice clinical labor tasks to avoid duplicative inputs and to reflect the resource costs of furnishing the typical service.

We refer readers to section II. B. of this proposed rule for more information regarding the collaborative work of CMS and the RUC in improvements in standardizing clinical labor tasks.

### (4) Recommended Items that are not Direct PE Inputs

In some cases, the PE worksheets included with the RUC recommendations include items that are not clinical labor, disposable supplies, or medical equipment or that cannot be allocated to individual services or patients. We have addressed these kinds of recommendations in previous rulemaking (78 FR 74242), and we do not use items included in these recommendations as direct PE inputs in the calculation of PE RVUs.

#### (5) New Supply and Equipment Items

The RUC generally recommends the use of supply and equipment items that already exist in the direct PE input database for new, revised, and potentially misvalued codes. Some recommendations, however, include supply or equipment items that are not currently in the direct PE input database. In these cases, the RUC has historically recommended that a new item be created and has facilitated our pricing of that item by working with the specialty societies to provide us copies of sales invoices. For CY 2018, we received invoices for several new supply and equipment items. Tables 13 and 14 detail the invoices received for new and existing items in the direct PE database. As discussed in **section II.B.** of this proposed rule, we encourage stakeholders to review the prices associated with these new and existing items to determine whether these prices appear to be accurate. Where prices appear inaccurate, we encourage stakeholders to provide invoices or other information to improve the accuracy of pricing for these items in the direct PE database during the 60-day public comment period for this proposed rule. We expect that invoices received outside of the public comment period would be submitted by February 10th of the following year for consideration in future rulemaking, similar to our new process for consideration of RUC recommendations.

We remind stakeholders that due to the relativity inherent in the development of RVUs, reductions in existing prices for any items in the direct PE database increase the pool of direct PE RVUs available to all other PFS services. Tables 13 and 14 also include the number of invoices received, as

well as the number of nonfacility allowed services for procedures that use these equipment items. We provide the nonfacility allowed services so that stakeholders will note the impact the particular price might have on PE relativity, as well as to identify items that are used frequently, since we believe that stakeholders are more likely to have better pricing information for items used more frequently. A single invoice may not be reflective of typical costs and we encourage stakeholders to provide additional invoices so that we might identify and use accurate prices in the development of PE RVUs.

In some cases, we do not use the price listed on the invoice that accompanies the recommendation because we identify publicly available alternative prices or information that suggests a different price is more accurate. In these cases, we include this in the discussion of these codes. In other cases, we cannot adequately price a newly recommended item due to inadequate information. Sometimes, no supporting information regarding the price of the item has been included in the recommendation. In other cases, the supporting information does not demonstrate that the item has been purchased at the listed price (for example, vendor price quotes instead of paid invoices). In cases where the information provided on the item allows us to identify clinically appropriate proxy items, we might use existing items as proxies for the newly recommended items. In other cases, we have included the item in the direct PE input database without any associated price. Although including the item without an associated price means that the item does not contribute to the calculation of the proposed PE RVU for particular services, it facilitates our ability to incorporate a price once we obtain information and are able to do so.

#### (6) Service Period Clinical Labor Time in the Facility Setting

Generally speaking, our proposed inputs did not include clinical labor minutes assigned to the service period because the cost of clinical labor during the service period for a procedure in the facility setting is not considered a resource cost to the practitioner since Medicare makes separate payment to



the facility for these costs. We address proposed code-specific refinements to clinical labor in the individual code sections.

(7) Procedures Subject to the Multiple Procedure Payment Reduction (MPPR) and the OPPS Cap

We note that the public use files for the PFS proposed and final rules for each year display both the services subject to the MPPR lists on diagnostic cardiovascular services, diagnostic imaging services, diagnostic ophthalmology services and therapy services and the list of procedures that meet the definition of imaging under section 1848(b)(4)(B) of the Act, and therefore, are subject to the OPPS cap for the upcoming calendar year. The public use files for CY 2018 are available on the CMS website under downloads for the CY 2018 PFS proposed rule at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>. For more information regarding the history of the MPPR policy, we refer readers to the CY 2014 PFS final rule (78 FR 74261-74263). For more information regarding the history of the OPPS cap, we refer readers to the CY 2007 PFS final rule (71 FR 69659 – 69662).

4. Proposed Valuation of Specific Codes for CY 2018

(1) Anesthesia Services for Gastrointestinal (GI) Procedures (CPT codes 007X1, 007X2, 008X1, 008X2, and 008X3)

In the CY 2016 PFS proposed rule (80 FR 41686), we discussed that in reviewing Medicare claims data, a separate anesthesia service is typically reported more than 50 percent of the time that various colonoscopy procedures are reported. We discussed that given the significant change in relative frequency with which anesthesia codes are reported with colonoscopy services, we believed the relative values of the anesthesia services should be reexamined and proposed to identify CPT codes 00740 (Anesth upper gi visualize) and 00810 (Anesth low intestine scope) as potentially misvalued. For CY 2018, the CPT Editorial Panel is deleting CPT codes 00740 and 00810 and creating new codes for

anesthesia services furnished in conjunction with and in support of gastrointestinal endoscopic procedures: two codes for upper GI procedures (007X1 and 007X2), two codes for lower GI procedures (008X1 and 008X2), and one code for upper and lower GI procedures (008X3).

For CY 2018, we are proposing the RUC-recommended base units without refinement for CPT codes 007X1 (5.00 base units), 007X2 (6.00 base units), 008X1 (4.00 base units), 008X2 (4.00 base units) and 008X3 (5.00 base units). We considered 3.00 base units (the 25<sup>th</sup> percentile survey result) for CPT code 008X2 (Anesthesia for lower intestinal endoscopic procedures, endoscope introduced distal to duodenum; screening colonoscopy), based on our comparison of the surveyed post-induction anesthesia-intensity allocation for CPT code 008X2 to codes with similar allocations (CPT code 01382 (Anesth dx knee arthroscopy)). We found that CPT code 01382, which was also valued with 3.00 base units, had similar allocations compared to the survey results for CPT code 008X2. We are seeking comment on our proposed and alternative value for CPT code 008X2.

(2) Acne Surgery (CPT code 10040)

CPT code 10040 was identified as potentially misvalued on a screen of Harvard-valued codes with utilization over 30,000 in CY 2014. We are proposing the RUC-recommended work RVU of 0.91 for CPT code 10040 and the RUC-recommended work time values. We considered using the current number of 0.5 post-procedure office visits of CPT code 99212 (Office/outpatient visit est) rather than the RUC-recommended number of 1.0 post-procedure office visits. For CPT code 10040, the RUC states that it is a low intensity service that can be performed by a nurse under a physician's supervision, and that the average number of office visits in the follow-up period of acne surgery is 0.4. We are seeking public comments regarding the typical number of postoperative visits for this code, considering there have been no changes made to the code descriptor and we have not found evidence of changes to the typical patient population.

We are proposing the RUC-recommended direct PE inputs for CPT code 10040 without refinement. We considered refinements to the clinical labor for “Assist physician in performing procedure” from 10 minutes to 3 minutes. CPT code 10040 previously used about one third of the intraservice work time for this clinical labor activity (5 minutes out of 14 minutes), and the RUC-recommended value of 10 minutes would have increased this to 100 percent of the intraservice work time without rationale for the change. We considered 3 minutes for this clinical labor activity, which is about one third of the intraservice work time (3 minutes out of 10 minutes) and would have maintained the current ratio between clinical labor time and work time.

For CY 2018, we are proposing the RUC-recommended work RVUs and direct PE inputs for CPT code 10040 and are seeking comment on our proposed and alternative values.

### (3) Muscle Flaps (CPT codes 15734, 15736, 15738, 157X1, and 157X2)

CPT codes 15732 and 15736 were identified via a screen of high level E/M visits included in their global periods. This screen identified that a CPT code 99214 office visit was included for CPT codes 15732 and 15736 but not included in the other codes in this family. During the review process for this family of codes, CPT code 15732 was deleted and replaced with two new codes, CPT codes 157X1 and 157X2, to better differentiate and describe the work of large muscle flaps performed on patients with head and neck cancer depending on the site where the service was performed.

For CY 2018, we are proposing the RUC-recommended work RVUs for CPT codes 15734 (a work RVU of 23.00), 15736 (a work RVU of 17.04), 15738 (a work RVU of 19.04), 157X1 (a work RVU of 13.50), and 157X2 (a work RVU of 15.68). For CPT code 157X1, we considered a work RVU of 12.03, crosswalking to CPT code 36830 (Creation of arteriovenous fistula by other than direct arteriovenous anastomosis (separate procedure); nonautogenous graft (eg, biological collagen, thermoplastic graft)). We have concerns because the RUC-recommended work RVU of 13.50 would

represent nearly double the intensity of CPT codes 15734 through 15738, as well as nearly double the intensity of deleted CPT code 15732. The RUC-recommended work RVU for CPT code 157X1 is also based on a direct crosswalk to CPT code 36832 (Revision, open, arteriovenous fistula; without thrombectomy, autogenous or nonautogenous dialysis graft (separate procedure)), which has the same intraservice time, but with 20 additional minutes of total time. We considered a potential crosswalk to another code in the same family, CPT code 36830, which also shares the same intraservice time with CPT code 157X1 but differs by only 8 minutes of total time. However, we seek comment on whether the RUC recommendation is appropriate given the significant variation in intensity among these services.

We considered a work RVU of 14.63 for CPT code 157X2 (survey 25<sup>th</sup> percentile), crosswalking to CPT code 36833 (Revision, open, arteriovenous fistula; with thrombectomy, autogenous or nonautogenous dialysis graft (separate procedure)), which has the same intraservice time, 1 minute of additional total time, and a work RVU of 14.50. We are seeking comment on the effect that an alternative work RVU of 14.50 would have on relativity among the codes in this family.

We considered refining the clinical labor time for “Check dressings & wound/home care instructions” for CPT code 157X1 from 10 minutes to 5 minutes. We are seeking comment on the typical time input for checking dressings, and whether removing and replacing dressings, would typically take place during the intraservice or postservice period.

We are also seeking comments regarding the use of the new “plate, surgical, mini-compression, 4 hole” (SD189) supply included in CPT code 157X1, including whether use of this supply would be typical, and if so, whether it should be included in the work description. We note that SD189 is mentioned in the direct PE recommendations, but the supply does not appear in the work description. In

the work description, the fixation screws are applied to the orbital rim and lateral nasal wall, not the surgical plate.

#### (4) Application of Rigid Leg Cast (CPT code 29445)

CPT code 29445 appeared on a high growth screen of all services with total Medicare utilization of 10,000 or more that increased by at least 100 percent from 2008 through 2013. This screen also indicated that the code was last surveyed more than 10 years previously, and that the dominant specialty had changed during that time.

For CY 2018, we are proposing the RUC-recommended work RVU of 1.78 for CPT code 29445. For the direct PE inputs, we are proposing to refine the clinical labor time for “Check dressings & wound/home care instructions” from 5 minutes to 3 minutes. We believe that the additional 2 minutes of clinical labor time that we are proposing to remove would take place during the monitoring time following the procedure and be accounted for in that clinical labor time.

We also considered refining the clinical labor time for “Remove cast” from 22 minutes to 11 minutes: 1 minute for room prep, 10 minutes for assisting the physician, and 0 minutes for the additional activities described in the RUC recommendations, which would have only taken place during the initial casting. We have concerns that the RUC-recommended clinical labor regarding the “remove cast” task is based only on an initial visit where a new cast would be applied and 22 minutes may be an appropriate length of time. However, the RUC recommendations suggest that four to twelve cast changes are common for patients, and we are seeking comment on whether the initial application of a new cast would be typical for CPT code 29445. We reviewed the Medicare claims data for CPT code 29445 and found that three or more castings took place for 52 percent of beneficiaries, which suggests that three or more castings may be the typical case. A single casting only took place for 30 percent of services reported with CPT code 29445.

(5) Strapping Multi-Layer Compression (CPT codes 29580 and 29581)

The RUC reviewed CPT code 29580 since it appeared on the screen for high expenditure services and reviewed CPT code 29581 as part of this family of codes. For CY 2018, the CPT Editorial Panel is deleting two additional codes in the family: CPT codes 29582 (Application of multi-layer compression system; thigh and leg, including ankle and foot, when performed) and 29583 (Application of multi-layer compression system; upper arm and forearm).

For CY 2018, we are proposing the RUC-recommended work RVUs for CPT code 29580 (a work RVU of 0.55) and CPT code 29581 (a work RVU of 0.60).

However, we are concerned about the changes in preservice time reflected in the specialty surveys compared to the RUC-recommended work RVUs. For instance, for CPT code 29580, we considered a work RVU of 0.46, crosswalking to CPT code 98925 (Osteopathic manipulative treatment (OMT); 1-2 body regions involved)), which has a work RVU of 0.46 and shares a similar intraservice time. Compared to the specialty survey times, the RUC recommended a slight decrease (9 minutes) in preservice time for CPT code 29580, with the intraservice and immediate postservice times remaining unchanged.

For CPT code 29581, we considered a work RVU of 0.5 by using the RUC-recommended work RVU increment between CPT codes 29580 and 29581 (+0.05), added to the work RVU we considered for CPT code 29580 (0.46), and crosswalking to CPT code 97597 (Debridement (eg, high pressure waterjet with/without suction, sharp selective debridement with scissors, scalpel and forceps), open wound, (eg, fibrin, devitalized epidermis and/or dermis, exudate, debris, biofilm), including topical application(s), wound assessment, use of a whirlpool, when performed and instruction(s) for ongoing care, per session, total wound(s) surface area; first 20 sq cm or less)), which has similar intraservice and

total times to the RUC-recommended services times for CPT code 29581. We are seeking comment on whether a work RVU of 0.51 would improve relativity among the codes in this family.

For CY 2018, we are proposing the RUC-recommended work RVUs for CPT codes 29580 and 29581 and are seeking comment on whether the alternative values we considered would be more appropriate.

(6) Resection Inferior Turbinate (CPT code 30140)

CPT code 30140 was identified as potentially misvalued on a screen of Harvard-valued codes with utilization over 30,000 in CY 2014. During the review process, the RUC re-surveyed the code as a 0-day global period, based on the presence of a negative intensity value in the initial survey and highly variable postoperative office visits.

For CY 2018, we are proposing the RUC-recommended work RVU of 3.00 for CPT code 30140 as a 0-day global code. We also considered a work RVU of 2.68 for CPT code 30140 and are seeking comment on changes in practice patterns since the code was previously reviewed, service times of comparable services, and whether a work RVU of 2.68 would better maintain relativity among similar codes. We note that the RUC-recommended work RVU of 3.0 nearly doubles the derived intensity of the code as currently valued. We note that the RUC recommendations referenced services that had similar service times to CPT code 30140 (CPT code 31240 (Nasal/sinus endoscopy, surgical; with concha bullosa resection), with a work RVU of 2.61; and CPT code 31295 (Nasal/sinus endoscopy, surgical; with dilation of maxillary sinus ostium (eg, balloon dilation), transnasal or via canine fossa), with a work RVU of 2.70).

We note that the initial survey for CPT code 30140 as a 90-day global resulted in a RUC-recommended work RVU of 3.57, while the second survey for the code as a 0-day global resulted in a RUC-recommended work RVU of 3.00, despite the removal of two postoperative office visits of CPT

code 99212 and a half discharge visit of CPT code 99238. These removed postoperative visits have a total work RVU of 2.58, which is notably higher than the difference in the RUC-recommended work RVU between the two surveys.

We are also proposing to create equipment codes for three new equipment items based on invoices submitted with the RUC recommendations for CPT code 30140. We are proposing to create three new equipment codes based on the invoices submitted for this code family: the 2mm reusable shaver blade (EQ383) at a price of \$790, the microdebrider handpiece (EQ384) at a price of \$4,760, and the microdebrider console (EQ385) at a price of \$9,034.

(7) Control Nasal Hemorrhage (CPT codes 30901, 30903, 30905, and 30906)

For CY 2018, we are proposing the RUC-recommended work RVUs for CPT codes 30901 (a work RVU of 1.10), 30903 (a work RVU of 1.54), 30905 (a work RVU of 1.97), and 30906 (a work RVU of 2.45). We are also proposing to use the RUC-recommended direct PE inputs for CPT codes 30901, 30903, 30905, and 30906, with standard refinements to the equipment times to account for patient monitoring times. We noted that as part of its recommendation, the RUC informed us that the specialty societies presented evidence stating that the 1995 valuations for these services factored in excessive times, specifically to account for infection control procedures that were necessary at that time due to the prevalence of HIV/AIDS. The specialty societies also noted that increased availability and use of blood thinner medications compared to those available in 1995, has increased the difficulty and intensity of these procedures. We are seeking additional information regarding the presumption that the relative resource intensity of these services, specifically, would be affected by the commercial availability of additional blood thinner medications. We believe that blood thinner medications were widely available before 1995 when these codes were last valued. Additionally, we seek comments on



the prevalence of HIV/AIDS and whether the work related to infection control procedures would be relative across many PFS services or specifically related to nasal hemorrhage control procedures.

For CPT code 30901 (Control nasal hemorrhage, anterior, simple (limited cautery and/or packing) any method), we considered a work RVU of 1.00 (the 25<sup>th</sup> percentile survey result), crosswalking to CPT code 20606 (Drain/inj joint/bursa w/us), which has similar service times. The median survey total time (24 minutes) dropped by 2 minutes (from preservice time), to 24 minutes compared to the existing total time. The difference in total time reflected a small decrease in preservice time, with no change in intraservice time (10 minutes). Among codes with similar service times, we found only three codes that had a higher work RVU than the RUC-recommended value.

For CPT code 30903 (Control nasal hemorrhage, anterior, complex (extensive cautery and/or packing) any method), we considered a work RVU of 1.30 (the 25<sup>th</sup> percentile survey result), which would have been further supported by CPT codes 36584 and 51710 which have similar service times to the median survey results. The RUC recommended a decreased total time of 39 minutes compared to the existing total time (70 minutes), with intraservice time dropping from 30 to 15 minutes.

For CPT code 30905 (Control nasal hemorrhage, posterior, with posterior nasal packs and/or cautery, any method; initial), we considered a work RVU of 1.73, using the RUC-recommended work RVU increment between CPT code 30903 and CPT code 30905 (0.43), added to the work RVU we considered for CPT code 30903 (1.30), and crosswalking to CPT code 45321 (Proctosigmoidoscopy volvul), which has similar service times. The surveyed intraservice time dropped from 48 minutes to 20 minutes. The RUC recommendations indicated that surveyed service times for CPT code 30905 are longer than for CPT code 30903 since the service is performed to control an arterial posterior bleed. According to the specialty society, arterial posterior bleeds are more difficult to treat and require a more extensive procedure in comparison to services reported with CPT code 30903. We considered using the

RUC-recommended work RVU increment between CPT code 30903 and CPT code 30905 (0.43), added to the work RVU we considered for CPT code 30903 (1.30), resulting in a work RVU of 1.73. We are seeking comment on whether a work RVU of 1.73 would potentially affect relativity among the codes in this family.

For CPT code 30906 (Control nasal hemorrhage, posterior, with posterior nasal packs and/or cautery, any method; subsequent), we considered a work RVU of 2.21, using the RUC-recommended work RVU increment between CPT codes 30905 and 30906 (0.48), added to the work RVU we considered for CPT code 30905 (1.73), and crosswalking to services with similar service times (CPT codes 19281 (Perq device breast 1st imag), 51727 (Cystometrogram w/up), 49185 (Sclerotx fluid collection), and 62305 (Myelography lumbar injection)). The surveyed median intraservice time dropped from 60 minutes to 30 minutes. We are seeking comment on whether a work RVU of 2.21 would potentially improve relativity among the codes in this family.

Given the RUC's consensus for CY 2018, we are proposing the RUC-recommended work RVUs for each code in this family and seeking comment on whether our alternative values would be more appropriate.

(8) Nasal Sinus Endoscopy (CPT codes 31254, 31255, 31256, 31267, 31276, 31287, 31288, 31295, 31296, 31297, 31XX1, 31XX2, 31XX3, 31XX4, and 31XX5)

In October 2016, the CPT Editorial Panel created five new codes (CPT codes 31XX1, 31XX2, 31XX3, 31XX4 and 31XX5) and revised CPT codes 31238, 31254, 31255, 31276, 31287, 31288, 31296, and 31297. CPT codes 31XX2 – 31XX5 are newly bundled services representing services that are frequently reported together. CPT code 31XX1 represents a new service. The RUC reviewed this family of codes at their January 2017 meeting. For CY 2018, we are proposing the RUC-recommended work RVUs for all 15 CPT codes in this family as follows: 4.27 for CPT code 31254, 5.75 for CPT code 31255,

3.11 for CPT code 31256, 4.68 for CPT code 31267, 6.75 for CPT code 31276, 3.50 for CPT code 31287, 4.10 for CPT code 31288, 2.70 for CPT code 31295, 3.10 for CPT code 31296, 2.44 for CPT code 31297, 8.00 for CPT code 31XX1, 9.00 for CPT code 31XX2, 8.00 for CPT code 31XX3, 8.48 for CPT code 31XX4, and 4.50 for CPT code 31XX5.

For CPT code 31296, we considered a work RVU of 2.82, supported by a crosswalk to CPT code 36901 (Intro cath dialysis circuit) with an intraservice time of 25 minutes and total time of 66 minutes, similar to the service times for CPT code 31296. We are concerned about the decrease in service time compared to the work RVU and we seek comment on whether or not a work RVU of 2.82 might improve relativity with other PFS services.

For CPT code 31256, we considered a work RVU of 2.80, supported by a crosswalk to CPT code 43231 (Esophagoscopy, flexible, transoral; with endoscopic ultrasound examination), which has 30 minutes of intraservice time and 81 minutes of total time, similar to the RUC-recommended service times. We are concerned about the difference in total time between CPT code 31256 and the RUC-recommended crosswalk to CPT code 43247. CPT code 43247 has 30 minutes intraservice time and 58 minutes total time), and CPT code 31256 (30 minutes intraservice time and 83 minutes total time).

For CPT code 31254, we note the RUC's explanation that this service is more intense than the functional endoscopic sinus surgery on the maxillary or sphenoid sinuses due to the risk of major complications such as injury to the eye muscles, bleeding into the eye or brain fluid leak and, consequently, that the RUC concluded that it should be valued higher than either CPT code 31256 or CPT code 31287. Since CPT code 31256 has the same total time (30 minutes) and intraservice time (30 minutes) as CPT code 31254, we considered whether the incremental difference recommended by the RUC between these two codes (work RVU of 1.16) would reflect the intensity of the service. We

considered a work RVU of 2.80 for CPT code 31256, and also considered an alternative work RVU of 3.97 for CPT code 31254.

For CPT code 31287, we considered a work RVU of 3.19 based on the difference between the RUC-recommended work RVU for the maxillary sinus surgery (CPT code 31256) and the sphenoid sinus surgery (CPT code 31287) (difference = 0.28) added to the work RVU that we considered for the base code (CPT code 31256, a work RVU of 2.80). We note that the magnitude of decreases in service times are greater than those for the work RVU, which potentially could affect relativity among PFS services.

For CPT code 31255, we considered a work RVU of 5.30, based on a crosswalk to CPT codes 36475 (Endovenous rf 1st vein) and 36478 (Endovenous laser 1st vein) since both of these services have the same intraservice times, total times, and work RVUs). We note that there are several CPT codes with similar total and intraservice times that have lower work RVUs than the crosswalk to CPT code 36246 (Intracath abd/l-ext art 2nd) noted by the RUC, which has 45 minutes intraservice and 96 minutes total time, has work RVU of 5.02; CPT code 36475 (Endovenous rf 1st vein) has 94 minutes intraservice and 94 minutes total time and has work RVU of 5.30).

For CPT code 31276 (Nasal/sinus endoscopy, surgical; with frontal sinus exploration, including removal of tissue from frontal sinus, when performed), we considered a work RVU of 6.30, which is similar to other functional endoscopic surgeries. We note that the services reported with CPT code 31276 are the most intense and complex of the functional endoscopic surgeries due to the risks of working in the narrow confines in the frontal recess. However, we have concerns that a crosswalk to CPT code 52352 (Cystourethroscopy, with ureteroscopy and/or pyeloscopy; with removal or manipulation of calculus (ureteral catheterization is included)), and we seek comment on whether the RUC-recommended decrease in service times is appropriate since CPT code 52352 has 20 minutes more total time than CPT code 31276.

For CPT 31XX1 (nasal/sinus endoscopy, surgical; with ligation of Sphenopalatine artery), we have concerns and seek comment regarding the accuracy and applicability of the surveys as the RUC indicated that the specialty society did not use the survey instrument that contains questions about the number and types of visits and that this service requires a half day discharge day management as the patients typically stay overnight to be monitored for further bleeding. We seek comment on whether inclusion of a half day discharge day visit is typical for this service since services assigned 0-day global periods do not typically include discharge visits. We considered reducing the total time from 142 minutes to 123 minutes by removing the half day discharge. Using the alternative total time of 123 minutes, we found services with similar total and intraservice time (60 minutes) and total time (123 minutes).

We considered a work RVU of 7.30 for CPT code 31XX1, supported by a direct crosswalk to CPT code 36253 (Superselective catheter placement (one or more second order or higher renal artery branches) renal artery and any accessory renal artery(s) for renal angiography, including arterial puncture, catheterization, fluoroscopy, contrast injection(s), image postprocessing, permanent recording of images, and radiological supervision and interpretation, including pressure gradient measurements when performed, and flush aortogram when performed; unilateral), since CPT code 36253 has a similar total time compared to our alternative total time.

For CPT code 31XX3, we considered a work RVU of 7.30, based on a crosswalk to CPT code 36253 (Superselective catheter placement (one or more second order or higher renal artery branches) renal artery and any accessory renal artery(s) for renal angiography, including arterial puncture, catheterization, fluoroscopy, contrast injection(s), image postprocessing, permanent recording of images, and radiological supervision and interpretation, including pressure gradient measurements when performed, and flush aortogram when performed; unilateral). We have similar concerns regarding the service times for this service, including the cited reference codes, compared to the recommended work RVU. We are seeking

comment on whether a work RVU of 7.30 for CPT code 31XX3 would improve consistency among the combined CPT codes in this family.

CPT code 31XX4 is a new code representing a combination of the services previously described by CPT codes 31255 and 31288. We note the changes in overall service times compared to other codes in this family and other PFS services. We considered a work RVU of 7.85 for CPT code 31XX4, crosswalking to CPT code 93461 (R&l hrt art/ventricle angio), which has identical intraservice times. We are seeking comment on the effect that this alternative work RVU might have on consistency and rank order compared to the other bundled codes in this family.

CPT code 31XX5 represents a combination of CPT codes 31296 and 31297. We have concerns about the use of CPT codes 47532 and 58558, which were used by the RUC as comparison codes, due to differences in both intraservice and total time compared to the service times for CPT code 31XX5. We considered a work RVU of 4.10 for CPT code 31XX5, crosswalking to CPT code 44406 (Colonoscopy w/ultrasound), which has similar service times.

For CY 2018, we are proposing the RUC-recommended work RVUs for each code in this family and are seeking comment on our alternative values.

Regarding the recommended direct PE inputs, we are concerned about one of the supply items used in furnishing services for several CPT codes in this family; “sinus surgery balloon (maxillary, frontal, or sphenoid) kit” (SA106). In the current recommendations, half of one kit (each kit has sufficient supply for two sinuses) is included in the practice expense inputs for CPT codes 31295, 31296, and 31297. The new CPT code 31XX5 has one full kit, reflecting a service consisting of two sinuses, according to the RUC’s explanation. The price of the full kit (two sinuses) of this disposable supply is \$2599.06. Our analysis of 2016 Medicare claims data indicates that 48 percent of the time one of the three CPT codes (31295, 31296, and 31297) is billed, it is reported on a claim with either one or both of the other codes.

Ten percent of the time one of the three CPT codes is billed, it is reported on a claim with both of the other two codes. Effectively, 10 percent of claims reporting these CPT codes are being paid for three sinuses. We are seeking comments on the number of units of this supply item that are used for each service. We welcome suggestions about improved methodologies for identifying the quantity of this disposable supply used during these procedures and will continue to monitor utilization and reporting of these services.

In reviewing the RUC recommendations for this family of CPT codes, we note that CPT codes in this family are subject to the standard payment adjustment for multiple surgeries. In our analysis of the claims data, we noted that the average number of HCPCS codes in this family reported together on a claim line is approximately 2.89. In addition, about 15 percent of claims have two of the newly bundled CPT codes reported together on a claim line. We are concerned about the frequency with which the nasal sinus endoscopy CPT codes in this family are billed together. We are seeking comments on whether we should consider the endobase code adjustments as a better approach to adjusting payment for these services instead of the current multiple procedure reduction. For additional information about the payment adjustment under the special rule for multiple endoscopic services, we refer readers to the Medicare Claims Processing Manual, Chapter 23 (available on the CMS website at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/clm104c23.pdf>).

We note that in developing the utilization crosswalk we use for purposes of PFS ratesetting, for this complex set of newly bundled codes, we adopted ratios that differ significantly from the ratios accompanying the RUC recommendations to better account for the reductions in overall reporting frequency. We direct readers to the file called “CY 2017 Analytic Crosswalk to CY 2018” on the CMS website under downloads for the CY 2018 PFS proposed rule at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>.

(9) Tracheostomy (CPT codes 31600, 31601, 31603, 31605, and 31610)

CPT code 31600 was identified as part of a screen of high expenditure services with Medicare allowed charges of \$10 million or more that had not been recently reviewed. CPT codes 31601, 31603, 31605, and 31610 were added and reviewed as part of the code family.

We are proposing the RUC-recommended work RVUs for all five codes in this family. We are proposing a work RVU of 5.56 for CPT code 31600, a work RVU of 8.00 for CPT code 31601, a work RVU of 6.00 for CPT code 31603, a work RVU of 6.45 for CPT code 31605, and a work RVU of 12.00 for CPT code 31610.

We considered a work RVU of 6.50 for CPT code 31601. We seek comment on the effect that this alternative value would have on relativity compared to other PFS services, especially since the survey data does not suggest an increase in the time required to perform the procedure.

We considered a work RVU of 4.77 for CPT code 31605, based on the survey 25<sup>th</sup> percentile from the combined survey total. We also considered an intraservice work time of 15 minutes, based on the median intraservice work time from the combined survey total for CPT code 31605. We are seeking comments on the methodology used to determine the RUC-recommended work RVU and intraservice work time. We are concerned that the number of respondents (20) is below the threshold typically required for submission of a survey, and the effect of using survey results only from physicians who had personal experience performing the procedure (20 respondents). CPT code 31605 has a lower intraservice and total time, but a higher work RVU than comparable codes under the PFS. We note that the next highest 0-day global code with 20 minutes of intraservice time is CPT code 16035 (Escharotomy; initial incision) at a work RVU of 3.74. All other 0-day global codes with a work RVU of 6.45 or greater have at least 40 minutes of intraservice time. We are seeking comment on the effect that an alternative work RVU of 4.77 would have on the relativity of this service compared to other services in this family of codes and



compared to other PFS services, taking into account that CPT code 31605 describes a difficult and dangerous life-threatening emergency procedure.

We considered a work RVU of 6.50 for CPT code 31610 based on a direct crosswalk to CPT code 31601 (Incision of windpipe). We understand that the RUC considered the possibility of recommending this code be assigned a 0-day global period based on concerns about negative derived intensity. We share the RUC's concerns with the current construction of CPT code 31610, particularly with the 242 minutes of work time included in the postoperative visits, which is an unusually large amount for a procedure with only 45 minutes of intraservice time. We did not identify any other comparable codes under the PFS with 45 minutes of intraservice time and more than 300 minutes of total time. We seek comment on whether the unusual volume of physician work time included in the postoperative visits for CPT code 31610 contributed to the negative derived intensity reported by the survey data. Considering that the other codes in this family have 0-day global periods, we considered and are seeking comment on whether a 0-day global period should be assigned to CPT code 31610. Removal of the postoperative E/M visits from CPT code 31610 would result in an intraservice time of 45 minutes and a total time of 125 minutes, similar to CPT code 31601 with 45 minutes of intraservice time and 135 minutes of total time.

We are proposing the RUC-recommended direct PE inputs for all five CPT codes in this family without refinements. As discussed earlier, we considered a 0-day global period for CPT code 31610, which would also have resulted in removal of the clinical labor associated with the postoperative E/M visits, along with the supplies and equipment utilized during those visits.

While we remain concerned about the global period assigned to CPT code 31610 and the changes in service times reflected in the specialty surveys compared to the RUC-recommended work RVUs, for CY 2018, we are proposing the RUC-recommended work RVUs and direct PE inputs for each code in this family and are seeking comment on our proposed and alternative values.

(10) Bronchial Aspiration of Tracheobronchial Tree (CPT codes 31645 and 31646)

CPT code 31645 was identified as potentially misvalued on a screen of Harvard-valued codes with utilization over 30,000 in CY 2014. CPT code 31646 was added for review as part of the family of codes, and both were revised to reflect recent changes in how the services are typically performed. For CY 2018, we are proposing the RUC-recommended work RVU of 2.88 for CPT code 31645 and the RUC-recommended work RVU of 2.78 for CPT code 31646.

We considered a work RVU of 2.72 for CPT code 31645, crosswalking to CPT code 45347 (Sigmoidoscopy, flexible; with placement of endoscopic stent). We have concerns regarding the decrease in intraservice and total time compared to the current values (we also believe that it is important to note how these related codes have been affected by the creation of separately billable codes for moderate sedation (see CY 2017 PFS final rule (81 FR 80339)). The RUC-recommended values CPT code 31645 higher than CPT code 31622 (Bronchoscopy, rigid or flexible, including fluoroscopic guidance, when performed; diagnostic, with cell washing, when performed), which is the base procedure for this wider group of codes. We agree that CPT code 31645 should be valued at a higher work RVU than CPT code 31622, however, we are seeking comment on whether the work of moderate sedation was inadvertently included in the development of the recommended work RVU. We note that as part of the CY 2017 PFS final rule (81 FR 80339), we finalized separate payment for moderate sedation. Following the creation of separately billable codes for moderate sedation, CPT code 31622 is currently valued at a work RVU of 2.53, not 2.78 as it was previously valued, and we do not believe it would be appropriate to continue to value CPT code 31645 as though moderate sedation was still an inherent part of the work of this service. As a result, we considered a direct crosswalk to CPT code 45347, which has the same intraservice time and 8 additional minutes of total time, at a work RVU of 2.72.

We considered a work RVU of 2.53 for CPT code 31646, crosswalking to CPT code 31622 (Dx bronchoscope/wash). The RUC recommendation for CPT code 31646 indicated that the code was comparable to CPT code 31622, since they share the same intraservice time and similar total time, and that the recommended work RVU of 2.78 for CPT code 31646 was equal to the work RVU of CPT code 31622 before the CY 2017 changes to reporting of moderate sedation. We agree with the survey participants that these two codes are comparable to one another, but have concerns about valuation of CPT code 31646 using a cross reference to a code that included moderate sedation. We considered crosswalking CPT code 31646 (Bronchoscopy reclear airway) using the current CY 2017 valuation for CPT code 31622 (a work RVU of 2.53).

For the direct PE inputs, we are proposing to remove the oxygen gas (SD084) from CPT code 31645. This supply is included in the separately billable moderate sedation codes, and we are proposing to remove the oxygen gas as recommended by the RUC's PE Subcommittee as part of the removal of oxygen from non-moderate sedation post-procedure monitoring codes. We are proposing to remove the equipment time for the IV infusion pump (EQ032) from CPT code 31645. We do not agree that there would typically be a need for a separate infusion pump in CPT code 31645, as the infusion pump is contained in the separately reportable moderate sedation codes. We are also proposing to remove the equipment time for the CO<sub>2</sub> respiratory profile monitor (EQ004) and the mobile instrument table (EF027) from CPT code 31645. These equipment items are not contained in the current composition of the code, and there was no rationale provided in the RUC recommendations for their inclusion. As a result, we do not believe that their use would be typical for CPT code 31645.

We are proposing to increase the equipment time for the flexible bronchoscopy fiberscope (ES017) for CPT code 31645 consistent with standard equipment times for scopes. We are also

proposing to increase the equipment time for the Gomco suction machine (EQ235) and the power table (EF031) consistent with standard equipment times for non-highly technical equipment.

For CY 2018, we are proposing the RUC-recommended work RVUs for both codes in this family and are seeking comment on whether we should finalize refined values consistent with the implementation of separately billable codes for moderate sedation.

(11) Cryoablation of Pulmonary Tumor (CPT codes 32998 and 32X99)

For CY 2018, the CPT Editorial Panel modified the descriptor for CPT code 32998 (Ablation therapy for reduction or eradication of 1 or more pulmonary tumor(s) including pleura or chest wall when involved by tumor extension, percutaneous, including imaging guidance when performed, unilateral; radiofrequency) to include imaging guidance. In addition, the panel deleted Category III CPT Code 0304T and replaced it with a new CPT code 32X99, to describe ablation therapy for reduction of pulmonary tumor using cryoablation with imaging guidance. For CY 2018, we are proposing the RUC-recommended work RVUs for CPT codes 32998 (a work RVU of 9.03) and 32X99 (a work RVU of 9.03).

However, we have concerns about the descriptions of the codes and the recommended valuations assuming that imaging guidance is inherent to the procedure. Based on our analysis of claims data from 2014, existing CPT code 32998 is currently reported with one of the three imaging guidance codes (CPT codes 76940, 77013, or 77022) less than 50 percent of the time. We seek comment on whether there is additional information that would help explain why the codes are being bundled despite what is reflected in the Medicare claims data. We considered a work RVU of 7.69 for CPT code 32998, that included approximately one half the value of the imaging guidance in the new codes that describe the work of both the procedure and the image guidance (that is, the sum of the current work RVU for CPT code 32998 and one-half of the work RVU for CPT code 77013 (the imaging guidance code most frequently billed with CPT code 32998 according to 2014 claims data)). We applied the same general rationale regarding the use

of imaging guidance for new CPT code 32X99. Since the RUC recommended identical work RVUs for these codes, we also considered a work RVU of 7.69 for CPT 32X99.

For CPT codes 32998 and 32X99, we are proposing to use the RUC-recommended direct PE inputs with standard refinements.

For CY 2018, we are proposing the RUC-recommended work RVUs and direct PE inputs for both codes and are seeking comment on our proposed and alternative values.

#### (12) Artificial Heart System Procedures (CPT codes 339X1, 339X2, and 339X3)

For CY 2018, the CPT Editorial Panel deleted Category III CPT Codes 0051T through 0053T and created CPT codes 339X1, 339X2, and 339X3 to report artificial heart system procedures. We are proposing the RUC-recommended work RVU of 49.00 for CPT code 339X1, and proposing to assign contractor-priced status to CPT codes 339X2 and 339X3 as recommended by the RUC.

We considered assigning contractor-priced status for CPT code 339X1. We have concerns regarding the accuracy of the RUC-recommended work valuation for CPT code 339X1, due to its low utilization and the resulting difficulties in finding enough practitioners with direct experience of the procedure for the specialty societies to survey. We seek comment on the sufficiency of the survey data, especially since new technologies and those with lower utilization are typically contractor-priced. For CY 2018, we are proposing the RUC-recommended work RVUs for CPT code 339X1. We are seeking comment on alternative pricing for this CPT code 339X1.

We are not proposing any direct PE inputs, as we did not receive RUC-recommended PE information for CPT codes 339X1, 339X2, and 339X3. These three codes will be placed on the RUC's new technology list and will be re-reviewed by the RUC in 3 years.

#### (13) Endovascular Repair Procedures (CPT codes 34X01, 34X02, 34X03, 34X04, 34X05, 34X06, 34X07, 34X08, 34X09, 34X10, 34X11, 34X12, 34X13, 34812, 34X15, 34820, 34833, 34834, 34X19, and 34X20)

The CPT/RUC joint workgroup on codes recommended in October 2015 to bundle endovascular abdominal aortic aneurysm repair (EVAR) codes together with radiologic supervision and interpretation codes, since these codes were typically reported together at least 50 percent of the time. The CPT Editorial Panel bundled these services together in September 2016, creating 16 new codes, revising four existing codes, and deleting 14 other codes related to endovascular repair procedures.

We are proposing the RUC-recommended work RVUs for all 20 codes in this family. We are proposing a work RVU of 23.71 for CPT code 34X01, a work RVU of 36.00 for CPT code 34X02, a work RVU of 26.52 for CPT code 34X03, a work RVU of 45.00 for CPT code 34X04, a work RVU of 29.58 for CPT code 34X05, a work RVU of 45.00 for CPT code 34X06, a work RVU of 22.28 for CPT code 34X07, a work RVU of 36.50 for CPT code 34X08, a work RVU of 6.50 for CPT code 34X09, a work RVU of 15.00 for CPT code 34X10, a work RVU of 6.00 for CPT code 34X11, a work RVU of 12.00 for CPT code 34X12, a work RVU of 2.50 for CPT code 34X13, a work RVU of 4.13 for CPT code 34812, a work RVU of 5.25 for CPT code 34X15, a work RVU of 7.00 for CPT code 34820, a work RVU of 8.16 for CPT code 34833, a work RVU of 2.65 for CPT code 34834, a work RVU of 6.00 for CPT code 34X19, and a work RVU of 7.19 for CPT code 34X20.

We are also proposing the RUC-recommended direct PE inputs without refinement for all 20 codes in the family.

We considered a work RVU of 32.00 for CPT code 34X02 based on the survey 25<sup>th</sup> percentile, and further supported with a crosswalk to CPT code 48000 (Placement of drains, peripancreatic, for acute pancreatitis), which has the same intraservice time of 120 minutes and a work RVU of 31.95. When we compared the RUC-recommended work RVU to similar codes valued under the PFS, we were unable to find any 90-day global services with 120 minutes of intraservice time and approximately 677 minutes of total time that had a work RVU greater than 36.00.

We considered a work RVU of 40.00 for CPT code 34X04 based on the survey 25<sup>th</sup> percentile, crosswalking to CPT code 33534 (Coronary artery bypass, using arterial graft(s); 2 coronary arterial grafts) which has a work RVU of 39.88. CPT code 33534 has 193 minutes of intraservice time, but a lower total time of 717 minutes. When we compared the RUC-recommended work RVU for CPT code 34X04 to similar codes paid under the PFS, we were unable to find any 90-day global services with 180 minutes of intraservice time and approximately 737 minutes of total time that had a work RVU greater than 45.00.

We considered a work RVU of 40.00 for CPT code 34X06 based on the survey 25<sup>th</sup> percentile. CPT code 34X06 has nearly identical time values to CPT code 34X04, with 2 fewer minutes of intraservice time and total time, and the RUC-recommended work RVU was the same for both of these codes. The survey respondents also believe that these two codes had a comparable amount of work, as the survey 25<sup>th</sup> percentile work RVU is 40.00 for both codes.

We considered a work RVU of 30.00 for CPT code 34X08 based on the survey 25<sup>th</sup> percentile and seek comment on whether a work RVU of 30.00 would improve relativity among the codes in this family. CPT code 34X08 has identical intraservice and total times as CPT code 34X02. However, we note that the RUC-recommended work RVU of 36.50 for CPT code 34X08 is higher than the RUC-recommended work RVU of 36.00 for CPT code 34X02. This is the inverse of the relationship between CPT codes 34X07 and 34X01, which describe the same procedures in a non-emergent state when a rupture does not take place. CPT code 34X07 has a RUC-recommended work RVU of 22.28 while CPT code 34X01 has a RUC-recommended work RVU of 23.71. We seek comment on whether the RUC-recommended work RVUs would create a rank order anomaly within the family by reversing the relationship between these paired codes when performed in an emergent state. We note that if CPT codes 34X08 and 34X02 were valued at the survey 25<sup>th</sup> percentile, this potential rank order anomaly disappears; in this scenario, we considered

valuing CPT code 34X08 at a work RVU of 30.00 and CPT code 34X02 at a work RVU of 32.00. We seek comment on whether these alternative work values would improve relativity with the RUC-recommended work RVUs for CPT code 34X07 (22.28) and CPT code 34X01 (23.71), with an increment of approximately 1.50 to 2.00 RVUs between the two code pairs.

For the eight remaining codes that describe endovascular access procedures, we considered assignment of a 0-day global period, instead of the RUC-recommended add-on (ZZZ) global period and subsequently adding back the preservice and immediate postservice work time, and increasing the work RVU of each code accordingly using a building block methodology. We note that as add-on procedures, these eight codes would not be subject to the multiple procedure payment discount. We are concerned that the total payment for these services will be increasing in the aggregate based on changes in coding that alter MPPR adjustments, despite the information in the surveys that reflects a decrease in the intraservice time required to perform the procedures, and a decrease in their overall intensity as compared to the current values.

We considered a work RVU of 3.95 for CPT code 34X13, based on the RUC-recommended work RVU of 2.50 plus an additional 1.45 work RVUs. This additional work results from the addition of 38 total minutes of preservice work time and 30 minutes of postservice work time based on a crosswalk to CPT code 37224 (Revascularization, endovascular, open or percutaneous, femoral, popliteal artery(s), unilateral; with transluminal angioplasty) as valued by using the building block methodology. Using the same method, we considered a work RVU of:

- 6.48 for CPT code 34812 based on maintaining the current 75 minutes of preservice work time and the current 30 minutes of postservice work time, with a total work RVU of 2.35, added to the RUC-recommended work RVU of 4.13;



- 7.53 for CPT code 34X15 with the addition of 75 minutes of preservice work time and 27 minutes of postservice work time to match CPT code 34833;
- 9.46 for CPT code 34820 based on maintaining the current 80 minutes of preservice work time and the current 30 minutes of postservice work time;
- 10.44 for CPT code 34833 based on maintaining the current 75 minutes of preservice work time and the current 27 minutes of postservice work time;
- 5.00 for CPT code 34834 based on maintaining the current 70 minutes of preservice work time and the current 35 minutes of postservice work time;
- 8.35 for CPT code 34X19 with the addition of 70 minutes of preservice work time and 35 minutes of postservice work time to match CPT code 34834; and
- 9.47 for CPT code 34X20 with the addition of 75 minutes of preservice work time and 27 minutes of postservice work time to match CPT code 34833.

(14) Selective Catheter Placement (CPT codes 36215, 36216, 36217, and 36218)

CPT code 36215 was identified as potentially misvalued on a screen of Harvard-valued codes with utilization over 30,000 in CY 2014, as well as on a screen of high expenditure services across specialties with Medicare allowed charges of over \$10 million. CPT codes 36216, 36217, and 36218 were added to the family to be reviewed together with CPT code 36215.

We are proposing the RUC-recommended work RVUs for each code in this family as follows: a work RVU of 4.17 for CPT code 36215, a work RVU of 5.27 for CPT code 36216, a work RVU of 6.29 for CPT code 36217, and a work RVU of 1.01 for CPT code 36218.

We also considered refinements to the intraservice work time for CPT code 36217 from 60 minutes to 50 minutes, consistent with the RUC's usual use of the survey median intraservice work time. We have concerns that the use of the recommended survey 75<sup>th</sup> percentile intraservice work time will

not be clinically appropriate for this code, as the 75<sup>th</sup> percentile time was identical for both CPT code 36216 and 36217, and therefore, the use of this value would not preserve the incremental, linear consistency between the work RVU and the intraservice time within the family.

For the direct PE inputs, we are proposing to refine the clinical labor time for the “Post-procedure doppler evaluation (extremity)” activity from 3 minutes to 1 minute for CPT codes 36215, 36216, and 36217. We believe that 1 minute would be more typical for this task, as the practitioner would be able to quickly evaluate if there was an issue with the extremity because there would be visual signs of arterial insufficiency resulting from the procedure.

We are proposing to remove the equipment time for the mobile instrument table (EF027) from CPT codes 36215, 36216, and 36217. We believe that the mobile instrument table would be used for moderate sedation, which was removed from these procedures in CY 2017 (see CY 2017 PFS final rule (81 FR 80339)). While we recognize that 180 minutes of post-procedure monitoring time remains in these codes during which the stretcher (EF018), IV infusion pump (EQ032), and 3-channel ECG (EQ011) would remain in use, we do not agree that the mobile instrument table would typically be in use during this period of monitoring. As a result, we are proposing to remove this equipment time from these three codes.

While we remain concerned about the use of the survey 75<sup>th</sup> percentile intraservice work time for CPT code 36217, for CY 2018, we are proposing the RUC-recommended work RVUs for each code in this family and seek comment on whether our alternative values would be more appropriate.

#### (15) Treatment of Incompetent Veins (CPT codes 36470, 36471, 364X3, 364X4, 364X5, and 364X6)

In September 2016, the CPT Editorial Panel created four new codes to describe the treatment of incompetent veins, and revised existing CPT codes 36470 and 36471. These six codes were reviewed together as part of the same family of procedures. For CY 2018, we are proposing the RUC-

recommended work RVU for all six codes as follows: a work RVU of 0.75 for CPT code 36470, a work RVU of 1.50 for CPT code 36471, a work RVU of 3.50 for CPT code 364X3, and a work RVU of 1.75 for CPT code 364X4, a work RVU of 2.35 for CPT code 364X5, and a work RVU of 3.00 for CPT code 364X6.

We considered a work RVU of 4.38 for CPT code 364X3, which would have been based on the RUC-recommended work RVU of 3.50 plus half of the RUC-recommended work RVU of CPT code 364X4. We also considered assigning CPT code 364X4 a status indicator of “bundled.” The services that would be reported using CPT codes 364X3 and 364X4 in CY 2018, are currently reported with unlisted CPT code 37799 (Unlisted procedure, vascular surgery). We have concerns about the frequency that the current services include treatment of an initial vein (CPT code 364X3) as compared to the treatment of initial and subsequent veins (CPT codes 364X3 and 364X4 together). It may be more accurate to describe these services through the use of a single code, as in the rest of this code family, instead of a base code and add-on code pair. Under this potential scenario, we looked at the RUC-recommended crosswalk and noted that the add-on CPT code 364X4 was estimated to be billed 50 percent of the time together with CPT code 364X3. We therefore considered adding half of the RUC-recommended work RVU of CPT code 364X4 (0.88) to the RUC-recommended work RVU of CPT code 364X3 (3.50), resulting in a work RVU of 4.38.

We are proposing to remove the 2 minutes of clinical labor for the “Setup scope” (CA015) activity and add the same 2 minutes of clinical labor for the “Prepare room, equipment and supplies” (CA013) activity for CPT codes 364X3, 364X5, and 364X6. The RUC-recommended materials stated that these 2 minutes were a proxy for setting up the ultrasound machine, and we believe that this 2 minutes is more accurately described by the “Prepare room, equipment and supplies” (CA013) activity code, since there is no scope equipment utilized in these procedures. We are proposing to maintain the

Vascular Tech (L054A) clinical labor type for these 2 minutes. We are also proposing to refine the clinical labor for the “Check dressings, catheters, wounds” (CA029) activity for CPT codes 36470, 36471, 364X3, 364X5, and 364X6, consistent with the standard times for this clinical labor activity.

We are proposing to remove the six individual 4x4 sterile gauze (SG055) supplies and replace them with a 4x4 sterile gauze pack of 10 (SG056) for CPT codes 36470, 36471, 364X3, 364X5, and 364X6. The pack of 10 sterile gauze is cheaper than six individual pieces of sterile gauze, and we do not agree that it would be typical to pay a higher cost for fewer supplies. We are also proposing to create three new supply codes in response to the invoices submitted for this family of codes. We are proposing to establish a price of \$1495 for the Venaseal glue (SD323) supply, a price of \$3195 for the Varithena foam (SD324) supply, and a price of \$40 for the Varithena admin pack (SA125) supply.

We are proposing to adjust the equipment times for the surgical light (EF014), the power table (EF031), and the portable ultrasound unit (EQ250) for CPT codes 364X3, 364X5, and 364X6 consistent with the standards for non-highly technical equipment and to reflect the changes in the clinical labor described in this section of the proposed rule.

While we remain concerned about the creation of a base code and add-on code pairing (CPT codes 364X3 and 364X4) out of services that are currently reported using an unlisted code, for CY 2018, we are proposing the RUC-recommended work RVUs for each code in this family and are seeking comment on whether our alternative values would be more appropriate.

(16) Therapeutic Apheresis (CPT codes 36511, 36512, 36513, 36514, 36516, and 36522)

CPT code 36516 was nominated as potentially misvalued in the CY 2016 PFS proposed rule. The CPT Editorial Panel deleted CPT code 36515 and made revisions to CPT code 36516 to include immunoabsorption. CPT codes 36511, 36512, 36513, 36514, and 36522 were added to CPT code 36516 to be reviewed together as part of the therapeutic apheresis family.

For CY 2018, we are proposing the RUC-recommended work RVU for all six codes in the family as follows: a work RVU of 2.00 for CPT code 36511, a work RVU of 2.00 for CPT 36512, a work RVU of 2.00 for CPT code 36513, a work RVU of 1.81 for CPT code 36514, a work RVU of 1.56 for CPT code 36516, and a work RVU of 1.75 for CPT code 36522.

We are proposing to use the RUC-recommended direct PE inputs for these codes without refinement. We considered refining the clinical labor time for the “Prepare room, equipment, supplies” activity from 20 minutes to 10 minutes for CPT codes 36514 and 36522, and from 30 minutes to 10 minutes for CPT code 36516. We also considered refining the clinical labor for the “Prepare and position patient/monitor patient/set up IV” activity from 15 minutes to 10 minutes for these same three codes. In both cases, we considered maintaining the current clinical labor time for CPT codes 36514 and 36516, and adjusting the clinical labor time for CPT code 36522 to match the other two codes in the family. We have concerns about the lack of a rationale provided for these changes in clinical labor time, and whether these clinical labor tasks would typically require this additional time.

We are proposing the RUC-recommended work RVUs and to use the RUC-recommended direct PE inputs for each code in this family and seeking comment on whether our alternative values would be more appropriate. We are also seeking comment on whether these procedures are creating a new point of venous access or utilizing a previously placed access.

(17) Insertion of Catheter (CPT codes 36555, 36556, 36620, and 93503)

CPT code 36556 was identified as part of a screen of high expenditure services with Medicare allowed charges of \$10 million or more that had not been recently reviewed. CPT codes 36555, 36620, and 93503 were added for review as part of the code family. We are proposing the RUC-recommended work RVUs for each code in this family as follows: a work RVU of 1.93 for CPT code 36555, a work

RVU of 1.75 for CPT code 36556, a work RVU of 1.00 for CPT code 36620, and a work RVU of 2.00 for CPT code 93503.

We are proposing to remove the clinical labor time for the “Monitor pt. following procedure” activity and the equipment time for the 3-channel ECG (EQ011) for CPT code 36555. CPT code 36555 no longer includes moderate sedation as part of the procedure (see CY 2017 PFS final rule (81 FR 80339). We are proposing to remove the direct PE inputs related to moderate sedation from CPT code 36555 as they would now be included in the separately reported moderate sedation services. We are also proposing to refine the equipment times for the exam table (EF023) and the exam light (EQ168) to reflect changes in the clinical labor time.

(18) Insertion of PICC Catheter (CPT code 36569)

CPT code 36569 was identified as part of a screen of high expenditure services with Medicare allowed charges of \$10 million or more that had not been recently reviewed. For CY 2018, we are proposing the RUC-recommended work RVU of 1.70 for CPT code 36569.

We are proposing to remove the equipment time for the exam table (EF023), as this equipment item is a component part of the radiographic-fluoroscopic room (EL014) included in CPT code 77001 (Fluoroscopic guidance for central venous access device placement, replacement (catheter only or complete), or removal). Because CPT code 36569 is typically billed together with CPT code 77001, we believe that the additional equipment time for the exam table would be duplicative.

(19) Bone Marrow Aspiration (CPT codes 38220, 38221, 382X3, and 2093X)

CPT code 38221 was identified as part of a screen of high expenditure services with Medicare allowed charges of \$10 million or more that had not been recently reviewed. The descriptors for CPT codes 38220 and 38221 were revised to reflect changes in practice patterns, and two new CPT codes (382X3 and 2093X) were created to more accurately describe new services that are now available. For

CY 2018, we are proposing the RUC-recommended work RVUs for each code in this family as follows: a work RVU of 1.20 for CPT code 38220, a work RVU of 1.28 for CPT code 38221, a work RVU of 1.44 for CPT code 382X3, and a work RVU of 1.16 for CPT code 2093X.

We also received a recommendation from the RUC to change the global period for CPT codes 38220, 38221, and 382X3 from XXX global periods to 0-day global periods, even though these codes were surveyed under the XXX global period. We agree with the recommendation that for these three particular codes, their services are more accurately described when assigned 0-day global periods as opposed to the XXX global status. Therefore, we propose to assign a 0-day global period to all three codes in this family. We note, however, that we believe that global period changes must be addressed on an individual basis, especially when the routine survey methodologies rely on assumptions regarding global periods for particular codes. Subsequently, we are proposing to refine the preservice work time from 15 minutes of evaluation time to 9 minutes of evaluation time, 1 minute of positioning time, and 5 minutes of scrub, dress, and wait time. We are proposing these refinements to the work times for these three codes to more closely align with the preservice times of other recently reviewed 0-day global procedures, such as CPT code 30903 (Control nasal hemorrhage, anterior, complex (extensive cautery and/or packing) any method). We also note that given our proposal to value CPT code 382X3, we are proposing to eliminate payment using HCPCS code G0364 for CY 2018 since the changes to the set of CPT codes will now accurately describe the services currently reported by G0364. For CPT code 2093X, we considered a work RVU of 1.00 based on a direct crosswalk to CPT codes 64494 (Injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with image guidance (fluoroscopy or CT), lumbar or sacral; second level) and 64495 (Injection(s), diagnostic or therapeutic agent, paravertebral facet (zygapophyseal) joint (or nerves innervating that joint) with image guidance (fluoroscopy or CT), lumbar or sacral; third and any additional level(s)). CPT code

2093X is a global *ZZZ* add-on code for CPT code 38220, and we are concerned with maintaining relativity among PFS services, considering that an add-on code typically has significantly less intraservice time and total time compared to the base code. We considered an alternative crosswalk to CPT codes 64494 and 64495, which share the same intraservice and total time with CPT code 2093X and have a work RVU of 1.00.

We are also proposing to refine the clinical labor for “Lab Tech activities” from 12 minutes to 9 minutes for CPT code 38220, from 7.5 minutes to 7 minutes for CPT code 38221, and from 12.5 minutes to 10 minutes for CPT code 382X3. We are maintaining the current time value for the two existing codes, as we have no reason to believe that the typical duration has increased for these lab activities. We are assigning 10 minutes for CPT code 382X3 based on the statement in the RUC-recommended materials for the direct PE inputs that this activity takes 0.5 minutes longer than it does in the current version of CPT code 38220. We are also proposing to remove the breakout lines for the lab activities. We believe that the breakout of activities into numerous subactivities generally tends to inflate the total time assigned to clinical labor activities and results in values that are not consistent with the analogous times for other PFS services.

We considered refining the clinical labor for “Provide preservice education/obtain consent” for CPT codes 38220, 38221, and 382X3 from 12 minutes to 6 minutes. We have concerns regarding whether 12 minutes would be typical for education and consent prior to these procedures, as much of the patient education takes place following the procedure, in the clinical labor activity described under the “Check dressings & wound/home care instructions” heading.

We are proposing the RUC-recommended work RVUs for each code in this family and are seeking comment on whether our alternative values would be more appropriate.

(20) Esophagectomy (CPT codes 43107, 43112, 43117, 432X5, 432X6, and 432X7)



CPT codes 432X5, 432X6, and 432X7 were created by the CPT Editorial Panel to report esophagectomy via laparoscopic and thoracoscopic approaches. CPT codes 43107, 43112, and 43117 were also reviewed as part of the family with the three new codes. CPT code 43112 was revised to clarify the nature of the service being performed. We are proposing the RUC-recommended work RVUs and work times for all six codes in the family as follows: a work RVU of 52.05 for CPT code 43107, a work RVU of 62.00 for CPT code 43112, a work RVU of 57.50 for CPT code 43117, a work RVU of 55.00 for CPT code 432X5, a work RVU of 63.00 for CPT code 432X6, and a work RVU of 66.42 for CPT code 432X7.

We are also proposing the RUC-recommended work times for all six codes in this family. We considered removing 20 minutes from the preservice evaluation work time from all six of the codes in this family. We have concerns as to whether this additional evaluation time should be included for surgical procedures, due to the lack of evidence indicating that it takes longer to review outside imaging and lab reports for surgical services than for non-surgical services. We also considered refining the preservice positioning work time and the immediate postservice work time for all six of the codes in this family consistent with standard preservice and postservice work times allocated to other PFS services.

We have concerns about the presence of two separate surveys conducted for the three new codes. We note that CPT codes 432X5, 432X6, and 432X7 were surveyed initially in January 2016, and then were surveyed again in October 2016 together with CPT codes 43107, 43112, and 43117 due to concerns about the description of the typical patient in the original vignette and a change in the codes on the reference service list (RSL). We note that CPT codes 432X5 and 432X6 had the same median intraservice time on both surveys, while CPT code 432X7 had a median intraservice time that was an hour longer on its second survey (420 minutes) as compared to its first survey (360 minutes). We also note that the total survey time for CPT code 432X5 decreased from 1058 minutes in the first survey to

972 minutes in the second survey, while the median work RVU increased from 50.00 to 65.00. We do not understand how the survey median intraservice time could increase so significantly from the first survey to the second survey for CPT code 432X7, or how the surveyed times for CPT code 432X5 could be decreasing while the work RVU was simultaneously increasing by 15.00 work RVUs.

Based on our analysis, it appears that the accompanying RSL is the main difference between the two surveys; the codes on the initial RSL had a median work RVU of 44.18, while the codes on the second RSL had a median work RVU of 59.64. This increase of 15.00 work RVUs between the two RSLs that accompanied the surveys appears to account for the increase in the work RVUs for the three new codes. We are concerned that the second survey may have overestimated the work required to perform these procedures, as the 25<sup>th</sup> percentile work RVU of the second survey is higher than the median work RVU of the initial survey for all three codes, despite no change in the median intraservice work time for CPT codes 432X5 and 432X6.

Given these concerns, we considered a work RVU of 50.00 for CPT code 432X5, a work RVU of 60.00 for CPT code 432X6, and a work RVU of 61.00 for CPT code 432X7, by using the survey median work RVU from the first survey for the three new codes. For CPT codes 43107 and 43117, we considered employing the intraservice time ratio between the laparoscopic version of the procedure represented by the new code and the open version of the same procedure represented by the existing code.

We considered a work RVU of 45.00 for CPT code 43107 based on the intraservice time ratio with CPT code 432X5 and a work RVU of 55.00 for CPT code 43117 based on the intraservice time ratio with CPT code 432X6. CPT code 43107 has 270 minutes of intraservice time as compared with 300 minutes of intraservice time for CPT code 432X5, which produces a ratio of 0.9, and when

multiplied by a work RVU of 50.00 (CPT code 432X5), results in the proposed work RVU of 45.00.

We considered using the same methodology for CPT codes 43117 and 432X6.

Finally, we considered a work RVU of 58.94 for CPT code 43112 based on a direct crosswalk to CPT code 46744 (Repair of cloacal anomaly by anorectovaginoplasty and urethroplasty, sacroperineal approach). We note that the intraservice time ratio when applied to CPT codes 43112 and 432X7, the paired McKeown esophagectomy procedures, would have produced a potential work RVU of 52.29, creating a rank order anomaly within the family by establishing a higher work RVU for CPT code 43117 than CPT code 43112, and are concerned with whether this is an appropriate valuation for the code.

We are seeking comment on whether the alternative work RVUs that we considered may reflect the relative difference in work more accurately between the six codes in the family. We note, for example, that these valuations correct the rank order anomaly between CPT codes 43112 and 43121 as noted in the RUC recommendations.

We are proposing the RUC-recommended direct PE inputs for all six codes in the family without refinement. We considered changing the preservice clinical labor type for all six codes from an RN (L051) to an RN/LPN/MTA blend (L037D). We have concerns about whether the use of RN clinical labor would be typical for filling out referral forms or for scheduling space and equipment in the facility. We also considered removing the additional clinical labor time for the “Additional coordination between multiple specialties for complex procedures (eg, tests, meds, scheduling)” activity, consistent with preservice standards for codes with 90-day global periods. We are concerned that this time would not typically be included in non-surgical procedures performed by other specialties even when additional coordination is required.

We are seeking comment regarding the changes in the valuation between the two surveys, the preservice and immediate postservice work times, and the RN staffing type employed for routine preservice clinical labor.

(21) Transurethral Electrosurgical Resection of Prostate (CPT code 52601)

CPT code 52601 appeared on a screen of potentially misvalued codes which indicated that it was performed less than 50 percent of the time in the inpatient setting, yet included inpatient hospital E/M services within the global period. For CY 2018, we are proposing the RUC-recommended work RVU of 13.16 for CPT code 52601 and proposing to use the RUC-recommended direct PE inputs without refinements.

We considered a work RVU of 12.29 for CPT code 52601 based on a direct crosswalk to CPT code 58541 (Laparoscopy, surgical, supracervical hysterectomy, for uterus 250 g or less), which is one of the reference codes. CPT code 58541 may potentially be a more accurate crosswalk for CPT code 52601 than the RUC-recommended direct crosswalk to CPT code 29828 (Arthroscopy, shoulder, surgical; biceps tenodesis). Although all three of these codes share the same intraservice time of 75 minutes, CPT code 58541 is a closer match in terms of the total time at only 10 minutes difference. CPT code 58541 also shares the same postoperative office visits as CPT code 52601, a pair of CPT code 99213 office visits, while CPT code 29828 also contains two CPT code 99212 office visits that are not present in the reviewed code.

We note that if we were to use a reverse building block methodology for CPT code 52601 and subtract out the value of the E/M visits being removed, the proposed work RVU would be 11.21. We are not proposing this work RVU, however, because as we noted in the CY 2017 PFS final rule (81 FR 80274), we agree that the per-minute intensity of work is not necessarily static over time or even necessarily during the course of a procedure. Instead, we utilize time ratios and building block

methodologies to identify potential values that account for changes in time and compare these values to other PFS services for estimates of overall work. When the values we develop reflect a similar derived intensity, we agree that our values are the result of our assessment that the relative intensity of a given service has remained similar. For CPT code 52601, we are concerned as to how the RUC-recommended derived intensity of the procedure could be increasing by 30 percent over the current derived intensity, while at the same time the typical site of service is changing from inpatient to outpatient status. In other words, if it is now typical for CPT code 52601 to be performed on an outpatient basis, then we would generally expect the intensity of the procedure to be decreasing, not increasing. We considered a work RVU of 12.29 for CPT code 52601 based on a direct crosswalk to CPT code 58541 (Lsh uterus 250 g or less), and seek comment on whether this alternative value might better reflect relativity.

(22) Peri-Prostatic Implantation of Biodegradable Material (CPT code 55X87)

In October 2016, the CPT Editorial Panel deleted CPT Category III code 0438T and created a new CPT code 55X87 (Transperineal placement of biodegradable material, peri-prostatic, single or multiple injection(s), including image guidance, when performed). For CY 2018, we are proposing the RUC-recommended work RVU of 3.03 for CPT code 55X87.

In reviewing the RUC recommendations, we noted a decrease in preservice time (30 minutes) compared to the current value. In order to account for this change in time, we considered calculating the intraservice time ratio between the key reference code (CPT code 49411), which has an intraservice time of 40 minutes, and the RUC-recommended intraservice time (30 minutes) and multiplying that against the work RVU for CPT code 49411 (3.57), which would have resulted in a work RVU of 2.68. A work RVU of 2.68 would have been further supported by a bracket of two crosswalk codes, CPT code 65779 (Placement of amniotic membrane on the ocular surface; single layer, sutured) which has a work RVU of 2.50 and CPT code 43252 (Esophagogastroduodenoscopy, flexible, transoral; with optical

endomicroscopy), which has a work RVU of 2.96. Compared with CPT code 55X87, these codes have identical intraservice and similar total times. We are seeking comment on whether these alternative values should be considered, especially given the changes in time reflected in the survey data.

We received invoices with pricing information regarding two new supply items: “endocavity balloon” and “biodegradable material kit – periprostatic”. The invoice for endocavity balloon was \$399.00 and the input price on the PE spreadsheet for this supply item was noted as such. We believe the input price noted on the PE spreadsheet was an error, given that the invoice noted that the price of \$399.00 was for a box of ten and the specialty society requested a single unit of this supply item. Therefore, we are proposing to use this information to propose for supply item “endocavity balloon” a price of \$39.90. The invoice for the “biodegradable material kit – periprostatic” totaled \$2850.00. We are proposing to use this information to propose for the supply item “biodegradable material kit – periprostatic” a price of \$2850.00. We also received an invoice with pricing information regarding the new equipment item “endocavitary US probe” which totaled \$16,146.00. We are proposing to use this information to propose for equipment item “endocavitary US probe”, a per-minute price of \$0.0639. We question, given an invoice price of \$29,999.00 for this existing equipment item EQ250 (portable ultrasound unit), whether this equipment item includes probes. We are seeking public comments related to whether equipment item EQ250 (portable ultrasound) includes probes.

(23) Colporrhaphy with Cystourethroscopy (CPT codes 57240, 57250, 57260 and 57265)

In October 2015, CPT code 57240 was identified by analysis of the Medicare data from 2011-2013 that indicated that services reported with CPT code 57240 were performed less than 50 percent of the time in the inpatient setting, yet include inpatient hospital E/M services within the global period. The RUC recommended that CPT codes 57240 (Anterior colporrhaphy, repair of cystocele with or without repair of urethrocele), 57250 (Posterior colporrhaphy, repair of rectocele with or without

perineorrhaphy), 57260 (Combined anteroposterior colporrhaphy), and 57265 (Combined anteroposterior colporrhaphy; with enterocele repair) be referred to the CPT Editorial Panel. In September 2016, the CPT Editorial Panel revised 57240, 57260 and 57265 to preclude separate reporting of follow up cystourethroscopy after colporrhaphy (CPT code 52000).

For CY 2018, we are proposing the RUC-recommended work RVUs for CPT code 57240 (a work RVU of 10.08), CPT code 57250 (a work RVU of 10.08), CPT code 57260 (a work RVU of 13.25), and CPT code 57265 (a work RVU of 15.00).

We note that there were changes in service times reflected in the specialty surveys compared to the RUC-recommended work RVUs for CPT code 57240. Specifically, we note that the RUC recommended a 48 minute decrease in total time, compared to the specialty survey total time of 259 minutes. The difference in total time reflected a decrease in preservice time (29 minutes) and inpatient visits (0.5 visits = 19 minutes). We considered a work RVU of 9.77 for CPT code 57240, crosswalking to CPT code 50590 (Lithotripsy, extracorporeal shock wave), which has similar service times. We are seeking comment on whether CPT code 57250 would be a relevant comparator for CPT code 57240, based on the described elements of each service and existing or surveyed service times, compared to CPT code 57240.

We considered a work RVU of 11.47 for CPT code 57265, crosswalking to CPT code 47563 (Laparoscopy, surgical; cholecystectomy with cholangiography) with similar service times. We seek comment on how an alternative work RVU of 11.47 for CPT code 57265 would affect relativity among PFS services, and on whether CPT code 57260 is a relevant comparator for CPT code 57265, considering differences in the described procedures and service times.

We are proposing the RUC-recommended direct PE inputs for CPT codes 57240, 57250, 57260 and 57265 without refinements.

(24) Nerve Repair with Nerve Allograft (CPT codes 64910, 64911, 64X91 and 64X92)

The CPT Editorial Panel created two new CPT Category I codes (64X91 and 64X92) to report the repair of a nerve using a nerve allograft. CPT codes 64910 and 64911 were also reviewed as part of this code family. CPT codes 64X91 and 64X92 will be placed on the new technology list to be re-reviewed by the RUC in 3 years to ensure correct valuation and utilization assumptions.

For CY 2018, we are proposing the RUC-recommended work RVUs for the following codes: a work RVU of 10.52 for CPT code 64910, a work RVU of 14.00 for CPT code 64911, a work RVU of 12.00 for CPT code 64X91, and a work RVU of 3.00 for CPT code 64X92.

We noted a decrease in preservice time (7 minutes) for CPT code 64910 and considered an alternate work RVU of 10.15, crosswalking to CPT code 15120 (Split-thickness autograft, face, scalp, eyelids, mouth, neck, ears, orbits, genitalia, hands, feet, and/or multiple digits; first 100 sq cm or less, or 1 percent of body area of infants and children (except 15050)), which has similar service times. We seek comments on whether an alternative work RVU of 10.15 for CPT code 64910 would better reflect relativity among PFS services with similar service times.

For CPT code 64911 (Nerve repair; with autogenous vein graft (includes harvest of vein graft), each nerve)), we considered a work RVU of 13.50, crosswalking to CPT code 31591 (Laryngoplasty, medicalization, unilateral), which has similar service times. We seek comments on whether a work RVU of 13.50 for CPT code 64911 would better reflect relativity among other PFS services with similar service times.

The new coding structure for these services increases granularity by including add-on codes that describe each strand of nerve repair. While we recognize that additional granularity may be important and useful for purposes of data collection, the advantages to Medicare for such granularity for purposes of payment are unclear, especially since we are unaware of a payment-related reason for such coding



complexity. We considered proposing a bundled status to the new add-on codes and incorporating the relative resources in furnishing the add-on code (CPT code 64X92) into the base code (CPT code 64X91) based on the utilization assumptions that accompanied the RUC recommendations. The RUC estimated that CPT code 64X91 would have 750 Medicare allowed services in CY 2018, and that the corresponding add-on CPT code 64X92 would have 150 Medicare allowed services in CY 2018. Therefore, the RUC estimates that CPT code 64X91 will be billed without add-on CPT code 64X92 for 80 percent (750/900) of the Medicare allowed services, and that CPT code 64X91 will be billed with add-on CPT code time 64X92 for 20 percent (150/900) of the Medicare allowed services in CY 2018. To account for the additional work involved in 20 percent of the allowed services, we added a work RVU of 0.60 (20 percent of a work RVU of 3.00 for CPT code 64X92) to the work RVU of 12.00 for CPT code 64X91, to get to an alternate work RVU of 12.60 for CPT code 64X91 and increased the intraservice time by 6 minutes to account for the bundling of services from CPT code 64X92. The alternative work RVU of 12.60 would have been further supported by a crosswalk to CPT code 14301 (Adjacent tissue transfer or rearrangement, any area; defect 30.1 sq cm to 60.0 sq cm), which has similar intraservice and total times.

We are proposing the RUC-recommended direct PE inputs for CPT codes 64910, 64911, 64X91 and 64X92 without refinements.

(25) CT Soft Tissue Neck (CPT codes 70490, 70491, and 70492)

CPT codes 70490 and 70492 were identified through the high expenditure services across specialties with Medicare allowed charges of \$10 million or more screen. CPT code 70491 was also included for review as part of this code family. For CY 2018, we are proposing the RUC-recommended work RVUs of 1.28 for CPT code 70490, 1.38 for CPT code 70491, and 1.62 for CPT code 70492.

For CPT code 70490, we considered a work RVU of 1.07 based on a crosswalk to CPT code 72125 (Computed tomography, cervical spine; without contrast material). CPT code 72125 is a non-contrast CT service on a similar anatomical area and has identical intraservice and total times to those recommended by the RUC for CPT code 70490. We also considered work RVUs of 1.17 for CPT code 70491 and 1.41 for CPT code 70492. We are seeking comment on how relativity among other CT services paid under the PFS would be affected by applying the alternative work RVUs described above for CPT codes in this family.

(26) Magnetic Resonance Angiography (MRA) Head (CPT codes 70544, 70545, and 70546)

CPT code 70544 was identified by a screen of services across specialties with Medicare allowed charges of \$10 million or more. Subsequently, CPT codes 70545 and 70546 were also reviewed as part of this code family. We are proposing the RUC-recommended work RVUs of 1.20 for CPT code 70544, 1.20 for CPT code 70545, and 1.48 for CPT code 70546.

We are also proposing the following refinements to the RUC-recommended direct PE inputs. For the service period clinical labor activity “Provide preservice education/obtain consent,” we are proposing 5 minutes for CPT code 70544, 7 minutes for CPT code 70545, and 7 minutes for CPT code 70546 so that the times for this activity are consistent with other magnetic resonance (MR) services performed without-contrast materials, with-contrast materials, and without-and-with contrast materials, respectively. For the clinical labor task “Acquire images,” we are proposing to use the RUC-recommended clinical time of 26 minutes for CPT code 70544. We considered proposing 20 minutes of clinical time to maintain the relativity among the three codes in this family and for consistency with other MRA and magnetic resonance imaging (MRI) codes, which do not typically assign more clinical labor time to this task for services without contrast material than for services with contrast material. We seek comments as to the appropriate time value for this clinical labor task.

(27) Magnetic Resonance Angiography (MRA) Neck (CPT codes 70547, 70548, and 70549)

CPT code 70549 was identified through a high expenditure screen. CPT codes 70547 and 70748 were also reviewed as part of this family of codes. We are proposing the RUC-recommended work RVUs of 1.20 for CPT code 70547, 1.50 for CPT code 70548, and 1.80 for CPT code 70549.

We are also proposing several refinements to the RUC-recommended direct PE inputs for these services. For the service period clinical labor activity “Provide preservice education/obtain consent”, we are proposing 5 minutes for CPT code 70547, 7 minutes for CPT code 70548, and 7 minutes for CPT code 70549 so that the times for this activity are consistent with other MR services performed without contrast material, with contrast material, and without-and-with contrast material, respectively.

For the intraservice clinical labor task acquire images, for CPT code 70547, we are proposing to use the RUC-recommended 26 minutes. We considered applying 20 minutes to this clinical labor task, which would have maintained consistency with the 20 minutes recommended by the RUC for CPT code 70548 (the service that includes with-contrast material). We are concerned about the lack of evidence that a non-contrast MRA would require more clinical labor time than the with-contrast MRA service. We are seeking comment as to the appropriate time value for this clinical labor task.

(28) CT Chest (CPT Codes 71250, 71260, and 71270)

CMS identified this code family through the high expenditures screen. We are proposing the RUC-recommended work RVUs of 1.16 for CPT code 71250, 1.24 for CPT code 71260, and 1.38 for CPT code 71270.

For CPT code 71250, we considered maintaining the CY 2017 work RVU of 1.02. We are concerned with the lack of evidence that the physician time or intensity of furnishing this service has changed since it was last valued. In addition, a comparison to other CT codes indicates that the RUC-recommended work values could be overvalued relative to other CT services and compared to similar,

non-contrast CT studies such as CPT codes 72131 (Computed tomography, lumbar spine; without contrast material) and 73700 (Computed tomography, lower extremity; without contrast material), both of which have work RVUs of 1.00.

For CPT code 71260, we considered proposing a work RVU of 1.10 by applying the RUC-recommended increment between CPT code 71250 and 71260 (0.08) to CPT code 71260. For CPT code 71270, we considered a work RVU of 1.24 by applying the RUC-recommended increment between CPT codes 71260 and 71270 (0.22) to CPT code 71270. In addition to maintaining relative values among the codes in this family, we considered further supporting these alternative values based on a comparison to other CT studies, such as with-contrast material CT studies, and without-and-with contrast CT studies.

While we have concerns about the RUC-recommended work RVUs for these codes, for CY 2018, we are proposing the RUC recommended work RVUs for CPT code 71250, 71260, and 71270 and are seeking comment on whether our alternative values would improve relativity.

(29) MRI of Abdomen and Pelvis (CPT codes 72195, 72196, 72197, 74181, 74182, and 74183)

CPT codes 74182 and 72196 were identified as part of the screen of high expenditure services across specialties with Medicare allowed charges of \$10 million or more. CPT codes 74181, 74183, 72195, and 72197 were also reviewed as part of this code family. We are proposing the RUC-recommended work RVUs of 1.46 for CPT code 72195, 1.73 for CPT code 72196, 2.20 for CPT code 72197, 1.46 for CPT code 74181, 1.73 for CPT code 74182, and 2.20 for CPT code 74183.

While we are proposing the RUC-recommended direct PE inputs, we considered 30 minutes for clinical labor task “Acquire images” for CPT codes 74181 and 74182, which appears to be more consistent with the codes in this family and more consistent with other MR codes. We also note that for CPT codes 74181 and 74182, the clinical labor time for acquired images appears to have been developed through a consensus panel from the specialty society over 15 years ago. Given that these times are

estimates based on expert panel consensus rather than survey data, we seek comments on whether using a structure that matches other MR code families would be more appropriate to value these clinical labor times.

(30) MRI Lower Extremity (CPT codes 73718, 73719, and 73720)

CPT codes 73718 and 73720 were identified as part of the screen of high expenditure services, and CPT code 73719 was included for review as part of the code family. We are proposing the RUC-recommended work RVUs of 1.35 for CPT code 73718, 1.62 for CPT code 73719, and 2.15 for CPT code 73720.

We are also proposing the following refinements to the RUC-recommended direct PE inputs. For the service period clinical labor activity “Provide preservice education/obtain consent,” we are proposing 5 minutes for CPT code 73718, 7 minutes for CPT code 73719, and 7 minutes for CPT code 73720. Likewise, for the service period task “Prepare room, equipment, supplies,” we are proposing 3 minutes for CPT code 73718, 5 minutes for CPT code 73719, and 5 minutes for CPT code 73720. We are proposing these changes to maintain consistency with other MR services without contrast materials, with contrast materials, and without-and-with contrast materials, respectively.

(31) Abdominal X-ray (CPT codes 74022, 740X1, 740X2, and 740X3)

CPT codes 74000 (Radiologic examination, abdomen; single anteroposterior view) and 74022 (Radiologic examination, abdomen; complete acute abdomen series, including supine, erect, and/or decubitus views, single view chest) were identified via a high expenditure screen. The CPT Editorial Panel created CPT codes 740X1, 740X2, and 740X3 to replace CPT codes 74000, 74010, and 74020. For CY 2018, we are proposing the RUC-recommended work values for these codes.

As part of their recommendations, the RUC’s utilization crosswalk suggests that 25 percent of services currently reported with CPT code 74010 will be reported with CPT code 740X2 and 75 percent

will be reported with CPT code 740X3; and 75 percent of services currently reported with CPT code 74020 will be reported with CPT code 740X2 and 25 percent will be reported with CPT code 740X3. However, we did not identify evidence or a rationale for these assumptions. For purposes of calculating the proposed RVUs, we used an even distribution of services previously reported as CPT codes 74010 and 74020 to CPT codes 740X2 and 740X3 instead of the RUC-recommended distribution because we think that the services previously reported with codes 74010 and 74020 will be reported in equal volume between the code representing two views and the code representing three views. We seek comment on information that would help us improve on this distribution for purposes of developing final RVUs, including rationale for the distribution reflected in the RUC's utilization crosswalk.

(32) Angiography of Extremities (CPT codes 75710 and 75716)

This code family was identified through the \$10 million or more screen of high expenditure services. We are proposing the RUC-recommended work RVUs of 1.75 for CPT code 75710 and 1.97 for CPT code 75716. We are also proposing to use the RUC-recommended direct PE inputs for both CPT codes 75710 and 75716, with the following refinements. For the clinical labor task "Technologist QC's images in PACS, checking for all images, reformats, and dose page," we are proposing refinements consistent with the standard clinical labor times for tasks associated with the PACS Workstation.

We are also proposing to refine the clinical labor by removing the 2 minutes associated with the task "prepare room, equipment, and supplies." CPT codes 75710 and 75716, which represent radiological supervision and interpretation, are billed with codes that include activities such as needle placement and imaging, and the "prepare room, equipment, supplies," activity will be accounted for with the codes that are billed with these interpretation codes.

(33) Ophthalmic Biometry (CPT codes 76516, 76519, and 92136)

In the CY 2016 PFS final rule with comment period, CMS identified CPT codes 76519 and 92136 as potentially misvalued on the high expenditure screen. For CY 2018, we are proposing the RUC-recommended work RVUs for each code in this family as follows: a work RVU of 0.40 for CPT code 76516, a work RVU of 0.54 for CPT code 76519, and a work RVU of 0.54 for CPT code 92136.

For both CPT codes 76519 and 92136, the RUC recommended adding an additional 8 minutes of immediate postservice time for dictating the report of the procedure for the medical record, review and sign report, communicate results to the patient, discussing lens implant options for desired post-operative refractive result, and entering an order for the intraocular lens implant. We considered time and work values that would not include the additional 8 minutes of immediate postservice time in either of these codes, due to the concern that the additional time may not reflect the typical case. Were we to not include those 8 minutes, each of these procedures would have a total time of 14 minutes. We considered applying the total time ratio (decrease from 17 minutes to 14 minutes; ratio of 0.824) to the RUC-recommended work RVU of 0.54, which would have resulted in a work RVU of 0.44 for both CPT codes 76519 and 92136. We are seeking comment on whether these alternative values would improve relativity.

(34) Ultrasound of Extremity (CPT codes 76881 and 76882)

The RUC identified CPT codes 76881 and 76882 for review of PE inputs. For CPT code 76881, we are proposing the recommended inputs with refinements. We are proposing to remove 1 minute from the clinical labor task “Exam documents scanned into PACS. Exam completed in RIS system to generate billing process and to populate images into Radiologist work queue,” because this code does not include any equipment time for the PACS workstation proxy or professional PACS workstation. We note that the RUC-recommended inputs shift the general ultrasound room from the PE inputs for CPT code 76881 to the PE inputs for CPT code 76882. We are proposing to make this change, consistent

with the RUC recommendations. We are also seeking comment on whether a portable ultrasound unit would be a more accurate PE input for both codes, given that the dominant specialty for both of these services is podiatry based on available 2016 Medicare claims data. However, we are proposing that these codes would not be subject to the phase-in of significant RVU reductions given the significance of this shift of resource costs between codes in the same family. In the CY 2016 PFS final rule (80 FR 70927 through 70931), we finalized a policy to identify services that are not subject to the phase-in because they are new or revised codes. We excluded as new and revised codes those codes that describe a different set of services in the update year when compared to the current year by virtue of changes in other related codes or codes that are part of a family with significant coding revisions. Significant coding revisions within a family of codes can change the relationships among codes to the extent that it changes the way that all services in the group are reported, even if some individual codes retain the same number or, in some cases, the same descriptor. Moving the general ultrasound room input from CPT code 76881 to CPT code 76882 as recommended by the RUC would represent a significant shift in direct PE due to the high cost nature of this equipment item. As a result, these codes describe different services in the update year than in the current year, producing a substantial revision in the valuation of the coding. We are seeking comment on this proposed application of the phase-in policy.

(35) Radiation Therapy Planning (CPT codes 77261, 77262, and 77263)

CPT code 77263 was identified through a screen of high expenditure services across specialties. CPT codes 77261 and 77262 were included for review. For CY 2018, we are proposing the RUC-recommended work RVUs of 1.30 for CPT code 77261, 2.00 for CPT code 77262, and 3.14 for CPT code 77263.

However, we have concerns regarding the RUC-recommended work RVUs given the decreases in service times as recommended by the RUC and reflected in the survey data compared to the current



values. For CPT code 77263, we considered a work RVU of 2.60 based on a crosswalk to CPT code 96111 (Developmental testing, (includes assessment of motor, language, social, adaptive, and/or cognitive functioning by standardized developmental instruments) with interpretation and report), which has an identical intraservice time, and similar total time to the RUC-recommended time values for CPT code 77263. We are concerned that despite a 15 minute decrease in intraservice time, the RUC did not recommend a work RVU decrease.

We note that the majority of the utilization among the codes in this family would be reported with CPT code 77263. Therefore, we considered using a work RVU of 2.60 for CPT code 77263 as a base for alternative valuations for CPT codes 77261 and 77262 by applying the ratio of the crosswalk work RVU of CPT code 96111 (Developmental test extend) to the RUC-recommended work RVU of CPT code 77263 (that is,  $2.60/3.14=0.83$ ) to the RUC-recommended work RVU for CPT code 77261 (that is,  $0.83 \times 1.30=1.08$ ) and CPT code 77262 (that is,  $0.83 \times 2.0=1.66$ ), which would have resulted in work RVUs of 1.08 for CPT code 77261 and 1.66 for CPT code 77262. We seek comments on whether the alternative valuation would be more appropriate for these codes.

#### (36) Pathology Consultation during Surgery (CPT codes 88333 and 88334)

CPT codes 88333 and 88334 were surveyed for both work and PE for the CY 2018 rule cycle. We are proposing the RUC-recommended work RVU of 1.20 for CPT code 88333 and the RUC-recommended work RVU of 0.73 for CPT code 88334. For the direct PE inputs, we are proposing to remove the clinical labor for the “Prepare room. Filter and replenish stains and supplies (including setting up grossing station with colored stains)” activity from CPT code 88333. This clinical labor is not currently included in the direct PE inputs for CPT code 88333, and we continue to believe that this is a form of indirect PE that is not individually allocable to a particular patient for a particular service.

While we agree that replenishing stains and supplies is a necessary task, under the established methodology, it is more appropriately classified as indirect PE.

We are proposing to refine the clinical labor time for “Clean room/equipment following procedure” activity for CPT code 88333, consistent with the standard clinical labor time assigned for room cleaning when used by laboratory services. We seek comments related to the equipment time assigned to the “grossing station w-heavy duty disposal” (EP015) for both CPT codes 88333 and 88334. Although the recommended equipment time of 10 minutes maintains the current equipment time assigned to the grossing station, and we have no reason to believe that this time is incorrect, it is unclear to us how this equipment time is derived.

(37) Tumor Immunohistochemistry (CPT codes 88360 and 88361)

CPT codes 88360 and 88361 appeared on a high expenditure services screen across specialties with Medicare allowed charges of over \$10 million. We are proposing the RUC-recommended work RVU of 0.85 for CPT code 88360 and the RUC-recommended work RVU of 0.95 for CPT code 88361.

We are proposing to refine the clinical labor time for the “Enter patient data, computational prep for antibody testing, generate and apply bar codes to slides, and enter data for automated slide stainer” activity for both codes, consistent with the standard time for this clinical labor activity across different pathology services. For CPT code 88361, we are also proposing to remove the 1 minute of clinical labor time from the “Performing instrument calibration, instrument qc and start up and shutdown” and the “Gate areas to be counted by the machine” activities. These clinical labor activities do not appear in other recently reviewed computer-assisted pathology codes. We believe that these clinical labor activities would not be typical for CPT code 88361 and are already included in the allocation of indirect PE consistent with our established methodology.

We are proposing to remove the clinical labor time for “Clean room/equipment following procedure” for CPT codes 88360 and 88361, as we believe that this clinical labor is duplicative of the 4 minutes of clinical labor assigned to “Clean equipment and work station in histology lab”. We are also proposing to remove the clinical labor time for the “Verify results and complete work load recording logs” and the “Recycle xylene from tissue processor and stainer” activities for CPT codes 88360 and 88361. As we have stated in previous rules, such as in the CY 2017 PFS final rule (81 FR 80319), we believe these clinical labor activities to be already included in the allocation of indirect PE consistent with our established methodology.

We are proposing to refine the equipment time for the “Benchmark ULTRA auto slide prep & E-Bar Label system” (EP112) from 18 minutes to 16 minutes for both codes. The RUC-recommended equipment time of 18 minutes was an increase of 3 minutes from the current EP112 equipment time to incorporate the equipment time of the “E-Bar II Barcode Slide Label System” (EP113), which the recommended materials have clarified is part of the EP112 equipment item. We are proposing to add 1 minute over the current value of 15 minutes to the EP112 equipment time to reach the aforementioned 16 minutes, as we believe that this would be more typical for the slide labeling taking place.

For CPT code 88361, we are proposing to maintain the current price of \$195,000.00 for the DNA image analyzer (EP001) equipment, as the submitted invoice contains a series of unrelated items that have been crossed out, making it difficult to determine the cost of the equipment. We considered refining the equipment time for the DNA image analyzer from 30 minutes to 5 minutes. The equipment literature for the DNA image analyzer states that the machine can run 50 slides per hour, and CPT code 88361 only requires 3 slides per procedure. This works out to 3.6 minutes of equipment usage (3 slides divided by 50 slides per hour multiplied by 60 minutes in an hour), to which we considered adding 1 minute for preparing the slides. The resulting figure of 4.6 minutes would then round up to 5 minutes,

which we considered as the potential equipment time for EP001 assigned to CPT code 88361. We seek comments on additional pricing information for the EP001 DNA image analyzer equipment, specifically invoices solely for this equipment containing a rationale for each component part, as well as the appropriate equipment time typically required for use in CPT code 88361.

(38) Cardiac Electrophysiology Device Monitoring Services (CPT codes 93279, 93281, 93282, 93283, 93284, 93285, 93286, 93287, 93288, 93289, 93290, 93291, 93292, 93293, 93294, 93295, 93296, 93297, 93298, and 93299)

As part of the CY 2016 PFS final rule (80 FR 70914), several services in this family (reported with CPT codes 93288, 93293, 93294, 93295, and 93296) were identified as potentially misvalued through the high expenditure by specialty screen. Seven of the 21 services in this family involve remote monitoring of cardiovascular devices, and two of these services (reported with CPT codes 93296 and 93299) are valued for practice expense only. For CY 2018, we are proposing the RUC-recommended work RVUs for the 19 CPT codes in this family that are valued with physician work as follows: 0.65 for CPT code 93279, 0.77 for CPT code 93280, 0.85 for CPT code 93281, 0.85 for CPT code 93282, 1.15 for CPT code 93283, 1.25 for CPT code 93284, 0.52 for CPT code 93285, 0.30 for CPT code 93286, 0.45 for CPT code 93287, 0.43 for CPT code 93288, 0.75 for CPT code 93289, 0.43 for CPT code 93290, 0.37 for CPT code 93291, 0.43 for CPT code 93292, 0.31 for CPT code 93293, 0.60 for CPT code 93294, 0.74 for CPT code 93295, 0.52 for CPT code 93297, and 0.52 for CPT code 93298.

For CPT code 93293, we considered a work RVU of 0.91 (25th percentile survey result) and seek comment on whether this alternative work RVU for this service would better maintain relativity between single and dual lead pacemaker systems and cardioverter defibrillator services. We considered reducing the work RVU for CPT code 93282 by 0.11 work RVUs and seek comments on whether this alternative value would better reflect relativity between the single and dual lead systems that exist within pacemaker

services and within cardioverter defibrillator services. We also noted that there is a difference of 0.10 work RVUs between the RUC-recommended values for CPT codes 93289 and 93282. Therefore, we considered a proportionate reduction for CPT code 93289 to a work RVU of 0.69. For CPT code 93283, we considered a work RVU of 0.91, consistent with the 25<sup>th</sup> percentile from the survey results, and seek comment on whether this value would improve relativity.

As noted in this section of the proposed rule, several of the CPT codes (99392, 99294, 99295, 99297, and 99298) reviewed by the RUC in January 2017 involve remote monitoring services for cardiac devices. We agree with the RUC that these services are difficult to value considering that the monitoring duration (number of days between 30 and 90) and the average number of transmissions vary. We also note that these codes were surveyed twice, and in both cases the intraservice and total times were considered by the specialty societies to be inconsistent with existing times. The RUC explained that they extrapolated total and intraservice time data for these codes and warned against making comparisons. Without additional information about the methods and sources used for extrapolation, however, we have no basis for assuming the imputed values are of higher quality and/or accuracy than those from the survey. We do not agree, therefore, that survey results should not be used as a point of comparison in the context of other factors, particularly when they are used to support other considerations.

Although we are proposing the RUC-recommended work RVUs for each of these CPT codes, we considered alternative values. The RUC recommended a work RVU of 0.31 for CPT code 93293, which is 0.01 work RVUs lower than the existing work RVU for this code. We have concerns that the amount of the reduction in the work RVU recommended by the RUC may not be consistent with the decrease in total time of 7 minutes. We considered an alternative crosswalk for CPT code 93293 (Pm phone r-strip device eval) (5 minutes intraservice time and 13 minutes total time) to CPT code 94726 (Pulm funct tst

plethysmograph), which has 5 minutes intraservice time and 15 minutes total time and a work RVU of 0.26. We seek comments on our proposed and alternative valuations for this code.

For CPT code 93294, we considered a work RVU of 0.55, crosswalking from CPT code 76706 (Us abdl aorta screen aaa), and we seek comments on whether it would better align with the RUC-recommended service times. We are concerned that a work RVU of 0.60 may not account for the difference between existing service times and the RUC-recommended service times. Similarly, the RUC recommended a work RVU for CPT code 93294 of 0.60, which is 0.05 work RVUs less than the existing work RVU. The total time for furnishing services reported with CPT code 93294 decreased by 10 minutes, however, and we believe this reduction in time may not be appropriately reflected by a decrease of 0.05 work RVUs. Compared to services with similar total and intraservice times, we identified CPT code 76706 (Us abdl aorta screen aaa) as potentially a more appropriate crosswalk. CPT code 76706 has identical intraservice and total service times as CPT code 93294, with a work RVU of 0.55. We seek comments on whether our alternative value would better reflect the time and intensity involved in furnishing this service.

For CPT code 93295, we considered a work RVU of 0.69, crosswalking to CPT code 76586, which has identical intraservice and total times compared to CPT code 93295. We considered using a work RVU of 0.69 to maintain the differential between CPT code 93295 and the work RVU we considered for the previous code in this family (a work RVU of 0.11 for CPT code 93295). We are concerned about the decrease in service time compared to the work RVU. We note that the existing intraservice time is 22.5 minutes, compared to the RUC-recommended intraservice time of 10 minutes. We seek comments on whether our alternative value would better reflect the time and intensity involved in furnishing this service.

For CPT code 93298, the RUC recommended a work RVU of 0.52, which is unchanged from the current work RVU for this code. We are concerned about that recommendation given the reduction in both intraservice and total time for this service. The intraservice time decreased from 24 to 7 minutes, while total time decreased from 44 to 17 minutes. We acknowledge that the current times for this CPT code and others in this family are extrapolations. However, without additional information about the extrapolation of data from survey results, we question whether the survey results should be excluded from consideration altogether. We considered a work RVU of 0.37 for CPT code 93297, crosswalking to CPT code 96446 (Chemotx admn prtl cavity). We also considered a work RVU of 0.37 for CPT code 93298 based on a crosswalk to CPT code 96446, since the RUC indicated that the work RVUs for CPT codes 93297 and 93298 should be the same. We are seeking comment on our proposed valuation and whether our alternative valuation would be more appropriate for this code.

We propose the RUC-recommended direct PE inputs with the following refinements. We propose to remove 2 minutes for “review charts” from CPT codes 93279, 93281, 93282, 93283, 93284, 93285, 93286, 93287, 93288, 93289, 93290, 93291, and 93292 to maintain relativity since it is not typically incorporated for similar PFS codes. We also propose removing 2 minutes for “complete diagnostic forms, lab & X-ray requisitions” for the labor category “med tech/asst” (L026A) for these services because we believe the same activity is being performed by labor category RN/LPN/MTA (L037D). We seek comments regarding whether this row was included in error. Also for the same group of CPT codes, we also propose standard refinements for the time for equipment items EF023 and EQ198.

We propose to use the RUC-recommended direct practice expense inputs and times for all other CPT codes in this family (CPT codes 93293, 93294, 93295, 93296, 93297, 93298, and 93299) without refinement.

(39) Transthoracic Echocardiography (TTE) (CPT codes 93306, 93307, and 93308)

In the CY 2016 PFS final rule with comment period (80 FR 70914), CMS identified CPT code 93306 through the high expenditures screen. Subsequently, the RUC reviewed CPT codes 93307 and 93308, in addition to CPT code 93306 as part of this family of codes that describe transthoracic echocardiograms. For CY 2018, we are proposing the RUC-recommended work RVUs for CPT codes 99306 (a work RVU of 1.50), 99307 (a work RVU of 0.92), and 99308 (a work RVU of 0.53), and proposing the RUC-recommended direct PE inputs for CPT codes 93306, 93307, and 93308 without refinement.

For CPT code 93306 (Echocardiography, transthoracic, real-time with image documentation (2D), includes M-mode recording, when performed, complete, with spectral Doppler echocardiography, and with color flow Doppler echocardiography), we considered maintaining the CY 2017 work RVU of 1.30. The surveyed total time for this code dropped slightly due to changes in the immediate postservice time. The median preservice and intraservice time remained unchanged.

For CPT code 93307 (Echocardiography, transthoracic, real-time with image documentation (2D), includes M-mode recording, when performed, complete, without spectral or color Doppler echocardiography), we considered a work RVU of 0.80, crosswalking to services with similar service times (CPT codes 93880 (Extracranial bilat study), 93925 (Lower extremity study), 93939, 93976 (Vascular study), and 93978 (Vascular study)). The surveyed total time dropped 3 minutes (from the intraservice time) compared to the existing service times for this code.

For CPT code 93308 (Echocardiography, transthoracic, real-time with image documentation (2D), includes M-mode recording, when performed, follow-up or limited study), we considered a work RVU of 0.43, crosswalking to CPT code 93292 (Wcd device interrogate) based on similar service times. The surveyed total time dropped by 5 minutes (from the intraservice time) compared to the existing service times for this code.



For CY 2018, we are proposing the RUC-recommended work RVUs for CPT codes 93306, 93307, and 93308 and seek comments on whether our alternative values would better reflect the time and intensity of these services.

(40) Stress Transthoracic Echocardiography (TTE) Complete (CPT codes 93350 and 93351)

CPT code 93351 was identified as potentially misvalued and the RUC reviewed CPT code 93350 as part of the same code family. For CY 2018, we are proposing the RUC-recommended work RVUs for CPT codes 93350 (a work RVU of 1.46) and 93351 (a work RVU of 1.75).

We are proposing the following refinements to the RUC-recommended direct PE inputs for CPT codes 93350 and 93351. For both codes, we applied the standard formula in developing the minutes for equipment item ED053 (professional PACS workstation), which results in 18 minutes for CPT code 93350 and 25 minutes for CPT code 93351. We are also proposing standard clinical labor times for providing preservice education/obtaining consent. We are not proposing to include clinical labor time for the task setup scope since there is no scope used in the procedure and we do not agree with the RUC's statement that this replicates 5 minutes in CPT code 93015 when the RN prepares patients for 10-lead ECG. We have found that there is no corresponding time of 5 minutes for setup scope in the PE inputs for CPT code 93015. We are proposing refinements to the equipment time for ED050 (PACS workstation proxy) for CPT code 93351, consistent with our standard equipment times for PACS Workstation Proxy.

(41) Peripheral Artery Disease (PAD) Rehabilitation (CPT code 93668)

We have issued a national coverage determination (NCD) for Medicare coverage of supervised exercise therapy (SET) for the treatment of peripheral artery disease (PAD). Information regarding the NCD can be found on the CMS website at <https://www.cms.gov/medicare-coverage-database/details/nca-decision-memo.aspx?NCAId=287>. For the remainder of CY 2017, we anticipate that CPT code 93668, currently assigned PROCSTAT N (noncovered service by Medicare), will be

payable before the end of CY 2017, retroactive to the effective date of the NCD to implement payment under the NCD.

For CY 2018, we are proposing to make payment for Medicare-covered SET for the treatment of PAD, consistent with the NCD, reported with CPT code 93668. For CPT code 93668, we are proposing to use the most recent RUC-recommended work and direct PE inputs. We are also seeking comment on the coding structure and valuation assumptions. Since the RUC has not reviewed CPT code 93668 since 2001, we seek comments on the direct PE inputs assigned to the code, which appear in the direct PE input database. We also note that CPT code 93668 is a PE only code and does not include physician work.

CPT prefatory language states that CPT code 93668 may be separately reported with appropriate E/M services, including office and/or outpatient services (CPT codes 99201 through 99215), initial hospital care (CPT codes 99221 through 99223), subsequent hospital care (CPT codes 99231 through 99233), and critical care services (CPT codes 99291 through 99292). Our understanding of CPT's prefatory language is that these E/M codes may only be billed when review or exam of the patient is medically indicated and must conform to all existing E/M documentation requirements. E/M visit codes should not be billed to account for supervision of SET for the treatment of PAD by a physician or other qualified healthcare practitioner. We seek comments on whether to develop professional coding to reflect the supervision of clinical staff, and on the potential overlap with CPT code 99211 (Office or other outpatient visit for the evaluation and management of an established patient, that may not require the presence of a physician or other qualified health care professional. Usually, the presenting problem(s) are minimal. Typically, 5 minutes are spent performing or supervising these services.) and any distinctions between time spent by clinical staff for CPT code 99211 and time spent by clinical staff for CPT code 93668.

(42) Pulmonary Diagnostic Tests (CPT codes 94621, 946X2, and 946X3)

CPT code 94620 was identified as part of a screen of high expenditure services with Medicare allowed charges of \$10 million or more that had not been recently reviewed. CPT code 94621 was added to the family for review. The CPT Editorial Panel deleted CPT code 94620 and split it into two new codes, CPT codes 946X2 and 946X3, to describe two different tests commonly performed for evaluation of dyspnea. We are proposing the RUC-recommended work RVUs of 1.42 for CPT code 94621, 0.70 for CPT code 946X2, and 0.48 for CPT code 946X3.

We are proposing to refine the clinical labor time for the “Provide preservice education/obtain consent” activity from 10 minutes to 5 minutes for CPT code 94621, which is the current time assigned for this task. While we agree that CPT code 94621 requires additional time above the standard for this clinical labor activity, we do not believe that double the current time would be typical for this procedure. We are also proposing to refine the clinical labor time for the “Prepare and position patient/monitor patient/set up IV” activity from 5 minutes to 3 minutes for the same code. The standard time for this activity is 2 minutes, and we are proposing a value of 3 minutes to reflect 1 minute of additional preparation time above the standard. We believe that additional clinical labor time used for preparation would be included under the 10 minutes assigned to the “Prepare room, equipment, supplies” activity for this code.

We are proposing to refine the clinical labor time for the “Complete diagnostic forms, lab & X-ray requisitions” activity, consistent with the standard clinical labor time for this activity. We also propose to refine the equipment times for CPT codes 94621 and 946X2 to account for 1:4 patient monitoring time, and to refine the equipment times for CPT code 946X3 consistent with standards for non-highly technical equipment.

We considered refining the clinical labor time for the “pre exercise ECG, VC, Min Vent. Calculation” activity from 27 minutes to 15 minutes for CPT code 94621. We considered proposing this value of 15 minutes based on assigning 5 minutes apiece for the ECG, the MVV, and the spirometry. We believe that each of these three components of this clinical labor activity would typically take no longer than 5 minutes based on a comparison to the use of these tasks in other CPT codes. We also considered refining the clinical labor time for the “Clinical staff performs procedure” activity from 55 minutes to 35 minutes for CPT code 946X2 and from 14 minutes to 12 minutes for CPT code 94621. The RUC-recommended materials for the PE inputs state that this clinical labor task consists of performing 5 spirometries at 9 minutes each plus 10 minutes of exercise time for CPT code 946X2; we believe that the spirometries typically take 5 minutes each, which would reduce this activity from 55 minutes to 35 minutes. For CPT code 94621, we considered maintaining the current value of 12 minutes due to a lack of justification for increasing the time to 14 minutes.

While we remain concerned about the intraservice period clinical labor times, for CY 2018, we are proposing the RUC-recommended work RVUs for each code in this family and seek comment on whether our alternative clinical labor times would better reflect the work and times for these services.

(43) Percutaneous Allergy Skin Tests (CPT code 95004)

In the CY 2016 PFS proposed rule (80 FR 41706), CPT code 95004 was identified through the high expenditures screen as potentially misvalued. The RUC suggested in its comments on the CY 2016 PFS proposed rule (80 FR 41706), that CPT code 95004 should be removed from the list of potentially misvalued codes because it has a work RVU of 0.01 and that it would serve little purpose to survey physician work for this code. The RUC and CMS previously determined that there is physician work involved in providing this service since the physician must interpret the test and prepare a report. In the CY 2016 PFS final rule with comment period (80 FR 70913), CMS reiterated an interest in the review of

work and PE for this service. We note that our interest in stakeholder review of a particular code should not be considered a directive for survey under the RUC process. We intend to more clearly state our interests in the future, so that under similar circumstances, such effort need not be undertaken based on a mistaken impression. To reiterate, we believe that whether or not a code should be surveyed in response to our interest in receiving recommendations regarding the work RVUs should be at the RUC and the specialties' discretion. In many cases, we have used recommendations developed through means other than surveys in developing RVUs. For example, for many PFS services, the direct PE inputs are the primary drivers of overall RVUs and Medicare payment. In most of these cases, the recommended inputs are not derived from survey data. In some cases, especially for resource-intensive and highly technical services, we have expressed some concern about the lack of survey or other broad-based data that we have relied on in developing rates across the PFS for many years.

For CY 2018, we are proposing the RUC-recommended work RVU of 0.01 for CPT code 95004.

Regarding direct PE inputs, we are proposing to refine the equipment times for exam table (EF023) and mayo stand (EF015) to 79 minutes each to account for clinical 1:4 patient monitoring time. We received invoices with new pricing information for two supplies: SH101 "negative control, allergy test" (\$5.17) and SH102 "positive control, allergy test" (\$26.12). Using this information, we are proposing a price of \$0.03 per test for supply item SH101 and a price of \$0.13 per test for supply item SH102.

(44) Continuous Glucose Monitoring (CPT codes 95250 and 95251)

CPT codes 95250 (Ambulatory continuous glucose monitoring of interstitial tissue fluid via a subcutaneous sensor for a minimum of 72 hours; sensor placement, hook-up, calibration of monitor, patient training, removal of sensor, and printout of recording) and 95251 (Ambulatory continuous glucose monitoring of interstitial tissue fluid via a subcutaneous sensor for a minimum of 72 hours;

interpretation and report) are used to report the technical and professional component for continuous glucose monitoring. In April 2013, CPT code 95251 was identified through the high volume growth services screen and subsequently this code family was reviewed at the RUC's October 2016 meeting.

For CY 2018, we are proposing the RUC-recommended work RVU of 0.70 for CPT code 95251. However, we are concerned and seek comments on whether the 2 minutes of physician preservice time is necessary. Since CPT code 95251 is typically billed with an E/M service on the same day, we believe the 2 minutes of preservice time may be duplicative. Furthermore, we seek comment on whether it would be typical for the physician to spend 2 minutes to obtain the CGM reports for review since we believe the report would typically be obtained by clinical staff on behalf of the physician.

For the direct PE inputs, the RUC submitted 19 invoices to update the price of the medical supply item "glucose monitoring (interstitial) sensor" (SD114) for CPT code 95250. We are proposing to use these invoice prices for the glucose monitoring (interstitial) sensor (SD114), with an average cost of \$53.08. Therefore, we are proposing to use the average price of \$53.08 for this supply item.

As part of our review of this service, we obtained publicly available pricing information for the CGM system (EQ125). We reviewed the information provided in a study titled, "The cost-effectiveness of continuous glucose monitoring in type 1 diabetes," (Huang, S.E., O'Grady, M., Basu, A. et al., *Diabetes Care*. June 2010), which indicated the price of CGM technology (without sensors) from 3 different vendors, reflective of full retail prices with no insurer discounts, to be \$600.00, \$1119.00, and \$1250.00, which equated to an average cost of \$1016.00 for the CGM system. In addition, we obtained publicly available pricing information for two vendors. This information indicated that the price of a CGM system to be \$1061.90 and \$1279.17, which equated to an average cost of \$1170.54. For CY 2018, we are proposing to price supply items SD114 at \$53.08 and EQ125 at \$1170.54. We seek comments on current pricing for equipment item "continuous glucose monitoring system" (EQ125).

(45) Parent, Caregiver-Focused Health Risk Assessment (CPT codes 96160 and 96161)

In the CY 2017 PFS final rule (81 FR 80330), we discussed that in October 2015, the CPT Editorial Panel created two new PE-only codes, CPT code 96160 (Administration of patient focused health risk assessment instrument (e.g., health hazard appraisal) with scoring and documentation, per standardized instrument) and CPT code 96161 (Administration of caregiver-focused health risk assessment instrument (e.g., depression inventory) for the benefit of the patient, with scoring and documentation, per standardized instrument). We assigned an active payment status to both codes for CY 2017 and finalized use of the RUC-recommended values for these codes. We also assigned an add-on code status to both of these services. As add-on codes, CPT codes 96160 and 96161 describe additional resource components of a broader service furnished to the patient that are not accounted for in the valuation of the base code.

The RUC submitted updated recommendations for the direct PE inputs for CPT codes 96160 and 96161 after reviewing new specialty society surveys. The RUC recommended 7 total minutes of clinical staff time, and we are proposing to adopt this number of minutes in valuing the services. The PE worksheet included several distinct tasks with minutes for each; however, in keeping with the standardization of clinical labor tasks, we are proposing to designate all 7 minutes under “administration, scoring, and documenting results of completed standardized instrument” rather than dividing the minutes into the four categories as shown in the RUC recommendations.

(46) Chemotherapy Administration (CPT codes 96401, 96402, 96409, and 96411)

In the CY 2016 PFS proposed rule, CPT codes 96401 (Chemotherapy administration, subcutaneous or intramuscular; non-hormonal anti-neoplastic), 96402 (Chemotherapy administration, subcutaneous or intramuscular; hormonal anti-neoplastic), 96409 (Chemotherapy administration; intravenous, push technique, single or initial substance/drug), and 96411 (Chemotherapy administration;

intravenous, push technique, each additional substance/drug (List separately in addition to code for primary procedure)) were identified through the high expenditure services screen across specialties with Medicare allowed charges of over \$10 million.

For CY 2018, we are proposing the RUC-recommended work RVUs for CPT code 96401 (a work RVU of 0.21), CPT code 96402 (a work RVU of 0.19), CPT code 96409 (a work RVU of 0.24) and CPT code 96411 (a work RVU of 0.20).

For CPT code 96402, we are proposing the RUC-recommended equipment times with refinements for the biohazard hood (EP016) and exam table (EF023) from 31 minutes to 34 minutes to reflect the service period time associated with this code. We are proposing the RUC-recommended direct PE inputs for CPT codes 96401, 96409, and 96411 without refinements.

(47) Photochemotherapy (CPT code 96910)

CPT code 96910 appeared on a high expenditure services screen across specialties with Medicare allowed charges of over \$10 million, which is a PE-only code that does not have work RVUs. We are proposing to refine the clinical labor time for the “Provide preservice education/obtain consent” from 3 minutes to 1 minute for CPT code 96910. We believe that 1 minute would be typical for patient education, as CPT code 96910 is a repeat procedure where there would not be a need to obtain consent again. We are also proposing to remove the 2 minutes of clinical labor for the “Complete diagnostic forms, lab & X-ray requisitions” activity, as this item is considered indirect PE consistent with our established methodology. We are also proposing to create a new supply code (SB054) for the sauna suit, and proposing to price at \$9.99 based on the submitted invoice. Finally, we are also proposing to adjust the equipment times to reflect changes in the clinical labor for CPT code 96910.

We are proposing the RUC-recommended clinical labor time of 15 minutes for the “Prepare and position patient/monitor patient/set up IV” activity, the RUC-recommended clinical labor time of 16



minutes for the “Monitor patient during procedure” activity, and the RUC-recommended clinical labor time of 15 minutes for the “Clean room/equipment by physician staff” activity, but seeking additional information regarding the rationale for these values. Given the lack of explanation, we considered using the current clinical labor time of 7 minutes for the “Prepare and position patient/monitor patient/set up IV” activity, the current clinical labor time of 4 minutes for the “Monitor patient during procedure” activity, and the current clinical labor time of 10 minutes for the “Clean room/equipment by physician staff” activity. We seek comment on whether maintaining the current values would improve relativity.

We considered removing the “Single Patient Discard Bag, 400 ml” (SD236) supply and replacing it with the “biohazard specimen transport bag” (SM008). We are concerned about whether the single patient discard bag is the appropriate size for storing the sauna suit used in this procedure, and whether use of a biohazard specimen transport bag would be typical. We seek comments on our proposed and alternative values for these direct PE inputs.

(48) Photodynamic Therapy (CPT codes 96567, 96X73, and 96X74)

CPT code 96567 was identified as potentially misvalued through a CMS screen for codes with high expenditures. This code describes a service furnished by clinical staff and does not include physician work. For CY 2018, the CPT Editorial Panel created two new codes, CPT codes 96X73 and 96X74, to describe photodynamic therapy by external application of light to destroy premalignant skin lesions, including the physician work involved in furnishing the service. CPT codes 96567, 96X73, and 96X74 were reviewed during the RUC’s January 2017 meeting.

For CY 2018, we are proposing the RUC-recommended work RVUs for CPT code 96X73 (a work RVU of 0.48) and CPT code 96X74 (a work RVU of 1.01).

We are proposing the RUC-recommended PE inputs with refinements due to inconsistencies between the stated description of clinical activities and the submitted spreadsheets. First, we propose to

add assist physician clinical staff time to CPT codes 96X73 (10 minutes) and 96X74 (16 minutes), which is equivalent to the physician intraservice times for these services. For both CPT codes 96X73 and 96X74, we propose a reduction from 35 minutes to 17 minutes for clinical activity in the postservice time, consistent with the description of clinical work in the summary of recommendations, which states that the patient receives activation of the affected area with the BLU-U Photodynamic Therapy Illuminator for approximately 17 minutes. For CPT codes 96X73 and 96X74, we are proposing to refine equipment formulas for two items: power table (EF031) and LumaCare external light with probe set (EQ169), consistent with standards for nonhighly technical equipment. An explanation of the standards and formulas for equipment related to direct PE inputs is in the CY 2014 PFS final rule with comment period (79 FR 67557).

We identified several vendors with publically available prices available for supply item LMX 4 percent cream (SH092) for significantly less than the existing \$1.60 per gram. Based on our research of vendors, we are proposing to set the price of supply item SH092 to \$0.78 per gram. Other CPT codes affected by the proposed change in the price of supply item LMX 4 percent cream (SH092) are: CPT code 46607 (Anoscopy; with high-resolution magnification (HRA) (eg, colposcope, operating microscope) and chemical agent enhancement, with biopsy, single or multiple), CPT code 17000 (Destruction (eg, laser surgery, electrosurgery, cryosurgery, chemosurgery, surgical curettement), premalignant lesions (eg, actinic keratoses); first lesion), CPT code 17003 (Destruction (eg, laser surgery, electrosurgery, cryosurgery, chemosurgery, surgical curettement), premalignant lesions (eg, actinic keratoses); second through 14 lesions, each (List separately in addition to code for first lesion)), and CPT code 17004 (Destruction (eg, laser surgery, electrosurgery, cryosurgery, chemosurgery, surgical curettement), premalignant lesions (eg, actinic keratoses), 15 or more lesions)).

In addition, the RUC forwarded an invoice for a new supply item, safety goggles, at \$6.00 and requested three goggles each for CPT codes 96X73 and 96X74. Because we do not have a basis for distinguishing the requested new goggles from the existing UV-blocking goggles, we consider this invoice to be an additional price point for SJ027 rather than an entirely new item. We propose a price of \$4.10 for supply item SJ027 (the average of the two prices for this supply item  $(\$2.30 + \$6.00)/2 = \$4.10$ ). Other CPT codes affected by the proposed change in the price of supply item UV-blocking goggles (SJ027) are: CPT code 36522 (Photopheresis, extracorporeal), CPT code 96910 (Photochemotherapy; tar and ultraviolet B (Goeckerman treatment) or petrolatum and ultraviolet B), CPT code 96912 (Photochemotherapy; psoralens and ultraviolet A (PUVA)), and CPT code 96913 (Photochemotherapy (Goeckerman and/or PUVA) for severe photoresponsive dermatoses requiring at least 4-8 hours of care under direct supervision of the physician (includes application of medication and dressings)), CPT code 96920 (Laser treatment for inflammatory skin disease (psoriasis); total area less than 250 sq cm), CPT code 96921 (Laser treatment for inflammatory skin disease (psoriasis); 250 sq cm to 500 sq cm), and CPT code 96922 (Laser treatment for inflammatory skin disease (psoriasis); over 500 sq cm). We seek comments on our proposed PE refinements, including our proposed supply item prices.

(49) Physical Medicine and Rehabilitation (PM&R) (CPT codes 97012, 97016, 97018, 97022, 97032, 97033, 97034, 97035, 97110, 97112, 97113, 97116, 97140, 97530, 97533, 97535, 97537, 97542, and HCPCS code G0283)

In our CY 2015 PFS final rule (79 FR 67576) and CY 2016 PFS final rule (80 FR 70917), we identified a total of ten codes through the high expenditure by specialty screen for services primarily furnished by physical and occupational therapists: CPT codes 97032, 97035, 97110, 97112, 97113, 97116, 97140, 97530, 97535, and HCPCS code G0283. An additional nine codes in this PM&R family were identified for review by the physical therapy (PT) and occupational therapy (OT) specialty

societies: CPT codes 97012, 97016, 97018, 97022, 97033, 97034, 97533, 97537, and 97542. Many of these code values had not been reviewed since they were established in 1994, 1995 or 1998.

After review during its January 2017 meeting, the HCPAC submitted recommendations for all 19 codes. While the HCPAC included recommendations for CPT code 97014, we note that this is a code we have not recognized for PFS payment since 2002 when we implemented our wound care electrical stimulation policies. For payment under the PFS, instead of CPT code 97014, we recognize HCPCS code G0281 for wound care electrical stimulation and HCPCS code G0283 for all other electrical stimulation scenarios, when covered. For CY 2018, we are proposing the HCPAC recommendations for CPT code 97014, HCPCS code G0283, and HCPCS code G0281.

CMS considers all 19 codes as “always therapy” which means they are always considered to be furnished under a physical therapy (PT), occupational therapy (OT), or speech-language pathology (SLP) plan of care regardless of who furnishes them and the payment amounts are counted towards the appropriate statutory therapy cap – either the therapy cap for PT and SLP services combined, or the single therapy cap for OT services. These always therapy codes are also subject to the therapy MPPR.

For CY 2018, we are proposing the HCPAC’s recommended work RVUs for CPT codes 97012, 97016, 97018, 97022, 97032, 97033, 97533, 97034, 97035, 97110, 97112, 97113, 97116, 97140, 97530, 97533, 97535, 97537, 97542, and G0283 (97014).

For supervised modality services reported with CPT codes 97012, 97016, 97018, and 97022, and HCPCS code G0283 (97014), we considered maintaining the current values for these codes rather than the HCPAC recommendations. We note that the work times recommended by the HCPAC reflect use of the survey data even though the HCPAC explained in its recommendations that the survey results were not deemed credible because of a lack of evidence to support higher work RVUs of each survey’s 25<sup>th</sup>

percentile or median values. We note total time decreases among these codes ranging from 1 to 8 minutes.

While we are proposing the HCPAC-recommended work RVUs and work times for each code in this family, we seek comments on whether maintaining the current times, given the HCPAC's lack of confidence in the survey data, would better reflect the work times for these services.

We are proposing to maintain the existing CY 2017 PE inputs for all 19 codes. We note that section 1848(b)(7) of the Act requires a 50 percent therapy MPPR instead of the 25 percent therapy MPPR established during CY 2011 PFS rulemaking. One of the primary rationales for the MPPR policy developed through the rulemaking process was that the direct PE inputs for these services did not fully recognize the redundant inputs when these services were furnished together, or in multiple units. After reviewing the recommended direct PE inputs, it is evident that they were developed based on an acknowledgement of the efficiencies of services typically furnished together as well as codes billed in multiple units. Given this assessment, we believe that were we to use the recommended inputs to develop the PE RVUs, the 50 percent MPPR on the PE for these services, as required by current law, would functionally duplicate the payment adjustments to account for efficiencies that had already been addressed through code-level valuation. Therefore, for CY 2018, we are proposing to retain the existing CY 2017 PE inputs for these services and seek comments on whether there is an alternative approach that would avoid duplicative downward payment adjustments while still allowing for the direct PE inputs to be updated to better reflect current practice.

We note that we believe that the always therapy codes subject to the therapy MPPR on PE are unique from other therapeutic and diagnostic procedure codes paid under the PFS and subject to MPPRs. For example, unlike most surgical services, these "always therapy" codes are typically billed either with other therapy codes or in multiple units, or both. Generally, MPPRs are used when codes are often, but

not typically, furnished with other particular codes. When full sets of related codes are almost all typically billed with other codes, or billed in multiple units, coding and valuation have changed to reflect these practices. For example, new codes have been introduced to describe combined services or some related services are described by add-on codes. In other cases, the MPPR is considered in the valuation for individual services.

(50) Management and/or Training: Orthotics and Prosthetics (CPT codes 97760, 97761, and 977X1)

For CY 2018, the CPT Editorial Panel revised the set of codes that comprise the CPT manual's PM&R subsection for orthotic management and prosthetic management at its September 2016 meeting. According to the CPT Editorial Panel, these revisions were made at the request of the specialty societies representing physical and occupational therapists to differentiate between the initial and subsequent encounters and to describe the ongoing management and/or training that is involved in subsequent encounters. These changes include:

- Revising the code descriptors by adding the term “initial encounter” to CPT code 97760 (Orthotic(s) management and training (including assessment and fitting when not otherwise reported), upper extremity(ies), lower extremity(ies) and/or trunk, initial orthotic(s) encounter, each 15 minutes), and CPT code 97761 (Prosthetic(s) training, upper and/or lower extremity(ies), initial prosthetic(s) encounter, each 15 minutes);
- Creating a new CPT code 977X1 (Orthotic(s)/prosthetic(s) management and/or training, upper extremity(ies), lower extremity(ies), and/or trunk, subsequent orthotic(s)/prosthetic(s) encounter, each 15 minutes); and
- Deleting CPT code 97762 (checkout for orthotic/prosthetic use, established patient, each 15 minutes).

Intended for the management and/or training of patients with orthotics and/or prosthetics, CPT codes 97760 and 97761 were previously used to report both the initial and subsequent encounters, that, when furnished under the Medicare outpatient therapy services benefit, included services occurring during the same PT or OT episode of care. CPT code 97762 was used to separately report the assessment and fitting (including any adjustments) of an orthotic or prosthetic for an established patient when these services were not bundled into another code or service. For CY 2018, CPT codes 97760 and 97761 are intended to be reported only for the initial encounter, and CPT code 977X1 is intended to be reported for all other orthotic and/or prosthetic services for an established patient that occur on a “subsequent encounter” or a different date of service from that of the initial encounter service.

The HCPAC submitted work and PE recommendations for CPT codes 97760, 97761, and 977X1 from their January 2017 meeting. For CY 2018, we propose the HCPAC recommended work RVU of 0.5 for CPT code 97760, a work RVU of 0.5 for CPT code 97761, and a work RVU of 0.48 for CPT code 977X1. We note that for budget neutrality purposes, the HCPAC recommendations also included utilization crosswalks for each of the three codes that were each assigned a one-to-one crosswalk to the utilization of the prior codes: all the prior services of CPT codes 97760 and 97761 were each crosswalked to the same newly revised codes; and, all the utilization from CPT code 97762 was crosswalked to the new CPT code 977X1.

For CPT code 977X1, we considered a work RVU of 0.33, crosswalking to CPT code 92508 (Speech/hearing therapy), which has a similar total therapist time (22 minutes). We are concerned and seek comments on the HCPAC one-to-one utilization crosswalk recommendations for all three codes in this family since the utilization assumptions are potentially flawed when viewed in the context of the new CPT code descriptors. For instance, for CPT code 977X1, the new descriptor indicates that the services inherent to CPT code 97762 (over 14,000 in 2015), as well as the new services for subsequent

encounters previously reported via CPT codes 97760 and 97761 will also be encompassed, although it is difficult to estimate the number of additional services the latter represents. We are concerned that the HCPAC's valuation is inconsistent with the submitted information regarding how services will be reported under the new coding. We seek comments on our proposed and alternative values for CPT code 977X1. We are also interested in receiving comments from stakeholders and clinicians with expertise in furnishing these orthotic management and/or prosthetics training services about the utilization and types of services that would be furnished under the new CPT coding structure, particularly those of the newly created CPT code 977X1 and how these services differ from the services reported with the predecessor CPT code 97762.

We propose to maintain the current PE inputs for CPT codes 97760, 97761, and 977X1, as we discussed in our proposals for the PM&R codes discussed above; the same therapy MPPR applies. We are proposing the current direct PE inputs for CPT code 97762 and for new CPT code 977X1, though we are seeking comment as to whether or not a different crosswalk or other adjustment would be appropriate given the change in code descriptor.

We also note that these codes are designated as always therapy, meaning that they always represent therapy services regardless of who furnishes them; and that a GO or GP therapy modifier is always required to indicate that the services are furnished under an OT or PT plan of care, respectively. As always therapy, these codes are subject to the therapy MPPR and the statutory therapy caps.

#### (51) Cognitive Function Intervention (CPT code 97X11)

We received HCPAC recommendations for new CPT code 97X11 that describes services currently reported under CPT code 97532 (Development of cognitive skills to improve attention, memory, problem solving (includes compensatory training), direct (one-on-one) patient contact, each 15 minutes). CPT code 97532 is scheduled to be deleted for CY 2018 and replaced by CPT code 97X11.



The existing code is reported per 15 minutes and the new code is reported once. Under current coding, Medicare utilization for these services is heterogeneous and indicates that practitioners of different disciplines incur significantly different resource costs (especially in time) when furnishing these services to Medicare beneficiaries. As described by both the existing and new code, the service might be appropriately furnished both by therapists under the outpatient therapy (OPT) services benefit (includes physical therapy (PT), occupational therapy (OT) or speech-language pathology (SLP)); and outside the therapy benefit by physicians, certain NPPs, and psychologists. As an OPT service, it can (1) be billed by physicians, certain NPPs, or private practice therapists including physical therapists (PT-PPs), occupational therapists (OT-PPs) and speech-language pathologists (SLP-PPs) in private practice, or (2) be billed by institutional providers (for example, skilled nursing facilities, rehabilitation agencies, outpatient hospitals, etc.) when furnished by therapists working for the institutional providers.

According to the HCPAC, professional claims data indicate that CPT code 97532 was most often billed in 4 units. The HCPAC recommended a work RVU of 1.50 for CPT code 97X11, which is only 3.4 times greater than the work RVU for the predecessor code (0.44). Assuming professional billing patterns remain the same, the recommended coding and valuation could result in a significant reduction in overall Medicare payment under the PFS.

However, our analysis of the claims data indicates that the number of units typically reported for the current code suggests a significant difference in the amount of time spent with the patient, depending on which discipline (and implicitly under which benefit) bills Medicare for services described by this single code.

Based on our review of claims data by specialty, SLP-PPs, OT-PPs and PT-PPs furnishing the same services under the OPT benefit would receive overall payment increases due simply to the change in coding because they typically bill for fewer than 4 units, while overall payment for clinical

psychologists furnishing therapeutic interventions for cognitive function would decrease because they typically bill in units of four or more.

We are seeking additional information regarding the potential impact of this coding and payment change prior to proposing its use under the PFS. For CY 2018, we are proposing to maintain the current coding and valuation for these cognitive function services. If the CPT Editorial Panel deletes the existing CPT code for CY 2018, we would effectuate this proposal through use of a new a G-code, GXXX1, which would maintain the descriptor and values from existing CPT code 97532. Under this proposal, new CPT code 97X11 would be given a procedure status of “T” (Invalid for Medicare).

We also note that this change in coding and payment could have significant impact for payment to Medicare institutions for OPT services. Under section 1834(k) of the Act, when reported by Medicare institutional providers, OPT services are paid at PFS non-facility payment rates. Institutional claims data for CPT code 97532 when furnished by the three therapist disciplines show a much higher utilization overall than that for professional claims but significantly fewer 15 minute units reported. This suggests that professionals generally spend significantly less time with patients in the institutional setting. Use of the new CPT code could therefore result in significant additional expenditure to the Medicare program, as well as other payers, including Medicaid programs, based on the change in coding alone.

(52) INR Monitoring (CPT codes 993X1 and 993X2)

In October 2015, AMA staff assembled a list of all services with total Medicare utilization of 10,000 or more that have increased by at least 100 percent from 2008 through 2013 and these services were identified on that list. The RUC recommended that HCPCS codes G0248, G0249 and G0250, which describe related INR monitoring services, be referred to the CPT Editorial Panel to create Category I codes to describe these services. For CY 2018, the CPT Editorial Panel is deleting CPT codes 99363 and 99364

and creating new CPT codes 993X1 (Patient/caregiver training for initiation of home INR monitoring under the direction of a physician or other qualified health care professional, including face-to-face, use and care of the INR monitor, obtaining blood sample, instructions for reporting home INR test results, and documentation of patient's/caregiver's ability to perform testing and report results) and 993X2 (Anticoagulant management for a patient taking warfarin, must include review and interpretation of a new home, office, or lab International Normalized Ratio (INR) test result, patient instructions, dosage adjustment (as needed), and-scheduling of additional test(s) when performed). CPT code 993X1 is a technical component-only code. With the creation CPT codes 993X1 and 993X2, the RUC recommended that CMS delete HCPCS codes G0248, G0249 and G0250.

For CPT code 993X2, we are proposing the RUC-recommended work RVU of 0.18. Because HCPCS codes G0248, G0249 and G0250 are used to report related services under a national coverage determination, we do not intend to delete the G-codes.

In reviewing the recommended PE inputs for these services, we obtained updated invoices for prices for particular items. We are proposing to use the invoices to update the price of the supply "INR test strip" (SJ055). We obtained publically available pricing information from two vendors. The pricing from one vendor indicated the price for a box of 24 of supply item SJ055 item (INR test strip) to be \$150.00, which equated to a unit price of \$6.25. Pricing from a second vendor indicated the price of a box of 48 of the supply item SJ055 to be \$233.00, which equated to a unit price of \$5.06. The average price of these two unit prices is \$5.66.

Therefore, we are proposing to re-price SJ055 from \$21.86 to \$5.66 for CPT code 993X1. We are seeking public comments on current pricing for the INR test strip supply.

(53) Psychiatric Collaborative Care Management Services (CPT codes 994X1, 994X2, 994X3, and HCPCS code G0507)

In the CY 2017 PFS final rule (81 FR 80230), we established separate payment for three services (HCPCS codes G0502, G0503, and G0504) under the psychiatric collaborative care model that paralleled CPT codes that were being created to report these services as well as a G-code for general behavioral health integration (BHI) services (HCPCS code G0507).

For CY 2018, the CPT Editorial Panel is creating CPT codes 994X1, 994X2, 994X3, and 99XX5 to describe these services. We are proposing the RUC-recommended work RVUs for each of these services, which are identical to the current values for HCPCS codes G0502, G0503, G0504, and G0507.

We are proposing the RUC-recommended PE inputs, with one refinement. The RUC-recommended values included clinical labor inputs in the facility setting, but we are not proposing to include these minutes in developing the facility PE RVUs.

Were we to develop facility PE RVUs for these services that included clinical staff time, when a practitioner working in a provider-based department of a hospital was furnishing these services, both the professional and the hospital would be paid for the same clinical labor costs. We presume that this aspect of the RUC's recommendation reflects the circumstance where the patient receiving the services spends a significant period of time in a facility setting, but the billing practitioner is nonetheless incurring the cost associated with the non-face-to-face clinical staff time over the course of a month. We recognize that the binary site of service differential may not recognize the different models of this kind of care and may not be appropriate in some cases. We seek comments on how to best address this valuation issue for these and other monthly care management services. We could consider a range of options for future rulemaking, including allowing separate billing for the professional, technical, and global components of these services to allow practitioners to bill the component of the service they furnish.

We stated in the CY 2017 PFS final rule (81 FR 80236) that the general BHI code (CPT code 99XX5) may be used to report a range of models of BHI services and that we expected this code to be refined over time as we receive more information about other BHI models in use. We remain interested in how this code is being used and look forward to hearing from stakeholders regarding its use in reporting different models of BHI services. Additionally, we have received inquiries from stakeholders about whether or not professionals who cannot report E/M services to Medicare might nonetheless serve as a primary hub for BHI services. For example, stakeholders have suggested that a clinical psychologist might serve as the primary practitioner that integrates medical care and psychiatric expertise. For purposes of future rulemaking, we are seeking comment on the circumstances under which this model of care is happening and whether additional coding would be needed to accurately describe and value other models of care.

(54) Hyperbaric Oxygen Therapy (HCPCS code G0277)

In the CY 2016 PFS final rule (80 FR 71005), we discussed the CY 2015 valuation of hyperbaric oxygen therapy services (79 FR 67677). Prior to CY 2015, CPT code 99183 was used to report both the professional attendance and supervision, and the costs associated with treatment delivery were included in the nonfacility direct PE inputs for the code. We created HCPCS code G0277 to be used to report the treatment delivery separately, consistent with the OPPS coding mechanism, to allow the use of the same coding structure across settings. In establishing interim final direct PE inputs for HCPCS code G0277, we used the RUC-recommended direct PE inputs for CPT code 99183, which assumed a 120-minute treatment interval and adjusted them to align with the 30-minute treatment interval of HCPCS code G0277. We observed that the quantity of oxygen increased significantly relative to the previous inputs for CPT code 99183.

To better understand why the oxygen supply increased, we reviewed the instruction manual for the Sechrist Model 3600E Hyperbaric Chamber, which was the model noted on the invoice that was included with the RUC recommendations for use in pricing the capital equipment. The instruction manual for the Sechrist 3600E model provided guidance regarding the quantity of oxygen to be used in furnishing the service described by HCPCS code G0277. Based on our review at that time, we determined that 12,000 liters, rather than 47,000 liters, was the typical number of units for the oxygen gas. Therefore, in aligning the direct PE inputs as described in this section of the proposed rule, we first adjusted the units of oxygen to 12,000 liters for the recommended 120 minute time, and subsequently adjusted it to align with the 30-minute G-code by dividing by 4. We stated that we agreed that an initial high purge flow rate is needed to reach maximum pressure/O<sub>2</sub>; however, we still had not seen data that demonstrated the need to continue the high purge flow rate throughout the entire session. According to the manufacturer's instruction manual for this model, "once the nitrogen has been purged from the chamber and the internal oxygen concentration has exceeded 95 percent, high flows are no longer needed to maintain the patient's saturation level." The manual also stated that "the plateau purge flow can be set to 80 liters per minute (lpm)." We calculated that 13 minutes at 400 lpm plus 120 minutes at 80 lpm equals 14,800 liters of oxygen. We stated that based on information in the manufacturer's manual that was publicly available at the time, we believed that this represented the typical usage for a 120-minute treatment. That amount represented an increase from the interim final amount of 12,000 liters. We aligned this total oxygen requirement to the 30-minute G-code by dividing 14,800 liters of oxygen by 4 and stated we were updating the direct PE inputs to 3,700 liters of oxygen for HCPCS code G0277.

For CY 2018, we received requests from stakeholders to update the direct PE inputs for HCPCS code G0277. In the CY 2016 PFS final rule (80 FR 71005), we explained that we had previously

established values for this service based on information suggesting that the Sechrist Model 3600E Hyperbaric Chamber was typically used in furnishing the service in the non-facility setting. As we noted in that rule, we established the amount of oxygen used in furnishing the service based on use of the equipment item described as part of the RUC recommendation, instead of the RUC-recommended amount of oxygen, which appeared to be based on use of a different equipment product, the Sechrist Model 3200. Based on information received from stakeholders, we are proposing to update both the equipment item and the amount of oxygen so that the amount of oxygen conforms to the RUC-recommended value of 47,600 liters of oxygen, which we divided by 4 to conform to the 30-minute service period for HCPCS code G0277, and that the equipment item is consistent with that recommendation. The proposed direct PE inputs for HCPCS code G0277 are displayed in the proposed CY 2018 direct PE input database, available on the CMS website under the downloads for the CY 2018 PFS proposed rule at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>.

We are also proposing to exclude this change in direct PE inputs from calculation of the misvalued code target since we view this proposed change as a refinement of a single recommendation over several years. Since the initial recommendation (79 FR 67677) was undertaken in a year without the misvalued code target, we believe it would be consistent with our previously established policy (80 FR 70923) to exclude this change from the calculation. We note that this change would represent an increase from the current PE RVUs for this service.

(55) Physician Coding for Insertion and Removal of Subdermal Drug Implants for the Treatment of Opioid Addiction (HCPCS codes GDDD1, GDDD2, and GDDD3)

We met with representatives from the American Society of Addiction Medicine (ASAM) in April 2016 to discuss the possibility of making separate payment for insertion and removal of

buprenorphine hydrochloride, formulated as a 4-rod, 80 mg, long-acting subdermal drug implant for the treatment of opioid addiction. There are existing CPT codes that broadly describe the insertion and removal of non-biodegradable drug delivery implants (CPT codes 11981 through 11983). However, ASAM contended that the resources associated with the administration of this particular drug are greater than that of other drug delivery implants, stating that the physician must insert four rods using a newly designed applicator and obturator and use a specially designed clamp to remove the four rods, which in some cases requires careful shaving of tissue that has attached to the rods during the 6-month period that the rods have been inserted. They noted that these procedures can have unique challenges associated with treating patients with opioid addiction, who often have complications and/or co-morbidities. They also noted that the FDA has recognized the complexity of the technology and patient needs by establishing regulatory standards to adhere to the protocol and imposing special training requirements on physicians. ASAM indicated that they would pursue an application to the CPT Editorial Panel for new CPT codes.

ASAM informed CMS that the CPT Editorial Panel did not approve their application; therefore, they repeated their request that CMS establish separate payment for the insertion, removal, and removal with reinsertion of the buprenorphine subdermal implants.

To improve payment accuracy, for CY 2018, we are proposing to make separate payment for the insertion, removal, and removal with reinsertion of Buprenorphine subdermal implants using HCPCS G codes:

- HCPCS code GDDD1: Insertion, non-biodegradable drug delivery implants, 4 or more.
- HCPCS code GDDD2: Removal, non-biodegradable drug delivery implants, 4 or more.
- HCPCS code GDDD3: Removal with reinsertion, non-biodegradable drug delivery implants, 4 or more.



For HCPCS code GDDD1, ASAM states that performing the procedure according to the FDA-required Risk Evaluation and Mitigation Strategies (REMS) program takes approximately 23-25 minutes for the a physician who is not a trainer/proctor for this procedure. They state that in developing crosswalk recommendations for physician work values, they used a total time of 35-40 minutes, which is based on a preservice time of 10 minutes, an intraservice time of 20-25 minutes, and a postservice time of 5 minutes. Based on ASAM's recommendations, we are proposing a work RVU of 1.82 for HCPCS code GDDD1, which is supported by a direct crosswalk to CPT code 64644 (Chemodenervation of one extremity; 5 or more muscles).

For HCPCS code GDDD2, ASAM states that data from physicians who perform this procedure indicated that it takes approximately 15-20 additional minutes compared to the insertion procedure (HCPCS code GDDD1) based on the FDA-required REMS program for removal of the implant. They note that this procedure is of a higher intensity compared to CPT code 11982 as this service requires identification and removal of multiple subdermal implants. They state that in developing crosswalk recommendations for physician work values, they used a total time of 45-60 minutes, which is based on a preservice time of 10 minutes, an intraservice time of 30-45 minutes, and a postservice time of 5 minutes. Based on ASAM's recommendations, we are proposing a work RVU of 2.10 for HCPCS code GDDD2, which is supported by a direct crosswalk to CPT code 96922 (Laser treatment for inflammatory skin disease (psoriasis); over 500 sq cm).

For HCPCS code GDDD3, ASAM indicated that there is minimal consolidation of effort since the removal of the implants from one arm is followed by insertion of a new set of implants in the contralateral arm. Physician data from those who have performed this procedure indicated that it takes approximately 70 minutes of total intra-service time. They state that in developing crosswalk recommendations for physician work values, they assumed a preservice evaluation time of 10 minutes (7

minutes for removal and 3 minutes for insertion), positioning of 4 minutes (2 minutes for each arm), and wait time of 2 minutes (1 minute for each arm). They state that using the multiple surgical procedure rule, they calculated an intraservice time of 40-58 minutes based on 100 percent of the intraservice time for HCPCS code GDDD2 (30-45 minutes) and 50 percent of the intraservice time for HCPCS code GDDD1 ( $0.5 \times (20-25) = 10-13$ ). They used a postservice time of 8 minutes based on 100 percent of the postservice time for the removal arm and 50 percent of the postservice time for the insertion arm, equaling a total time of 58-76 minutes. Based on ASAM's recommendations, we are proposing a work RVU of 3.55 for HCPCS code GDDD3, which is supported by a direct crosswalk to CPT code 31628 (Bronchoscopy, rigid or flexible, including fluoroscopic guidance, when performed; with transbronchial lung biopsy(s), single lobe).

We are proposing to use the direct PE inputs requested by ASAM for HCPCS codes GDDD1, GDDD2, and GDDD3, which are reflected in the Direct PE Inputs public use files for clinical labor, supplies, and equipment, available on the CMS website at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/index.html>.

In addition to seeking comment on the proposal to make separate payment for these services using HCPCS G codes, we are also seeking comment on the appropriateness and accuracy of our proposed work RVUs and direct PE inputs.

#### (56) Superficial Radiation Treatment Planning and Management (HCPCS code GRRR1)

In the CY 2015 PFS final rule with comment period (79 FR 67666 through 67667), we noted that changes to the CPT prefatory language limited the codes that could be reported when describing services associated with superficial radiation treatment (SRT) delivery, described by CPT code 77401 (radiation treatment delivery, superficial and/or ortho voltage, per day). The changes effectively meant that many other related services were bundled with CPT code 77401, instead of being separately reported. For

example, CPT guidance clarified that certain codes used to describe clinical treatment planning, treatment devices, isodose planning, physics consultation, and radiation treatment management cannot be reported when furnished in association with superficial radiation treatment. Stakeholders stated that these changes to the CPT prefatory language prohibited them from billing Medicare for codes that were previously frequently billed in addition to CPT code 77401. We solicited comments as to whether the coding for SRT allowed for accurate reporting of the associated services.

In the CY 2016 PFS final rule with comment period (80 FR 70955), we noted that the RUC did not review the inputs for superficial radiation therapy procedures, and therefore, did not assess whether changes in its valuation were appropriate in light of the bundling of associated services. In addition, we solicited recommendations from stakeholders regarding whether or not it would be appropriate to add physician work for this service, even though physician work is not included in other radiation treatment services. As commenters were not in agreement as to whether the service should be valued with physician work, we introduced the possibility of creating a HCPCS G code to describe total work associated with the course of treatment for these services.

The 2016 National Correct Coding Initiative (NCCI) Policy Manual for Medicare Services states that radiation oncology services may not be separately reported with E/M codes. While this edit is no longer active, stakeholders have stated that MACs have denied claims for E/M services associated with SRT based on the NCCI policy manual language. According to stakeholders, the bundling of services associated with SRT, as well as the confusion regarding the appropriate use of E/M coding to report associated physician work, means that practitioners are not being accurately paid for planning and treatment management associated with furnishing SRT.

In recognition of these concerns, we are proposing to make separate payment for the professional planning and management associated with SRT using HCPCS code GRRR1 (Superficial radiation

treatment planning and management related services, including but not limited to, when performed, clinical treatment planning (for example, 77261, 77262, 77263), therapeutic radiology simulation-aided field setting (for example, 77280, 77285, 77290, 77293), basic radiation dosimetry calculation (for example, 77300), treatment devices (for example, 77332, 77333, 77334), isodose planning (for example, 77306, 77307, 77316, 77317, 77318), radiation treatment management (for example, 77427, 77431, 77432, 77435, 77469, 77470, 77499), and associated evaluation and management per course of treatment). We intend for this code to describe the range of professional services associated with a course of SRT, including services similar to those not otherwise separately reportable under CPT guidance and the NCCI manual.

To value this code, we are including the physician work and work time associated with radiation management-related services that we think would be typical for a course of SRT treatment. These services include: CPT code 77261 (Therapeutic radiology treatment planning; simple), CPT code 77280 (Therapeutic radiology simulation-aided field setting; simple), CPT code 77300 (Basic radiation dosimetry calculation, central axis depth dose calculation, TDF, NSD, gap calculation, off axis factor, tissue inhomogeneity factors, calculation of non-ionizing radiation surface and depth dose, as required during course of treatment, only when prescribed by the treating physician), CPT code 77306 (Teletherapy isodose plan; simple (1 or 2 unmodified ports directed to a single area of interest), includes basic dosimetry calculation(s)), CPT code 77332 (Treatment devices, design and construction; simple (simple block, simple bolus)), and CPT code 77427 (Radiation treatment management, 5 treatments). Therefore, for CY 2018, we are proposing a work RVU of 7.93 for HCPCS code GRRR1.

To develop the proposed direct PE inputs for this code, we are proposing to use the RUC-recommended direct PE inputs from the aforementioned codes with several adjustments. We are proposing to apply the staff type “RN/LPN/MTA” for all of the clinical labor inputs for this code

because we believe that the typical office performing SRT will be staffed with this labor type, rather than with another clinical labor type such as radiation therapists, and we seek comments as to the appropriateness of the staff type “RN/LPN/MTA” for this SRT-related service. Some stakeholders have suggested that many services related to SRT are personally performed by the billing practitioner rather than by clinical staff.

We are proposing to remove the supply items "gown, patient" and "pillow case" that are associated with CPT code 77280, as these items are included in the minimum multi-specialty visit pack that is associated with CPT code 77427. We are not proposing to include the equipment items “radiation virtual simulation system,” "room, CT" and "PACS Workstation Proxy" that are associated with CPT code 77280, as we do not believe that a typical office furnishing SRT uses this kind of equipment. Instead, we are including additional time for the capital equipment used in delivering SRT in the proposed direct PE inputs. For “radiation dose therapy plan,” we are proposing to apply the clinical labor time that is associated with CPT code 77300 to HCPCS code GRRR1 for purposes of developing a proposed value, but we seek comments as to whether the clinical staff would typically perform the radiation dose therapy planning for this service, or if the physician would perform this and/or other tasks, and, in the case of the latter, what the appropriate physician time would be. Likewise, we are soliciting comment as to whether the clinical labor associated with the teletherapy isodose plan would be performed by the physician. We are proposing to assign 14 minutes each to the equipment items “radiation therapy dosimetry software (Argus QC)”, “computer workstation”, and “3D teletherapy treatment planning” as these are the times assigned to these equipment items for CPT code 77300.

We are not proposing to include inputs related to radiation physics consultation, described by CPT code 77336, as we think that a typical course of SRT would not require this service, and the typical practitioner providing SRT would not be performing physics consultation, and we are seeking comment

as to whether inputs associated with this code or other inputs used in furnishing analogous services should be included. We are not proposing to include the post-operative office visits included in the valuation of CPT code 77427, as we do not believe that a typical course of SRT will require post-operative visits; however, we are seeking comment regarding the amount of face-to-face time typically spent by the practitioner with the patient for radiation treatment management associated with SRT.

As discussed in the CY 2016 PFS final rule (80 FR 70924 through 70927), in the case of new codes that describe services that were previously included in the payment for other codes, we finalized the policy that these new codes are excluded from the misvalued code target when they were previously bundled into a set of broadly reported E/M codes and services that include E/M visits. We noted that we did not believe that the change to separate payment for these kinds of services should be counted as increases that are included in calculating “net reductions” in expenditure attributable to adjustments for misvalued codes. Therefore, we are proposing to exclude HCPCS code GRRR1 from the misvalued code target.

(57) Payment Accuracy for Prolonged Preventive Services (HCPCS codes GYYY1 and GYYY2)

Most services paid under the PFS are coded to reflect differential resource costs associated with different levels of care. However, this level of granularity is not applied evenly across the PFS. For example, there are far fewer Evaluation and Management (E/M) visit codes than there are codes that describe procedures. While not a comprehensive solution to address the differential resource costs of certain E/M visits, prolonged services codes can be used to report medically necessary E/M visits that require additional amounts of time. Like E/M visit codes, many of the Medicare-covered preventive services codes describe a service that has an atypically broad range of potential resource costs, including differential amounts of time required to furnish services. However, unlike for most E/M visit codes, there are not prolonged services codes that apply to Medicare-covered preventive services.

Some stakeholders have expressed concerns to CMS that there is no coding mechanism for practitioners to report the additional time sometimes required to appropriately furnish care to a patient receiving a Medicare-covered preventive service. We note that Medicare covers a broad range of preventive services, such as a “Welcome to Medicare Preventive Visit”, yearly wellness visits, cancer screenings, and many types of counseling. Medicare beneficiary coinsurance and deductible payments are not applicable for certain Medicare-covered preventive services. Additional information about preventive services covered under Medicare, including whether beneficiary coinsurance or deductible apply, is available on the CMS website at <https://www.cms.gov/Medicare/Prevention/PreventionGenInfo/Downloads/MPS-QuickReferenceChart-1TextOnly.pdf>. To more accurately reflect the differential resource costs when additional time is required to furnish a Medicare-covered preventive service, we are proposing to make payment for prolonged preventive services using two new HCPCS G codes that could be billed along with the Medicare-covered preventive service codes, when a clinician provides a prolonged Medicare-covered preventive service.

- GYYY1: Prolonged preventive service(s) (beyond the typical service time of the primary procedure) in the office or other outpatient setting requiring direct patient contact beyond the usual service; first 30 minutes (List separately in addition to code for preventive service)), and

- GYYY2: Prolonged preventive service(s) (beyond the typical service time of the primary procedure) in the office or other outpatient setting requiring direct patient contact beyond the usual service; each additional 30 minutes (List separately in addition to code for preventive service)).

These proposed services (HCPCS codes GYYY1 and GYYY2) are only permitted to be billed with Medicare-covered preventive services. Beneficiary coinsurance and deductible would not be applicable

for HCPCS codes GYYY1 and GYYY2 because the codes can only be reported to describe prolonged portions of services where beneficiary coinsurance and deductible are not applicable.

We are proposing to use prolonged services codes in 30-minute increments instead of the 60-minute increments that apply for the parallel office/outpatient prolonged services codes, since some Medicare-covered preventive services have a shorter duration than E/M visits. For purposes of valuation for both initial and additional 30 minute codes, we are proposing to use one half of the current work RVUs and direct PE inputs for CPT code 99354 (Prolonged evaluation and management or psychotherapy service(s) beyond the typical service time of the primary procedure) in the office or other outpatient setting requiring direct patient contact beyond the usual service; first hour (List separately in addition to code for office or other outpatient Evaluation and Management or psychotherapy service)). CPT code 99354 has a total time of 60 minutes and a work RVU of 2.33. Therefore, we are proposing a work RVU of 1.17 and 30 minutes of total work time for HCPCS codes GYYY1 and GYYY2. We are proposing to use one half of the direct PE inputs for CPT code 99354, which results in a proposal of 7 minutes of clinical labor type L037D (RN/LPN/MTA) and 15 minutes for equipment type EF031 (table, power) for HCPCS code GYYY1 and HCPCS code GYYY2 as the best reflection of typical direct PE costs. We understand that these specific clinical labor and equipment types may be functioning as proxy inputs for some Medicare-covered preventive services.

As described in this section of the rule, we propose that HCPCS codes GYYY1 and GYYY2 be billed for prolonged preventive services beyond the typical service time of the primary procedure. For preventive services with both physician work and practice expense, we are considering the typical service time of the primary procedure to be the intraservice work time used for the purposes of ratesetting. For Medicare-covered preventive services with no face-to-face physician work, the typical time is the service period clinical staff time that best represents the face-to-face time with the patient.



The counted time requirements (derived from the typical times assumed for ratesetting) for all eligible companion Medicare-covered preventive services are available in the file called “CY 2018 Preventive Services Billed with Prolonged Preventives Code” on the CMS website under downloads for the CY 2018 PFS proposed rule at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>.

**TABLE 10: Proposed CY 2018 Work RVUs for New, Revised and Potentially Misvalued Codes**

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
007X1	Anesthesia for upper gastrointestinal endoscopic procedures, endoscope introduced proximal to duodenum; not otherwise specified	NEW	0.00	0.00	No
007X2	Anesthesia for upper gastrointestinal endoscopic procedures, endoscope introduced proximal to duodenum; endoscopic retrograde cholangiopancreatography (ERCP)	NEW	0.00	0.00	No
008X1	Anesthesia for lower intestinal endoscopic procedures, endoscope introduced distal to duodenum; not otherwise specified	NEW	0.00	0.00	No
008X2	Anesthesia for lower intestinal endoscopic procedures, endoscope introduced distal to duodenum; screening colonoscopy	NEW	0.00	0.00	No
008X3	Anesthesia for combined upper and lower gastrointestinal endoscopic procedures, endoscope introduced both proximal to and distal to the duodenum	NEW	0.00	0.00	No
10040	Acne surgery (eg, marsupialization, opening or removal of multiple milia, comedones, cysts, pustules)	1.21	0.91	0.91	No
15734	Muscle, myocutaneous, or fasciocutaneous flap; trunk	19.86	23.00	23.00	No
15736	Muscle, myocutaneous, or fasciocutaneous flap; upper extremity	17.04	17.04	17.04	No
15738	Muscle, myocutaneous, or fasciocutaneous flap; lower extremity	19.04	19.04	19.04	No
157X1	Midface flap (ie, zygomaticofacial flap) with preservation of vascular pedicle(s)	NEW	13.50	13.50	No
157X2	Muscle, myocutaneous, or fasciocutaneous flap; head and neck with named vascular pedicle (ie, buccinators, genioglossus, temporalis, masseter, sternocleidomastoid, levator scapulae)	NEW	15.68	15.68	No
192X1	Preparation of tumor cavity with placement of a radiation therapy applicator for intraoperative radiation therapy (IORT) concurrent with partial mastectomy	NEW	3.00	3.00	No
19303	Mastectomy, simple, complete	15.85	15.00	15.00	No
2093X	Bone marrow aspiration for bone grafting, spine surgery only, through separate skin or fascial incision	NEW	1.16	1.16	No
29445	Application of rigid total contact leg cast	1.78	1.78	1.78	No
29580	Strapping; Unna boot	0.55	0.55	0.55	No
29581	Application of multi-layer compression system; leg (below knee), including ankle and foot	0.25	0.60	0.60	No
30140	Submucous resection inferior turbinate, partial or complete, any method	3.57	3.00	3.00	No
30901	Control nasal hemorrhage, anterior, simple (limited cautery and/or packing) any method	1.10	1.10	1.10	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
30903	Control nasal hemorrhage, anterior, complex (extensive cautery and/or packing) any method	1.54	1.54	1.54	No
30905	Control nasal hemorrhage, posterior, with posterior nasal packs and/or cautery, any method; initial	1.97	1.97	1.97	No
30906	Control nasal hemorrhage, posterior, with posterior nasal packs and/or cautery, any method; subsequent	2.45	2.45	2.45	No
31XX1	Nasal/sinus endoscopy, surgical; with ligation of sphenopalatine artery	NEW	8.00	8.00	No
31XX2	Nasal/sinus endoscopy, surgical with ethmoidectomy; total (anterior and posterior), including frontal sinus exploration, with removal of tissue from frontal sinus, when performed	NEW	9.00	9.00	No
31XX3	Nasal/sinus endoscopy, surgical with ethmoidectomy; total (anterior and posterior), including sphenoidotomy	NEW	8.00	8.00	No
31XX4	Nasal/sinus endoscopy, surgical with ethmoidectomy; total (anterior and posterior), including sphenoidotomy, with removal of tissue from the sphenoid sinus	NEW	8.48	8.48	No
31XX5	Nasal/sinus endoscopy, surgical; with dilation of frontal and sphenoid sinus ostia (eg, balloon dilation)	NEW	4.50	4.50	No
31254	Nasal/sinus endoscopy, surgical with ethmoidectomy; partial (anterior)	4.64	4.27	4.27	No
31255	Nasal/sinus endoscopy, surgical with ethmoidectomy; total (anterior and posterior)	6.95	5.75	5.75	No
31256	Nasal/sinus endoscopy, surgical, with maxillary antrostomy	3.29	3.11	3.11	No
31267	Nasal/sinus endoscopy, surgical, with maxillary antrostomy; with removal of tissue from maxillary sinus	5.45	4.68	4.68	No
31276	Nasal/sinus endoscopy, surgical, with frontal sinus exploration, including removal of tissue from frontal sinus, when performed	8.84	6.75	6.75	No
31287	Nasal/sinus endoscopy, surgical, with sphenoidotomy	3.91	3.50	3.50	No
31288	Nasal/sinus endoscopy, surgical, with sphenoidotomy; with removal of tissue from the sphenoid sinus	4.57	4.10	4.10	No
31295	Nasal/sinus endoscopy, surgical; with dilation of maxillary sinus ostium (eg, balloon dilation), transnasal or canine fossa	2.70	2.70	2.70	No
31296	Nasal/sinus endoscopy, surgical; with dilation of frontal sinus ostium (eg, balloon dilation)	3.29	3.10	3.10	No
31297	Nasal/sinus endoscopy, surgical; with dilation of sphenoid sinus ostium (eg, balloon dilation)	2.64	2.44	2.44	No
31600	Tracheostomy, planned (separate procedure)	7.17	5.56	5.56	No
31601	Tracheostomy, planned (separate procedure); younger than 2 years	4.44	8.00	8.00	No
31603	Tracheostomy, emergency procedure; transtracheal	4.14	6.00	6.00	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
31605	Tracheostomy, emergency procedure; cricothyroid membrane	3.57	6.45	6.45	No
31610	Tracheostomy, fenestration procedure with skin flaps	9.38	12.00	12.00	No
31645	Bronchoscopy, rigid or flexible, including fluoroscopic guidance, when performed with therapeutic aspiration of tracheobronchial tree, initial	2.91	2.88	2.88	No
31646	Bronchoscopy, rigid or flexible, including fluoroscopic guidance, when performed with therapeutic aspiration of tracheobronchial tree, subsequent, same hospital stay	2.47	2.78	2.78	No
32998	Ablation therapy for reduction or eradication of 1 or more pulmonary tumor(s) including pleura or chest wall when involved by tumor extension, percutaneous, including imaging guidance when performed, unilateral; radiofrequency	5.68	9.03	9.03	No
32X99	Ablation therapy for reduction or eradication of 1 or more pulmonary tumor(s) including pleura or chest wall when involved by tumor extension, percutaneous, including imaging guidance when performed, unilateral; cryoablation	NEW	9.03	9.03	No
339X1	Implantation of a total replacement heart system (artificial heart) with recipient cardiectomy	NEW	49.00	49.00	No
339X2	Removal and replacement of total replacement heart system (artificial heart)	NEW	C	C	No
339X3	Removal of a total replacement heart system (artificial heart) for heart transplantation	NEW	C	C	No
34812	Open femoral artery exposure for delivery of endovascular prosthesis by groin incision, unilateral	6.74	4.13	4.13	No
34820	Open iliac artery exposure for delivery of endovascular prosthesis or iliac occlusion by abdominal or retroperitoneal incision, unilateral	9.74	7.00	7.00	No
34833	Open iliac artery exposure with creation of conduit for delivery of endovascular prosthesis or for establishment of cardiopulmonary bypass, by abdominal or retroperitoneal incision, unilateral	11.98	8.16	8.16	No
34834	Open brachial artery exposure for delivery of endovascular prosthesis unilateral	5.34	2.65	2.65	No
34X01	Endovascular repair of infrarenal aorta by deployment of an aorto-aortic tube endograft including pre-procedure sizing and device selection, all nonselective catheterization(s), all associated radiological supervision and interpretation, all endograft extension(s) placed in the aorta from the level of the renal arteries to the aortic bifurcation, and all angioplasty/stenting performed from the level of the renal arteries to the aortic bifurcation; for other than rupture (eg, for aneurysm, pseudoaneurysm, dissection, penetrating	NEW	23.71	23.71	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
	ulcer)				
34X02	Endovascular repair of infrarenal aorta by deployment of an aorto-aortic tube endograft including pre-procedure sizing and device selection, all nonselective catheterization(s), all associated radiological supervision and interpretation, all endograft extension(s) placed in the aorta from the level of the renal arteries to the aortic bifurcation, and all angioplasty/stenting performed from the level of the renal arteries to the aortic bifurcation; for rupture including temporary aortic and/or iliac balloon occlusion when performed (eg, for aneurysm, pseudoaneurysm, dissection, penetrating ulcer, traumatic disruption)	NEW	36.00	36.00	No
34X03	Endovascular repair of infrarenal aorta and/or iliac artery(ies) by deployment of an aorto-uniliac endograft including pre-procedure sizing and device selection, all nonselective catheterization(s), all associated radiological supervision and interpretation, all endograft extension(s) placed in the aorta from the level of the renal arteries to the iliac bifurcation, and all angioplasty/stenting performed from the level of the renal arteries to the iliac bifurcation; for other than rupture (eg, for aneurysm, pseudoaneurysm, dissection, penetrating ulcer)	NEW	26.52	26.52	No
34X04	Endovascular repair of infrarenal aorta and/or iliac artery(ies) by deployment of an aorto-uniliac endograft including pre-procedure sizing and device selection, all nonselective catheterization(s), all associated radiological supervision and interpretation, all endograft extension(s) placed in the aorta from the level of the renal arteries to the iliac bifurcation, and all angioplasty/stenting performed from the level of the renal arteries to the iliac bifurcation; for rupture including temporary aortic and/or iliac balloon occlusion when performed (eg, for aneurysm, pseudoaneurysm, dissection, penetrating ulcer, traumatic disruption)	NEW	45.00	45.00	No
34X05	Endovascular repair of infrarenal aorta and/or iliac artery(ies) by deployment of an aorto-biliac endograft including pre-procedure sizing and device selection, all nonselective catheterization(s), all associated radiological supervision and interpretation, all endograft extension(s) placed in the aorta from the level of the renal arteries to the	NEW	29.58	29.58	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
	iliac bifurcation, and all angioplasty/stenting performed from the level of the renal arteries to the iliac bifurcation; for other than rupture (eg, for aneurysm, pseudoaneurysm, dissection, penetrating ulcer)				
34X06	Endovascular repair of infrarenal aorta and/or iliac artery(ies) by deployment of an aorto-biiliac endograft including pre-procedure sizing and device selection, all nonselective catheterization(s), all associated radiological supervision and interpretation, all endograft extension(s) placed in the aorta from the level of the renal arteries to the iliac bifurcation, and all angioplasty/stenting performed from the level of the renal arteries to the iliac bifurcation; for rupture including temporary aortic and/or iliac balloon occlusion when performed (eg, for aneurysm, pseudoaneurysm, dissection, penetrating ulcer, traumatic disruption)	NEW	45.00	45.00	No
34X07	Endovascular repair of iliac artery by deployment of an ilio-iliac tube endograft including pre-procedure sizing and device selection, all nonselective catheterization(s), all associated radiological supervision and interpretation, and all endograft extension(s) proximally to the aortic bifurcation and distally to the iliac bifurcation, and treatment zone angioplasty/stenting when performed, unilateral; for other than rupture (eg, for aneurysm, pseudoaneurysm, dissection, arteriovenous malformation)	NEW	22.28	22.28	No
34X08	Endovascular repair of iliac artery by deployment of an ilio-iliac tube endograft including pre-procedure sizing and device selection, all nonselective catheterization(s), all associated radiological supervision and interpretation, and all endograft extension(s) proximally to the aortic bifurcation and distally to the iliac bifurcation, and treatment zone angioplasty/stenting when performed, unilateral; for rupture including temporary aortic and/or iliac balloon occlusion when performed (eg, for aneurysm, pseudoaneurysm, dissection, arteriovenous malformation, traumatic disruption)	NEW	36.50	36.50	No
34X09	Placement of extension prosthesis(es) distal to the common iliac artery(ies) or proximal to the renal artery(ies) for endovascular repair of infrarenal abdominal aortic or iliac aneurysm, false aneurysm, dissection, penetrating ulcer, including pre-procedure sizing and device selection, all nonselective catheterization(s), all associated radiological supervision and interpretation, and	NEW	6.50	6.50	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
	treatment zone angioplasty/stenting when performed, per vessel treated				
34X10	Delayed placement of distal or proximal extension prosthesis for endovascular repair of infrarenal abdominal aortic or iliac aneurysm, false aneurysm, dissection, endoleak, or endograft migration, including pre-procedure sizing and device selection, all nonselective catheterization(s), all associated radiological supervision and interpretation, and treatment zone angioplasty/stenting when performed; initial vessel treated	NEW	15.00	15.00	No
34X11	Delayed placement of distal or proximal extension prosthesis for endovascular repair of infrarenal abdominal aortic or iliac aneurysm, false aneurysm, dissection, endoleak, or endograft migration, including pre-procedure sizing and device selection, all nonselective catheterization(s), all associated radiological supervision and interpretation, and treatment zone angioplasty/stenting when performed; each additional vessel treated	NEW	6.00	6.00	No
34X12	Transcatheter delivery of enhanced fixation device(s) to the endograft (eg, anchor, screw, tack) and all associated radiological supervision and interpretation	NEW	12.00	12.00	No
34X13	Percutaneous access and closure of femoral artery for delivery of endograft through a large sheath (12 French or larger), including ultrasound guidance, when performed, unilateral	NEW	2.50	2.50	No
34X15	Open femoral artery exposure with creation of conduit for delivery of endovascular prosthesis or for establishment of cardiopulmonary bypass, by groin incision, unilateral	NEW	5.25	5.25	No
34X19	Open axillary/subclavian artery exposure for delivery of endovascular prosthesis by infraclavicular or supraclavicular incision, unilateral	NEW	6.00	6.00	No
34X20	Open axillary/subclavian artery exposure with creation of conduit for delivery of endovascular prosthesis or for establishment of cardiopulmonary bypass, by infraclavicular or supraclavicular incision, unilateral	NEW	7.19	7.19	No
36215	Selective catheter placement, arterial system; each first order thoracic or brachiocephalic branch, within a vascular family	4.67	4.17	4.17	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
36216	Selective catheter placement, arterial system; initial second order thoracic or brachiocephalic branch, within a vascular family	5.27	5.27	5.27	No
36217	Selective catheter placement, arterial system; initial third order or more selective thoracic or brachiocephalic branch, within a vascular family	6.29	6.29	6.29	No
36218	Selective catheter placement, arterial system; additional second order, third order, and beyond, thoracic or brachiocephalic branch, within a vascular family	1.01	1.01	1.01	No
36470	Injection of sclerosant; single incompetent vein (other than telangiectasia)	1.10	0.75	0.75	No
36471	Injection of sclerosant; multiple incompetent veins (other than telangiectasia), same leg	1.65	1.50	1.50	No
364X3	Endovenous ablation therapy of incompetent vein, extremity, by transcatheter delivery of a chemical adhesive (eg, cyanoacrylate) remote from the access site, inclusive of all imaging guidance and monitoring, percutaneous; first vein treated	NEW	3.50	3.50	No
364X4	Endovenous ablation therapy of incompetent vein, extremity, by transcatheter delivery of a chemical adhesive (eg, cyanoacrylate) remote from the access site, inclusive of all imaging guidance and monitoring, percutaneous; subsequent vein(s) treated in a single extremity, each through separate access sites	NEW	1.75	1.75	No
364X5	Injection of non-compounded foam sclerosant with ultrasound compression maneuvers to guide dispersion of the injectate, inclusive of all imaging guidance and monitoring; single incompetent extremity truncal vein (eg, great saphenous vein, accessory saphenous vein)	NEW	2.35	2.35	No
364X6	Injection of non-compounded foam sclerosant with ultrasound compression maneuvers to guide dispersion of the injectate, inclusive of all imaging guidance and monitoring; multiple incompetent truncal veins (eg, great saphenous vein, accessory saphenous vein), same leg	NEW	3.00	3.00	No
36511	Therapeutic apheresis; for white blood cells	1.74	2.00	2.00	No
36512	Therapeutic apheresis; for red blood cells	1.74	2.00	2.00	No
36513	Therapeutic apheresis; for platelets	1.74	2.00	2.00	No
36514	Therapeutic apheresis; for plasma pheresis	1.74	1.81	1.81	No
36516	Therapeutic apheresis; with extracorporeal selective adsorption or selective filtration and plasma reinfusion	1.22	1.56	1.56	No
36522	Photopheresis, extracorporeal	1.67	1.75	1.75	No
36555	Insertion of non-tunneled centrally inserted central venous catheter; younger than 5 years of age	2.43	1.93	1.93	No
36556	Insertion of non-tunneled centrally inserted central venous catheter; age 5 years or older	2.50	1.75	1.75	No



HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
36569	Insertion of peripherally inserted central venous catheter (PICC), without subcutaneous port or pump; age 5 years or older	1.82	1.70	1.70	No
36620	Arterial catheterization or cannulation for sampling, monitoring or transfusion (separate procedure); percutaneous	1.15	1.00	1.00	No
38220	Diagnostic bone marrow; aspiration(s)	1.08	1.20	1.20	Yes
38221	Diagnostic bone marrow; biopsy(ies)	1.37	1.28	1.28	Yes
382X3	Diagnostic bone marrow; biopsy(ies) and aspiration(s)	NEW	1.44	1.44	Yes
3857X	Laparoscopy, surgical; with bilateral total pelvic lymphadenectomy and peri-aortic lymph node sampling peritoneal washings, peritoneal biopsy(s), omentectomy, and diaphragmatic washings, including biopsy(s) when performed	NEW	20.00	20.00	No
43107	Total or near total esophagectomy, without thoracotomy; with pharyngogastrostomy or cervical esophagogastronomy, with or without pyloroplasty (transhiatal)	44.18	52.05	52.05	No
43112	Total or near total esophagectomy, with thoracotomy; with pharyngogastrostomy or cervical esophagogastronomy, with or without pyloroplasty (ie, McKeown esophagectomy, or tri-incisional esophagectomy)	47.48	62.00	62.00	No
43117	Partial esophagectomy, distal two-thirds, with thoracotomy and separate abdominal incision, with or without proximal gastrectomy; with thoracic esophagogastronomy, with or without pyloroplasty (Ivor Lewis)	43.65	57.50	57.50	No
432X5	Esophagectomy, total or near total, with laparoscopic mobilization of the abdominal and mediastinal esophagus and proximal gastrectomy, with laparoscopic pyloric drainage procedure if performed, with open cervical pharyngogastrostomy or esophagogastronomy (ie, laparoscopic transhiatal esophagectomy)	NEW	55.00	55.00	No
432X6	Esophagectomy, distal two-thirds, with laparoscopic mobilization of the abdominal and lower mediastinal esophagus and proximal gastrectomy, with laparoscopic pyloric drainage procedure if performed, with separate thoracoscopic mobilization of the middle and upper mediastinal esophagus and thoracic esophagogastronomy (ie, laparoscopic thoracoscopic esophagectomy, Ivor Lewis esophagectomy)	NEW	63.00	63.00	No
432X7	Esophagectomy, total or near total, with thoracoscopic mobilization of the upper, middle, and lower mediastinal esophagus, with separate laparoscopic proximal gastrectomy, with laparoscopic pyloric drainage procedure if	NEW	66.42	66.42	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
	performed, with open cervical pharyngogastrostomy or esophagogastrostomy (ie, thoracoscopic, laparoscopic and cervical incision esophagectomy, McKeown esophagectomy, tri-incisional esophagectomy)				
51798	Measurement of post-voiding residual urine and/or bladder capacity by ultrasound, non-imaging	0.00	0.00	0.00	No
52601	Transurethral electrosurgical resection of prostate, including control of postoperative bleeding, complete (vasectomy, meatotomy, cystourethroscopy, urethral calibration and/or dilation, and internal urethrotomy are included)	15.26	13.16	13.16	No
55X87	Transperineal placement of biodegradable material, peri-prostatic, single or multiple injection(s), including image guidance, when performed	NEW	3.03	3.03	No
57240	Anterior colporrhaphy, repair of cystocele with or without repair of urethrocele, including cystourethroscopy, when performed	11.50	10.08	10.08	No
57250	Posterior colporrhaphy, repair of rectocele with or without perineorrhaphy	11.50	10.08	10.08	No
57260	Combined anteroposterior colporrhaphy, including cystourethroscopy, when performed	14.44	13.25	13.25	No
57265	Combined anteroposterior colporrhaphy, including cystourethroscopy, when performed; with enterocele repair	15.94	15.00	15.00	No
5857X	Laparoscopy, surgical, total hysterectomy; with or without salpingo-oophorectomy, unilateral or bilateral, with resection of malignancy (tumor debulking), with omentectomy	NEW	32.60	32.60	No
64418	Injection, anesthetic agent; suprascapular nerve	1.32	1.10	1.10	No
64553	Percutaneous implantation of neurostimulator electrode array; cranial nerve	2.36	6.13	6.13	No
64555	Percutaneous implantation of neurostimulator electrode array; peripheral nerve (excludes sacral nerve)	2.32	5.76	5.76	No
64910	Nerve repair; with synthetic conduit or vein allograft (eg, nerve tube), each nerve	11.39	10.52	10.52	No
64911	Nerve repair; with autogenous vein graft (includes harvest of vein graft), each nerve	14.39	14.00	14.00	No
64X91	Nerve repair; with nerve allograft, each nerve, first strand (cable)	NEW	12.00	12.00	No
64X92	Nerve repair; with nerve allograft, each additional strand	NEW	3.00	3.00	No
67820	Correction of trichiasis; epilation, by forceps only	0.71	0.32	0.32	No
70490	Computed tomography, soft tissue neck; without contrast material	1.28	1.28	1.28	No
70491	Computed tomography, soft tissue neck; with contrast material(s)	1.38	1.38	1.38	No
70492	Computed tomography, soft tissue neck; without contrast material followed by contrast material(s)	1.45	1.62	1.62	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
	and further sections				
70544	Magnetic resonance angiography, head; without contrast material(s)	1.20	1.20	1.20	No
70545	Magnetic resonance angiography, head; with contrast material(s)	1.20	1.20	1.20	No
70546	Magnetic resonance angiography, head; without contrast material(s), followed by contrast material(s) and further sequences	1.80	1.48	1.48	No
70547	Magnetic resonance angiography, neck; without contrast material(s)	1.20	1.20	1.20	No
70548	Magnetic resonance angiography, neck; with contrast material(s)	1.20	1.50	1.50	No
70549	Magnetic resonance angiography, neck; without contrast material(s), followed by contrast material(s) and further sequences	1.80	1.80	1.80	No
710X1	Radiologic examination, chest; single view	NEW	0.18	0.18	No
710X2	Radiologic examination, chest; 2 views	NEW	0.22	0.22	No
710X3	Radiologic examination, chest; 3 views	NEW	0.27	0.27	No
710X4	Radiologic examination, chest; 4 or more views	NEW	0.31	0.31	No
71100	Radiologic examination, ribs, unilateral; 2 views	0.22	0.22	0.22	No
71101	Radiologic examination, ribs, unilateral; including posteroanterior chest, minimum of 3 views	0.27	0.27	0.27	No
71110	Radiologic examination, ribs, bilateral; 3 views	0.27	0.29	0.29	No
71111	Radiologic examination, ribs, bilateral; including posteroanterior chest, minimum of 4 views	0.32	0.32	0.32	No
71250	Computed tomography, thorax; without contrast material	1.02	1.16	1.16	No
71260	Computed tomography, thorax; with contrast material(s)	1.24	1.24	1.24	No
71270	Computed tomography, thorax; without contrast material, followed by contrast material(s) and further sections	1.38	1.38	1.38	No
72195	Magnetic resonance (eg, proton) imaging, pelvis; without contrast material(s)	1.46	1.46	1.46	No
72196	Magnetic resonance (eg, proton) imaging, pelvis; with contrast material(s)	1.73	1.73	1.73	No
72197	Magnetic resonance (eg, proton) imaging, pelvis; without contrast material(s), followed by contrast material(s) and further sequences	2.26	2.20	2.20	No
73100	Radiologic examination, wrist; 2 views	0.16	0.16	0.16	No
73110	Radiologic examination, wrist; complete, minimum of 3 views	0.17	0.17	0.17	No
73120	Radiologic examination, hand; 2 views	0.16	0.16	0.16	No
73130	Radiologic examination, hand; minimum of 3 views	0.17	0.17	0.17	No
73140	Radiologic examination, finger(s), minimum of 2 views	0.13	0.13	0.13	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
73718	Magnetic resonance (eg, proton) imaging, lower extremity other than joint; without contrast material(s)	1.35	1.35	1.35	No
73719	Magnetic resonance (eg, proton) imaging, lower extremity other than joint; with contrast material(s)	1.62	1.62	1.62	No
73720	Magnetic resonance (eg, proton) imaging, lower extremity other than joint; without contrast material(s), followed by contrast material(s) and further sequences	2.15	2.15	2.15	No
74022	Radiologic examination, abdomen; complete acute abdomen series, including supine, erect, and/or decubitus views, single view chest	0.32	0.32	0.32	No
740X1	Radiologic examination, abdomen; 1 view	NEW	0.18	0.18	No
740X2	Radiologic examination, abdomen; 2 views	NEW	0.23	0.23	No
740X3	Radiologic examination, abdomen; 3 or more views	NEW	0.27	0.27	No
74181	Magnetic resonance (eg, proton) imaging, abdomen; without contrast material(s)	1.46	1.46	1.46	No
74182	Magnetic resonance (eg, proton) imaging, abdomen; with contrast material(s)	1.73	1.73	1.73	No
74183	Magnetic resonance (eg, proton) imaging, abdomen; without contrast material(s), followed by with contrast material(s) and further sequences	2.26	2.20	2.20	No
75635	Computed tomographic angiography, abdominal aorta and bilateral iliofemoral lower extremity runoff, with contrast material(s), including noncontrast images, if performed, and image postprocessing	2.40	2.40	2.40	No
75710	Angiography, extremity, unilateral, radiological supervision and interpretation	1.14	1.75	1.75	No
75716	Angiography, extremity, bilateral, radiological supervision and interpretation	1.31	1.97	1.97	No
76510	Ophthalmic ultrasound, diagnostic; B-scan and quantitative A-scan performed during the same patient encounter	1.55	0.70	0.70	No
76511	Ophthalmic ultrasound, diagnostic; quantitative A-scan only	0.94	0.64	0.64	No
76512	Ophthalmic ultrasound, diagnostic; B-scan (with or without superimposed non-quantitative A-scan)	0.94	0.56	0.56	No
76516	Ophthalmic biometry by ultrasound echography, A-scan	0.54	0.40	0.40	No
76519	Ophthalmic biometry by ultrasound echography, A-scan; with intraocular lens power calculation	0.54	0.54	0.54	No
76881	Ultrasound, extremity, nonvascular, real-time with image documentation; complete	0.63	0.63	0.63	No
76882	Ultrasound, extremity, nonvascular, real-time with image documentation; limited, anatomic specific	0.49	0.49	0.49	No
77261	Therapeutic radiology treatment planning; simple	1.39	1.30	1.30	No
77262	Therapeutic radiology treatment planning; intermediate	2.11	2.00	2.00	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
77263	Therapeutic radiology treatment planning; complex	3.14	3.14	3.14	No
78300	Bone and/or joint imaging; limited area	0.62	0.62	0.62	No
78305	Bone and/or joint imaging; multiple areas	0.83	0.83	0.83	No
78306	Bone and/or joint imaging; whole body	0.86	0.86	0.86	No
88333	Pathology consultation during surgery; cytologic examination (eg, touch prep, squash prep), initial site	1.20	1.20	1.20	No
88334	Pathology consultation during surgery; cytologic examination (eg, touch prep, squash prep), each additional site	0.73	0.73	0.73	No
88360	Morphometric analysis, tumor immunohistochemistry (eg, Her-2/neu, estrogen receptor/progesterone receptor), quantitative or semiquantitative, per specimen, each single antibody stain procedure; manual	1.10	0.85	0.85	No
88361	Morphometric analysis, tumor immunohistochemistry (eg, Her-2/neu, estrogen receptor/progesterone receptor), quantitative or semiquantitative, per specimen, each single antibody stain procedure; using computer-assisted technology	1.18	0.95	0.95	No
92136	Ophthalmic biometry by partial coherence interferometry with intraocular lens power calculation	0.54	0.54	0.54	No
93279	Programming device evaluation (in person) with iterative adjustment of the implantable device to test the function of the device and select optimal permanent programmed values with analysis, review and report by a physician or other qualified health care professional; single lead pacemaker system	0.65	0.65	0.65	No
93280	Programming device evaluation (in person) with iterative adjustment of the implantable device to test the function of the device and select optimal permanent programmed values with analysis, review and report by a physician or other qualified health care professional; dual lead pacemaker system	0.77	0.77	0.77	No
93281	Programming device evaluation (in person) with iterative adjustment of the implantable device to test the function of the device and select optimal permanent programmed values with analysis, review and report by a physician or other qualified health care professional; multiple lead pacemaker system	0.90	0.85	0.85	No
93282	Programming device evaluation (in person) with iterative adjustment of the implantable device to test the function of the device and select optimal permanent programmed values with analysis, review and report by a physician or other qualified	0.85	0.85	0.85	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
	health care professional; single lead transvenous implantable defibrillator system				
93283	Programming device evaluation (in person) with iterative adjustment of the implantable device to test the function of the device and select optimal permanent programmed values with analysis, review and report by a physician or other qualified health care professional; dual lead transvenous implantable defibrillator system	1.15	1.15	1.15	No
93284	Programming device evaluation (in person) with iterative adjustment of the implantable device to test the function of the device and select optimal permanent programmed values with analysis, review and report by a physician or other qualified health care professional; multiple lead transvenous implantable defibrillator system	1.25	1.25	1.25	No
93285	Programming device evaluation (in person) with iterative adjustment of the implantable device to test the function of the device and select optimal permanent programmed values with analysis, review and report by a physician or other qualified health care professional; implantable loop recorder system	0.52	0.52	0.52	No
93286	Peri-procedural device evaluation (in person) and programming of device system parameters before or after a surgery, procedure, or test with analysis, review and report by a physician or other qualified health care professional; single, dual, or multiple lead pacemaker system	0.30	0.30	0.30	No
93287	Peri-procedural device evaluation (in person) and programming of device system parameters before or after a surgery, procedure, or test with analysis, review and report by a physician or other qualified health care professional; single, dual, or multiple lead implantable defibrillator system	0.45	0.45	0.45	No
93288	Interrogation device evaluation (in person) with analysis, review and report by a physician or other qualified health care professional, includes connection, recording and disconnection per patient encounter; single, dual, or multiple lead pacemaker system	0.43	0.43	0.43	No
93289	Interrogation device evaluation (in person) with analysis, review and report by a physician or other qualified health care professional, includes connection, recording and disconnection per patient encounter; single, dual, or multiple lead transvenous implantable defibrillator system, including analysis of heart rhythm derived data elements	0.92	0.75	0.75	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
93290	Interrogation device evaluation (in person) with analysis, review and report by a physician or other qualified health care professional, includes connection, recording and disconnection per patient encounter; implantable cardiovascular monitor system, including analysis of 1 or more recorded physiologic cardiovascular data elements from all internal and external sensors	0.43	0.43	0.43	No
93291	Interrogation device evaluation (in person) with analysis, review and report by a physician or other qualified health care professional, includes connection, recording and disconnection per patient encounter; implantable loop recorder system, including heart rhythm derived data analysis	0.43	0.37	0.37	No
93292	Interrogation device evaluation (in person) with analysis, review and report by a physician or other qualified health care professional, includes connection, recording and disconnection per patient encounter; wearable defibrillator system	0.43	0.43	0.43	No
93293	Trans telephonic rhythm strip pacemaker evaluation(s) single, dual, or multiple lead pacemaker system, includes recording with and without magnet application with analysis, review and report(s) by a physician or other qualified health care professional, up to 90 days	0.32	0.31	0.31	No
93294	Interrogation device evaluation(s) (remote), up to 90 days; single, dual, or multiple lead pacemaker system with interim analysis, review(s) and report(s) by a physician or other qualified health care professional	0.65	0.60	0.60	No
93295	Interrogation device evaluation(s) (remote), up to 90 days; single, dual, or multiple lead implantable defibrillator system with interim analysis, review(s) and report(s) by a physician or other qualified health care professional	1.29	0.74	0.74	No
93296	Interrogation device evaluation(s) (remote), up to 90 days; single, dual, or multiple lead pacemaker system or implantable defibrillator system, remote data acquisition(s), receipt of transmissions and technician review, technical support and distribution of results	0.00	0.00	0.00	No
93297	Interrogation device evaluation(s), (remote) up to 30 days; implantable cardiovascular monitor system, including analysis of 1 or more recorded physiologic cardiovascular data elements from all internal and external sensors, analysis, review(s) and report(s) by a physician or other qualified health care professional	0.52	0.52	0.52	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
93298	Interrogation device evaluation(s), (remote) up to 30 days; implantable loop recorder system, including analysis of recorded heart rhythm data, analysis, review(s) and report(s) by a physician or other qualified health care professional	0.52	0.52	0.52	No
93299	Interrogation device evaluation(s), (remote) up to 30 days; implantable cardiovascular monitor system or implantable loop recorder system, remote data acquisition(s), receipt of transmissions and technician review, technical support and distribution of results	0.00	0.00	0.00	No
93306	Echocardiography, transthoracic, real-time with image documentation (2D), includes M-mode recording, when performed, complete, with spectral Doppler echocardiography, and with color flow Doppler echocardiography	1.30	1.50	1.50	No
93307	Echocardiography, transthoracic, real-time with image documentation (2D), includes M-mode recording, when performed, complete, without spectral or color Doppler echocardiography	0.92	0.92	0.92	No
93308	Echocardiography, transthoracic, real-time with image documentation (2D), includes M-mode recording, when performed, follow-up or limited study	0.53	0.53	0.53	No
93350	Echocardiography, transthoracic, real-time with image documentation (2D), includes M-mode recording, when performed, during rest and cardiovascular stress test using treadmill, bicycle exercise and/or pharmacologically induced stress, with interpretation and report;	1.46	1.46	1.46	No
93351	Echocardiography, transthoracic, real-time with image documentation (2D), includes M-mode recording, when performed, during rest and cardiovascular stress test using treadmill, bicycle exercise and/or pharmacologically induced stress, with interpretation and report; including performance of continuous electrocardiographic monitoring, with supervision by a physician or other qualified health care professional	1.75	1.75	1.75	No
93503	Insertion and placement of flow directed catheter (eg, Swan-Ganz) for monitoring purposes	2.91	2.00	2.00	No
93613	Intracardiac electrophysiologic 3-dimensional mapping	6.99	5.23	5.23	No
93668	Peripheral arterial disease (PAD) rehabilitation, per session	N	0.00	0.00	No
94621	Cardiopulmonary exercise testing, including measurements of minute ventilation, CO2 production, O2 uptake, and electrocardiographic recordings	1.42	1.42	1.42	No
946X2	Exercise test for bronchospasm, including pre- and post-spirometry and pulse oximetry	NEW	0.70	0.70	No



HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
946X3	Pulmonary stress testing (eg, 6-minute walk test), including measurement of heart rate, oximetry, and oxygen titration, when performed	NEW	0.48	0.48	No
95004	Percutaneous tests (scratch, puncture, prick) with allergenic extracts, immediate type reaction, including test interpretation and report, specify number of tests	0.01	0.01	0.01	No
95250	Ambulatory continuous glucose monitoring of interstitial tissue fluid via a subcutaneous sensor for a minimum of 72 hours; sensor placement, hook-up, calibration of monitor, patient training, removal of sensor, and printout of recording	0.00	0.00	0.00	No
95251	Ambulatory continuous glucose monitoring of interstitial tissue fluid via a subcutaneous sensor for a minimum of 72 hours; interpretation and report	0.85	0.70	0.70	No
95930	Visual evoked potential (VEP) testing central nervous system except glaucoma, checkerboard or flash, with interpretation and report	0.35	0.35	0.35	No
96160	Administration of patient-focused health risk assessment instrument (eg, health hazard appraisal) with scoring and documentation, per standardized instrument	0.00	0.00	0.00	No
96161	Administration of caregiver-focused health risk assessment instrument (eg, depression inventory) for the benefit of the patient, with scoring and documentation, per standardized instrument	0.00	0.00	0.00	No
96360	Intravenous infusion, hydration; initial, 31 minutes to 1 hour	0.17	0.17	0.17	No
96361	Intravenous infusion, hydration; each additional hour	0.09	0.09	0.09	No
96372	Therapeutic, prophylactic, or diagnostic injection (specify substance or drug); subcutaneous or intramuscular	0.17	0.17	0.17	No
96374	Therapeutic, prophylactic, or diagnostic injection (specify substance or drug); intravenous push, single or initial substance/drug	0.18	0.18	0.18	No
96375	Therapeutic, prophylactic, or diagnostic injection (specify substance or drug); each additional sequential intravenous push of a new substance/drug	0.10	0.10	0.10	No
96377	Application of on-body injector (includes cannula insertion) for timed subcutaneous injection	0.00	0.17	0.17	No
96401	Chemotherapy administration, subcutaneous or intramuscular; non-hormonal anti-neoplastic	0.21	0.21	0.21	No
96402	Chemotherapy administration, subcutaneous or intramuscular; hormonal anti-neoplastic	0.19	0.19	0.19	No
96409	Chemotherapy administration; intravenous, push technique, single or initial substance/drug	0.24	0.24	0.24	No
96411	Chemotherapy administration; intravenous, push technique, each additional substance/drug	0.20	0.20	0.20	No
96910	Photochemotherapy; tar and ultraviolet B	0.00	0.00	0.00	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
	(Goeckerman treatment) or petrolatum and ultraviolet B				
96X73	Photodynamic therapy by external application of light to destroy premalignant lesions of the skin and adjacent mucosa with application and illumination/activation of photosensitizing drug(s), per day	NEW	0.48	0.48	No
96X74	Debridement of premalignant hyperkeratotic lesion(s) (ie, targeted curettage, abrasion) followed with photodynamic therapy by external application of light to destroy premalignant lesions of the skin and adjacent mucosa with application and illumination/activation of photosensitizing drug(s), per day	NEW	1.01	1.01	No
97012	Application of a modality to 1 or more areas; traction, mechanical	0.25	0.25	0.25	No
97014	Application of a modality to 1 or more areas; electrical stimulation (unattended)	0.18	0.18	0.18	No
97016	Application of a modality to 1 or more areas; vasopneumatic devices	0.18	0.18	0.18	No
97018	Application of a modality to 1 or more areas; paraffin bath	0.06	0.06	0.06	No
97022	Application of a modality to 1 or more areas; whirlpool	0.17	0.17	0.17	No
97032	Application of a modality to 1 or more areas; electrical stimulation (manual), each 15 minutes	0.25	0.25	0.25	No
97033	Application of a modality to 1 or more areas; iontophoresis, each 15 minutes	0.26	0.26	0.26	No
97034	Application of a modality to 1 or more areas; contrast baths, each 15 minutes	0.21	0.21	0.21	No
97035	Application of a modality to 1 or more areas; ultrasound, each 15 minutes	0.21	0.21	0.21	No
97110	Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility	0.45	0.45	0.45	No
97112	Therapeutic procedure, 1 or more areas, each 15 minutes; neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and/or proprioception for sitting and/or standing activities	0.45	0.50	0.50	No
97113	Therapeutic procedure, 1 or more areas, each 15 minutes; aquatic therapy with therapeutic exercises	0.44	0.48	0.48	No
97116	Therapeutic procedure, 1 or more areas, each 15 minutes; gait training (includes stair climbing)	0.40	0.45	0.45	No
97140	Manual therapy techniques (eg, mobilization/manipulation, manual lymphatic drainage, manual traction), 1 or more regions, each 15 minutes	0.43	0.43	0.43	No
97530	Therapeutic activities, direct (one-on-one) patient contact (use of dynamic activities to improve functional performance), each 15 minutes	0.44	0.44	0.44	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
97533	Sensory integrative techniques to enhance sensory processing and promote adaptive responses to environmental demands, direct (one-on-one) patient contact, each 15 minutes	0.44	0.48	0.48	No
97535	Self-care/home management training (eg, activities of daily living (ADL) and compensatory training, meal preparation, safety procedures, and instructions in use of assistive technology devices/adaptive equipment) direct one-on-one contact, each 15 minutes	0.45	0.45	0.45	No
97537	Community/work reintegration training (eg, shopping, transportation, money management, avocational activities and/or work environment/modification analysis, work task analysis, use of assistive technology device/adaptive equipment), direct one-on-one contact, each 15 minutes	0.45	0.48	0.48	No
97542	Wheelchair management (eg, assessment, fitting, training), each 15 minutes	0.45	0.48	0.48	No
97760	Orthotic(s) management and training (including assessment and fitting when not otherwise reported), upper extremity(ies), lower extremity(ies) and/or trunk, initial orthotic(s) encounter, each 15 minutes	0.45	0.50	0.50	No
97761	Prosthetic(s) training, upper and/or lower extremity(ies), initial prosthetic(s) encounter, each 15 minutes	0.45	0.50	0.50	No
977X1	Orthotic(s)/prosthetic(s) management and/or training, upper extremity(ies), lower extremity(ies), and/or trunk, subsequent orthotic(s)/prosthetic(s) encounter, each 15 minutes	NEW	0.48	0.48	No
97X11	Therapeutic interventions that focus on cognitive function (eg, attention, memory, reasoning, executive function, problem solving, and/or pragmatic functioning) and compensatory strategies to manage the performance of an activity (eg, managing time or schedules, initiating, organizing and sequencing tasks, direct (one-on-one) patient contact (do not report 97X11 in conjunction with 0364T, 0365T, 0368T, 0369T) (report 97X11 only once per day)	NEW	1.50	I	Yes
993X1	Patient/caregiver training for initiation of home INR monitoring under the direction of a physician or other qualified health care professional, including face-to-face, use and care of the INR monitor, obtaining blood sample, instructions for reporting home INR test results, and documentation of patient's/caregiver's ability to perform testing and report results	NEW	0.00	0.00	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
993X2	Anticoagulant management for a patient taking warfarin, must include review and interpretation of a new home, office, or lab International Normalized Ratio (INR) test result, patient instructions, dosage adjustment (as needed), and scheduling of additional test(s) when performed	NEW	0.18	0.18	No
994X1	Initial psychiatric collaborative care management, first 70 minutes in the first calendar month of behavioral health care manager activities, in consultation with a psychiatric consultant, and directed by the treating physician or other qualified health care professional, with the following required elements: outreach to and engagement in treatment of a patient directed by the treating physician or other qualified health care professional; initial assessment of the patient, including administration of validated rating scales, with the development of an individualized treatment plan; review by the psychiatric consultant with modifications of the plan if recommended; entering patient in a registry and tracking patient follow-up and progress using the registry, with appropriate documentation, and participation in weekly caseload consultation with the psychiatric consultant; and provision of brief interventions using evidence-based techniques such as behavioral activation, motivational interviewing, and other focused treatment strategies.	NEW	1.70	1.70	No
994X2	Subsequent psychiatric collaborative care management, first 60 minutes in a subsequent month of behavioral health care manager activities, in consultation with a psychiatric consultant, and directed by the treating physician or other qualified health care professional, with the following required elements: tracking patient follow-up and progress using the registry, with appropriate documentation; participation in weekly caseload consultation with the psychiatric consultant; ongoing collaboration with and coordination of the patient's mental health care with the treating physician or other qualified health care professional and any other treating mental health providers; additional review of progress and recommendations for changes in treatment, as indicated, including medications, based on recommendations provided by the psychiatric consultant; provision of brief interventions using evidence-based techniques such as behavioral activation, motivational interviewing, and other focused treatment strategies; monitoring of patient outcomes using validated rating scales; and relapse prevention planning with patients as they achieve remission of symptoms and/or other	NEW	1.53	1.53	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
	treatment goals and are prepared for discharge from active treatment.				
994X3	Initial or subsequent psychiatric collaborative care management, each additional 30 minutes in a calendar month of behavioral health care manager activities, in consultation with a psychiatric consultant, and directed by the treating physician or other qualified health care professional	NEW	0.82	0.82	No
99XX3	Assessment of and care planning for a patient with cognitive impairment, requiring an independent historian, in the office or other outpatient, home or domiciliary or rest home, with all of the following required elements:Cognition-focused evaluation including a pertinent history and examination;Medical decision making of moderate or high complexity;Functional assessment (eg, Basic and Instrumental Activities of Daily Living), including decision-making capacity;Use of standardized instruments for staging of dementia (eg, Functional Assessment Staging Test [FAST], Clinical Dementia Rating [CDR]);Medication reconciliation and review for high-risk medications;Evaluation for neuropsychiatric and behavioral symptoms, including depression, including use of standardized screening instrument(s);Evaluation of safety (eg, home), including motor vehicle operation;Identification of caregiver(s), caregiver knowledge, caregiver needs, social supports, and the willingness of caregiver to take on caregiving tasks;Development, updating or revision, or review of an Advance Care Plan;Creation of a written care plan, including initial plans to address any neuropsychiatric symptoms, neuro-cognitive symptoms, functional limitations, and referral to community resources as needed (eg, rehabilitation services, adult day programs, support groups) shared with the patient and/or caregiver with initial education and	NEW	3.44	3.44	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
	support. Typically, 50 minutes are spent face-to-face with the patient and/or family or caregiver.				
99XX5	Care management services for behavioral health conditions, at least 20 minutes of clinical staff time, directed by a physician or other qualified health care professional, per calendar month, with the following required elements: Initial assessment or follow-up monitoring, including the use of applicable validated rating scales; Behavioral health care planning in relation to behavioral/psychiatric health problems, including revision for patients who are not progressing or whose status changes; Facilitating and coordinating treatment such as psychotherapy, pharmacotherapy, counseling and/or psychiatric consultation; and Continuity of care with a designated member of the care team	NEW	0.61	0.61	No
G0283	Electrical stimulation (unattended), to one or more areas for indication(s) other than wound care, as part of a therapy plan of care	0.18	0.18	0.18	No
GDDD1	Insertion, non-biodegradable drug delivery implants, 4 or more	NEW	-	1.82	No
GDDD2	Removal, non-biodegradable drug delivery implants, 4 or more	NEW	-	2.10	No
GDDD3	Removal with reinsertion, non-biodegradable drug delivery implants, 4 or more	NEW	-	3.55	No
GRRR1	Superficial radiation treatment planning and management related services, including but not limited to, when performed, clinical treatment planning (e.g., 77261, 77262, 77263), therapeutic radiology simulation-aided field setting (e.g., 77280, 77285, 77290, 77293), basic radiation dosimetry calculation (e.g. 77300), treatment devices (e.g., 77332, 77333, 77334), isodose planning (e.g., 77306, 77307, 77316, 77317,	NEW	-	7.93	No

HCPCS	Descriptor	Current Work RVU	RUC Work RVU	CMS Work RVU	CMS Time Refinement
	77318), radiation treatment management (e.g., 77427, 77431, 77432, 77435, 77469, 77470, 77499), and associated evaluation and management per course of treatment				
GXXX1	Therapeutic interventions that focus on cognitive function (eg, attention, memory, reasoning, executive function, problem solving, and/or pragmatic functioning) and compensatory strategies to manage the performance of an activity (eg, managing time or schedules, initiating, organizing and sequencing tasks, direct (one-on-one) patient contact	NEW	-	0.44	No
GYYY1	Prolonged preventive service(s), initial 30 minutes	NEW	-	1.17	No
GYYY2	Prolonged preventive service(s), first 30 minutes	NEW	-	1.17	No

**TABLE 11: CY 2018 Proposed Codes with Direct PE Input Recommendations with Refinements**

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
157X1	Mdfc flap w/prsrv vasc pedcl	ED050	Technologist PACS workstation	NF		115	117	E15: Refined equipment time to conform to changes in clinical labor time	\$0.04
157X1	Mdfc flap w/prsrv vasc pedcl	EF014	light, surgical	NF		115	117	E15: Refined equipment time to conform to changes in clinical labor time	\$0.02
157X1	Mdfc flap w/prsrv vasc pedcl	EF031	table, power	NF		115	117	E15: Refined equipment time to conform to changes in clinical labor time	\$0.03
157X1	Mdfc flap w/prsrv vasc pedcl	EQ011	ECG, 3-channel (with SpO2, NIBP, temp, resp)	NF		115	117	E15: Refined equipment time to conform to changes in clinical labor time	\$0.03
157X1	Mdfc flap w/prsrv vasc pedcl	EQ110	electrocautery-hyfreacator, up to 45 watts	NF		115	117	E15: Refined equipment time to conform to changes in clinical labor time	\$0.01
157X1	Mdfc flap w/prsrv vasc pedcl	EQ138	instrument pack, medium (\$1500 and up)	NF		127	129	E15: Refined equipment time to conform to changes in clinical labor time	\$0.01
157X1	Mdfc flap w/prsrv vasc pedcl	L038A	COMT/COT/R N/CST	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor	\$0.76



HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								task	
29445	Apply rigid leg cast	EF031	table, power	NF		69	67	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.03
29445	Apply rigid leg cast	EQ080	cast cart	NF		69	67	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.02
29445	Apply rigid leg cast	EQ168	light, exam	NF		69	67	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.01
29445	Apply rigid leg cast	L037D	RN/LPN/MTA	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	5	3	L1: Refined time to standard for this clinical labor task	-\$0.74
29580	Application of paste boot	EF023	table, exam	NF		35	34	E15: Refined equipment time to conform to changes in clinical labor time	\$0.00
29580	Application of paste boot	EQ168	light, exam	NF		35	34	E15: Refined equipment time to conform to changes in clinical labor time	\$0.00
29580	Application of	L037D	RN/LPN/MTA	NF	Provide pre-	3	2	L1: Refined time	-\$0.37

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
	paste boot				service education/obtain consent			to standard for this clinical labor task	
29581	Apply multilayer compressive lower leg	EF023	table, exam	NF		37	36	E15: Refined equipment time to conform to changes in clinical labor time	\$0.00
29581	Apply multilayer compressive lower leg	EQ168	light, exam	NF		37	36	E15: Refined equipment time to conform to changes in clinical labor time	\$0.00
29581	Apply multilayer compressive lower leg	L037D	RN/LPN/MTA	NF	Provide pre-service education/obtain consent	3	2	L1: Refined time to standard for this clinical labor task	-\$0.37
30140	Resect inferior turbinate	EF008	chair with headrest, exam, reclining	NF		98	100	E15: Refined equipment time to conform to changes in clinical labor time	\$0.02
30140	Resect inferior turbinate	EQ137	instrument pack, basic (\$500-\$1499)	NF		102	104	E15: Refined equipment time to conform to changes in clinical labor time	\$0.00
30140	Resect inferior turbinate	EQ170	light, fiberoptic headlight w-source	NF		98	100	E15: Refined equipment time to conform to changes in clinical labor time	\$0.02
30140	Resect inferior turbinate	EQ234	suction and pressure cabinet, ENT (SMR)	NF		98	100	E15: Refined equipment time to conform to changes in	\$0.02

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								clinical labor time	
30140	Resect inferior turbinate	EQ383	reusable shaver blade, 2mm	NF		102	104	E15: Refined equipment time to conform to changes in clinical labor time	\$0.01
30140	Resect inferior turbinate	EQ384	Microdebrider handpiece	NF		98	100	E15: Refined equipment time to conform to changes in clinical labor time	\$0.03
30140	Resect inferior turbinate	EQ385	Microdebrider console	NF		98	100	E15: Refined equipment time to conform to changes in clinical labor time	\$0.06
30140	Resect inferior turbinate	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
30901	Control of nosebleed	EF008	chair with headrest, exam, reclining	NF		22	26	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.04
30901	Control of nosebleed	EQ137	instrument pack, basic (\$500-\$1499)	NF		29	33	E5: Refined equipment time to conform to established policies for surgical instrument packs	\$0.01
30901	Control of	EQ170	light, fiberoptic	NF		22	26	E1: Refined	\$0.03

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
	nosebleed		headlight w-source					equipment time to conform to established policies for non-highly technical equipment	
30901	Control of nosebleed	EQ234	suction and pressure cabinet, ENT (SMR)	NF		22	26	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.04
30903	Control of nosebleed	EF008	chair with headrest, exam, reclining	NF		27	31	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.04
30903	Control of nosebleed	EQ110	electrocautery-hyfreacator, up to 45 watts	NF		27	31	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.01
30903	Control of nosebleed	EQ137	instrument pack, basic (\$500-\$1499)	NF		34	38	E5: Refined equipment time to conform to established policies for surgical instrument packs	\$0.01
30903	Control of nosebleed	EQ170	light, fiberoptic headlight w-	NF		27	31	E1: Refined equipment time to	\$0.03

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
			source					conform to established policies for non-highly technical equipment	
30903	Control of nosebleed	EQ234	suction and pressure cabinet, ENT (SMR)	NF		27	31	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.04
30905	Control of nosebleed	EF008	chair with headrest, exam, reclining	NF		32	62	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.32
30905	Control of nosebleed	EQ110	electrocautery-hyfreacator, up to 45 watts	NF		32	62	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.08
30905	Control of nosebleed	EQ137	instrument pack, basic (\$500-\$1499)	NF		39	69	E5: Refined equipment time to conform to established policies for surgical instrument packs	\$0.07
30905	Control of nosebleed	EQ170	light, fiberoptic headlight w-source	NF		32	62	E1: Refined equipment time to conform to	\$0.24

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								established policies for non-highly technical equipment	
30905	Control of nosebleed	EQ234	suction and pressure cabinet, ENT (SMR)	NF		32	62	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.28
30906	Repeat control of nosebleed	EF008	chair with headrest, exam, reclining	NF		42	72	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.32
30906	Repeat control of nosebleed	EQ110	electrocautery-hyfreacator, up to 45 watts	NF		42	72	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.08
30906	Repeat control of nosebleed	EQ137	instrument pack, basic (\$500-\$1499)	NF		49	79	E5: Refined equipment time to conform to established policies for surgical instrument packs	\$0.07
30906	Repeat control of nosebleed	EQ170	light, fiberoptic headlight w-source	NF		42	72	E1: Refined equipment time to conform to established	\$0.24

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								policies for non-highly technical equipment	
30906	Repeat control of nosebleed	EQ234	suction and pressure cabinet, ENT (SMR)	NF		42	72	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.28
31254	Nsl/sins ndsc w/prtl ethmdct	EF008	chair with headrest, exam, reclining	NF		47	52	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.05
31254	Nsl/sins ndsc w/prtl ethmdct	EF015	mayo stand	NF		47	52	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.01
31254	Nsl/sins ndsc w/prtl ethmdct	EQ138	instrument pack, medium (\$1500 and up)	NF		59	64	E5: Refined equipment time to conform to established policies for surgical instrument packs	\$0.03
31254	Nsl/sins ndsc w/prtl ethmdct	EQ167	light source, xenon	NF		47	52	E1: Refined equipment time to conform to established policies for non-	\$0.14

<b>HCPSC Code</b>	<b>HCPSC Code Description</b>	<b>Input Code</b>	<b>Input Code Description</b>	<b>Nonfacility (NF) / Facility (F)</b>	<b>Labor Activity (where applicable)</b>	<b>RUC Recommendation or Current Value (min or qty)</b>	<b>CMS Refinement (min or qty)</b>	<b>Comment</b>	<b>Direct Costs Change (in dollars)</b>
								highly technical equipment	
31254	NsI/sins ndsc w/prtl ethmdct	EQ170	light, fiberoptic headlight w-source	NF		47	52	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.04
31254	NsI/sins ndsc w/prtl ethmdct	EQ234	suction and pressure cabinet, ENT (SMR)	NF		47	52	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.05
31254	NsI/sins ndsc w/prtl ethmdct	EQ383	reusable shaver blade, 2mm	NF		47	52	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.02
31254	NsI/sins ndsc w/prtl ethmdct	EQ384	Microdebrider handpiece	NF		47	52	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.06
31254	NsI/sins ndsc w/prtl ethmdct	EQ385	Microdebrider console	NF		47	52	E1: Refined equipment time to conform to established policies for non-highly technical	\$0.15



HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								equipment	
31254	NsI/sins ndsc w/prtl ethmdct	ES005	endoscope disinfectant, rigid or fiberoptic, w-cart	NF		37	51	E4: Refined equipment time to conform to established policies for scopes	\$0.85
31254	NsI/sins ndsc w/prtl ethmdct	ES031	video system, endoscopy (processor, digital capture, monitor, printer, cart)	NF		47	44	E19: Refined equipment time to conform to established policies for scope accessories	-\$0.39
31254	NsI/sins ndsc w/prtl ethmdct	ES040	PROXY endoscope, rigid, sinoscopy (0 degrees)	NF		37	51	E4: Refined equipment time to conform to established policies for scopes	\$0.11
31254	NsI/sins ndsc w/prtl ethmdct	L037D	RN/LPN/MTA	NF	Complete pre-service diagnostic and referral forms	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31254	NsI/sins ndsc w/prtl ethmdct	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
31254	NsI/sins ndsc w/prtl ethmdct	L037D	RN/LPN/MTA	NF	Provide pre-service education/obtain consent	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31254	NsI/sins ndsc w/prtl ethmdct	L037D	RN/LPN/MTA	NF	Complete pre-procedure	3	0	L1: Refined time to standard for this clinical labor	-\$1.11

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
					phone calls and prescription			task	
31295	Sinus endo w/balloon dil	EF008	chair with headrest, exam, reclining	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.05
31295	Sinus endo w/balloon dil	EF015	mayo stand	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.01
31295	Sinus endo w/balloon dil	EQ138	instrument pack, medium (\$1500 and up)	NF		49	54	E5: Refined equipment time to conform to established policies for surgical instrument packs	\$0.03
31295	Sinus endo w/balloon dil	EQ167	light source, xenon	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.14
31295	Sinus endo w/balloon dil	EQ170	light, fiberoptic headlight w-source	NF		37	42	E1: Refined equipment time to conform to established policies for non-	\$0.04

<b>HCPSC Code</b>	<b>HCPSC Code Description</b>	<b>Input Code</b>	<b>Input Code Description</b>	<b>Nonfacility (NF) / Facility (F)</b>	<b>Labor Activity (where applicable)</b>	<b>RUC Recommendation or Current Value (min or qty)</b>	<b>CMS Refinement (min or qty)</b>	<b>Comment</b>	<b>Direct Costs Change (in dollars)</b>
								highly technical equipment	
31295	Sinus endo w/balloon dil	EQ234	suction and pressure cabinet, ENT (SMR)	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.05
31295	Sinus endo w/balloon dil	EQ383	reusable shaver blade, 2mm	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.02
31295	Sinus endo w/balloon dil	EQ384	Microdebrider handpiece	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.06
31295	Sinus endo w/balloon dil	EQ385	Microdebrider console	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.15
31295	Sinus endo w/balloon dil	ES005	endoscope disinfecter, rigid or fiberoptic, w-cart	NF		27	41	E4: Refined equipment time to conform to established policies for scopes	\$0.85

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
31295	Sinus endo w/balloon dil	ES031	video system, endoscopy (processor, digital capture, monitor, printer, cart)	NF		37	34	E19: Refined equipment time to conform to established policies for scope accessories	-\$0.39
31295	Sinus endo w/balloon dil	ES040	PROXY endoscope, rigid, sinoscopy (0 degrees)	NF		27	41	E4: Refined equipment time to conform to established policies for scopes	\$0.11
31295	Sinus endo w/balloon dil	L037D	RN/LPN/MTA	NF	Provide pre-service education/obtain consent	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31295	Sinus endo w/balloon dil	L037D	RN/LPN/MTA	NF	Complete pre-procedure phone calls and prescription	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31295	Sinus endo w/balloon dil	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
31295	Sinus endo w/balloon dil	L037D	RN/LPN/MTA	NF	Complete pre-service diagnostic and referral forms	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31296	Sinus endo w/balloon dil	EF008	chair with headrest, exam, reclining	NF		40	45	E1: Refined equipment time to conform to established policies for non-	\$0.05

HCPSC Code	HCPSC Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								highly technical equipment	
31296	Sinus endo w/balloon dil	EF015	mayo stand	NF		40	45	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.01
31296	Sinus endo w/balloon dil	EQ138	instrument pack, medium (\$1500 and up)	NF		52	57	E5: Refined equipment time to conform to established policies for surgical instrument packs	\$0.03
31296	Sinus endo w/balloon dil	EQ167	light source, xenon	NF		40	45	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.14
31296	Sinus endo w/balloon dil	EQ170	light, fiberoptic headlight w-source	NF		40	45	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.04
31296	Sinus endo w/balloon dil	EQ234	suction and pressure cabinet, ENT (SMR)	NF		40	45	E1: Refined equipment time to conform to established policies for non-highly technical	\$0.05

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								equipment	
31296	Sinus endo w/balloon dil	EQ383	reusable shaver blade, 2mm	NF		40	45	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.02
31296	Sinus endo w/balloon dil	EQ384	Microdebrider handpiece	NF		40	45	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.06
31296	Sinus endo w/balloon dil	EQ385	Microdebrider console	NF		40	45	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.15
31296	Sinus endo w/balloon dil	ES005	endoscope disinfecter, rigid or fiberoptic, w-cart	NF		32	44	E4: Refined equipment time to conform to established policies for scopes	\$0.73
31296	Sinus endo w/balloon dil	ES031	video system, endoscopy (processor, digital capture, monitor, printer, cart)	NF		40	37	E19: Refined equipment time to conform to established policies for scope accessories	-\$0.39
31296	Sinus endo	ES040	PROXY	NF		32	44	E4: Refined	\$0.09

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
	w/balloon dil		endoscope, rigid, sinoscopy (0 degrees)					equipment time to conform to established policies for scopes	
31296	Sinus endo w/balloon dil	L037D	RN/LPN/MTA	NF	Complete pre-service diagnostic and referral forms	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31296	Sinus endo w/balloon dil	L037D	RN/LPN/MTA	NF	Provide pre-service education/obtain consent	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31296	Sinus endo w/balloon dil	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
31296	Sinus endo w/balloon dil	L037D	RN/LPN/MTA	NF	Complete pre-procedure phone calls and prescription	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31297	Sinus endo w/balloon dil	EF008	chair with headrest, exam, reclining	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.05
31297	Sinus endo w/balloon dil	EF015	mayo stand	NF		37	42	E1: Refined equipment time to conform to established policies for non-	\$0.01

HCPSC Code	HCPSC Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								highly technical equipment	
31297	Sinus endo w/balloon dil	EQ138	instrument pack, medium (\$1500 and up)	NF		49	54	E5: Refined equipment time to conform to established policies for surgical instrument packs	\$0.03
31297	Sinus endo w/balloon dil	EQ167	light source, xenon	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.14
31297	Sinus endo w/balloon dil	EQ170	light, fiberoptic headlight w-source	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.04
31297	Sinus endo w/balloon dil	EQ234	suction and pressure cabinet, ENT (SMR)	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.05
31297	Sinus endo w/balloon dil	EQ383	reusable shaver blade, 2mm	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical	\$0.02



HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								equipment	
31297	Sinus endo w/balloon dil	EQ384	Microdebrider handpiece	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.06
31297	Sinus endo w/balloon dil	EQ385	Microdebrider console	NF		37	42	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.15
31297	Sinus endo w/balloon dil	ES005	endoscope disinfecter, rigid or fiberoptic, w-cart	NF		27	41	E4: Refined equipment time to conform to established policies for scopes	\$0.85
31297	Sinus endo w/balloon dil	ES031	video system, endoscopy (processor, digital capture, monitor, printer, cart)	NF		37	34	E19: Refined equipment time to conform to established policies for scope accessories	-\$0.39
31297	Sinus endo w/balloon dil	ES040	PROXY endoscope, rigid, sinoscopy (0 degrees)	NF		27	41	E4: Refined equipment time to conform to established policies for scopes	\$0.11
31297	Sinus endo w/balloon dil	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for	\$0.74

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								this clinical labor task	
31297	Sinus endo w/balloon dil	L037D	RN/LPN/MTA	NF	Complete pre-procedure phone calls and prescription	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31297	Sinus endo w/balloon dil	L037D	RN/LPN/MTA	NF	Complete pre-service diagnostic and referral forms	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31297	Sinus endo w/balloon dil	L037D	RN/LPN/MTA	NF	Provide pre-service education/obtain consent	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31645	Brnchsc w/ther aspir 1st	EF027	table, instrument, mobile	NF		57	0	G1: See preamble text	-\$0.08
31645	Brnchsc w/ther aspir 1st	EF031	table, power	NF		57	58	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.02
31645	Brnchsc w/ther aspir 1st	EQ004	CO2 respiratory profile monitor	NF		57	0	G1: See preamble text	-\$1.47
31645	Brnchsc w/ther aspir 1st	EQ032	IV infusion pump	NF		57	0	G1: See preamble text	-\$0.36
31645	Brnchsc w/ther aspir 1st	EQ235	suction machine (Gomco)	NF		57	58	E1: Refined equipment time to conform to established policies for non-	\$0.00

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								highly technical equipment	
31645	Brnchsc w/ther aspir 1st	ES017	fiberscope, flexible, bronchoscopy	NF		72	82	E4: Refined equipment time to conform to established policies for scopes	\$0.82
31645	Brnchsc w/ther aspir 1st	ES031	video system, endoscopy (processor, digital capture, monitor, printer, cart)	NF		42	55	E19: Refined equipment time to conform to established policies for scope accessories	\$1.68
31645	Brnchsc w/ther aspir 1st	SD084	gas, oxygen	NF		175	0	G1: See preamble text	-\$0.53
31XX5	Nsl/sins ndsc w/sins dilat	EF008	chair with headrest, exam, reclining	NF		59	64	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.05
31XX5	Nsl/sins ndsc w/sins dilat	EF015	mayo stand	NF		59	64	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.01
31XX5	Nsl/sins ndsc w/sins dilat	EQ138	instrument pack, medium (\$1500 and up)	NF		71	76	E5: Refined equipment time to conform to established policies for surgical	\$0.03

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								instrument packs	
31XX5	NsI/sins ndsc w/sins dilat	EQ167	light source, xenon	NF		59	64	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.14
31XX5	NsI/sins ndsc w/sins dilat	EQ170	light, fiberoptic headlight w-source	NF		59	64	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.04
31XX5	NsI/sins ndsc w/sins dilat	EQ234	suction and pressure cabinet, ENT (SMR)	NF		59	64	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.05
31XX5	NsI/sins ndsc w/sins dilat	EQ383	reusable shaver blade, 2mm	NF		59	64	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.02
31XX5	NsI/sins ndsc w/sins dilat	EQ384	Microdebrider handpiece	NF		59	64	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.06

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
31XX5	NsI/sins ndsc w/sins dilat	EQ385	Microdebrider console	NF		59	64	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.15
31XX5	NsI/sins ndsc w/sins dilat	ES005	endoscope disinfecter, rigid or fiberoptic, w-cart	NF		57	73	E4: Refined equipment time to conform to established policies for scopes	\$0.97
31XX5	NsI/sins ndsc w/sins dilat	ES031	video system, endoscopy (processor, digital capture, monitor, printer, cart)	NF		59	56	E19: Refined equipment time to conform to established policies for scope accessories	-\$0.39
31XX5	NsI/sins ndsc w/sins dilat	ES040	PROXY endoscope, rigid, sinoscopy (0 degrees)	NF		57	73	E4: Refined equipment time to conform to established policies for scopes	\$0.12
31XX5	NsI/sins ndsc w/sins dilat	L037D	RN/LPN/MTA	NF	Complete pre-service diagnostic and referral forms	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31XX5	NsI/sins ndsc w/sins dilat	L037D	RN/LPN/MTA	NF	Provide pre-service education/obtain consent	3	0	L1: Refined time to standard for this clinical labor task	-\$1.11
31XX5	NsI/sins ndsc w/sins dilat	L037D	RN/LPN/MTA	NF	Complete pre-	3	0	L1: Refined time to standard for	-\$1.11

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
					procedure phone calls and prescription			this clinical labor task	
31XX5	Nsl/sins ndsc w/sins dilat	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
32998	Ablate pulm tumor perq rf	ED050	Technologist PACS workstation	NF		133	112	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.46
32998	Ablate pulm tumor perq rf	EL007	room, CT	NF		98	96	E2: Refined equipment time to conform to established policies for highly technical equipment	-\$9.73
32998	Ablate pulm tumor perq rf	EQ168	light, exam	NF		98	107	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.04
32998	Ablate pulm tumor perq rf	EQ214	radiofrequency generator (NEURO)	NF		98	96	E2: Refined equipment time to conform to established policies for highly technical equipment	-\$0.25

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32X99	Ablate pumt tumor perq crybl	ED050	Technologist PACS workstation	NF		138	117	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.46
32X99	Ablate pumt tumor perq crybl	EL007	room, CT	NF		103	101	E2: Refined equipment time to conform to established policies for highly technical equipment	-\$9.73
32X99	Ablate pumt tumor perq crybl	EQ168	light, exam	NF		103	112	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.04
32X99	Ablate pumt tumor perq crybl	EQ302	cryosurgery system(for tumor ablation)	NF		103	101	E2: Refined equipment time to conform to established policies for highly technical equipment	-\$0.19
36215	Place catheter in artery	ED050	Technologist PACS workstation	NF		61	59	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.04
36215	Place catheter in artery	EF027	table, instrument, mobile	NF		180	0	G1: See preamble text	-\$0.25

<b>HCPCS Code</b>	<b>HCPCS Code Description</b>	<b>Input Code</b>	<b>Input Code Description</b>	<b>Nonfacility (NF) / Facility (F)</b>	<b>Labor Activity (where applicable)</b>	<b>RUC Recommendation or Current Value (min or qty)</b>	<b>CMS Refinement (min or qty)</b>	<b>Comment</b>	<b>Direct Costs Change (in dollars)</b>
36215	Place catheter in artery	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Post-procedure doppler evaluation (extremity)	3	1	G1: See preamble text	-\$0.74
36216	Place catheter in artery	ED050	Technologist PACS workstation	NF		76	74	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.04
36216	Place catheter in artery	EF027	table, instrument, mobile	NF		180	0	G1: See preamble text	-\$0.25
36216	Place catheter in artery	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Post-procedure doppler evaluation (extremity)	3	1	G1: See preamble text	-\$0.74
36217	Place catheter in artery	ED050	Technologist PACS workstation	NF		91	89	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.04
36217	Place catheter in artery	EF027	table, instrument, mobile	NF		180	0	G1: See preamble text	-\$0.25
36217	Place catheter in artery	L037D	RN/LPN/MTA	NF	Other Clinical	3	1	G1: See preamble text	-\$0.74



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					Activity - specify: Post-procedure doppler evaluation (extremity)				
36217	Place catheter in artery	L037D	RN/LPN/MTA	NF	Circulator (25%)	12	15	G1: See preamble text	\$1.11
36470	Njx sclrsnt 1 incmptnt vein	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
36470	Njx sclrsnt 1 incmptnt vein	L037D	RN/LPN/MTA	NF	Check dressings, catheters, wounds	5	3	L1: Refined time to standard for this clinical labor task	-\$0.74
36470	Njx sclrsnt 1 incmptnt vein	SG055	gauze, sterile 4in x 4in	NF		6	0	S7: Supply item replaced by another item; see preamble SG056	-\$0.95
36470	Njx sclrsnt 1 incmptnt vein	SG056	gauze, sterile 4in x 4in (10 pack uou)	NF		0	1	S8: Supply item replaces another item; see preamble SG055	\$0.80
36471	Njx sclrsnt mlt incmptnt vn	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
36471	Njx sclrsnt mlt incmptnt vn	L037D	RN/LPN/MTA	NF	Check dressings, catheters, wounds	5	3	L1: Refined time to standard for this clinical labor task	-\$0.74
36471	Njx sclrsnt mlt incmptnt vn	SG055	gauze, sterile 4in x 4in	NF		6	0	S7: Supply item replaced by another item; see	-\$0.95

HCPSC Code	HCPSC Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								preamble SG056	
36471	Njx sclrsnt mlt incmptnt vn	SG056	gauze, sterile 4in x 4in (10 pack uou)	NF		0	1	S8: Supply item replaces another item; see preamble SG055	\$0.80
364X3	Endoven ther chem adhes 1st	EF014	light, surgical	NF		58	53	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.05
364X3	Endoven ther chem adhes 1st	EF031	table, power	NF		58	53	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.08
364X3	Endoven ther chem adhes 1st	EQ250	ultrasound unit, portable	NF		58	53	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.58
364X3	Endoven ther chem adhes 1st	L037D	RN/LPN/MTA	NF	Check dressings, catheters, wounds	5	3	L1: Refined time to standard for this clinical labor task	-\$0.74
364X3	Endoven ther chem adhes 1st	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
364X3	Endoven ther chem	L054A	Vascular	NF	Prepare	0	2	G1: See preamble	\$1.08

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
	adhes 1st		Technologist		room, equipment and supplies			text	
364X3	Endoven ther chem adhes 1st	L054A	Vascular Technologist	NF	Setup scope (nonfacility setting only)	2	0	G1: See preamble text	-\$1.08
364X3	Endoven ther chem adhes 1st	SG055	gauze, sterile 4in x 4in	NF		6	0	S7: Supply item replaced by another item; see preamble SG056	-\$0.95
364X3	Endoven ther chem adhes 1st	SG056	gauze, sterile 4in x 4in (10 pack uou)	NF		0	1	S8: Supply item replaces another item; see preamble SG055	\$0.80
364X5	Njx noncmpnd sclrsnt 1 vein	EF014	light, surgical	NF		48	43	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.05
364X5	Njx noncmpnd sclrsnt 1 vein	EF031	table, power	NF		48	43	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.08
364X5	Njx noncmpnd sclrsnt 1 vein	EQ250	ultrasound unit, portable	NF		48	43	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.58

HCPSC Code	HCPSC Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
364X5	Njx noncmpnd sclrsnt 1 vein	L037D	RN/LPN/MTA	NF	Check dressings, catheters, wounds	5	3	L1: Refined time to standard for this clinical labor task	-\$0.74
364X5	Njx noncmpnd sclrsnt 1 vein	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
364X5	Njx noncmpnd sclrsnt 1 vein	L054A	Vascular Technologist	NF	Setup scope (nonfacility setting only)	2	0	G1: See preamble text	-\$1.08
364X5	Njx noncmpnd sclrsnt 1 vein	L054A	Vascular Technologist	NF	Prepare room, equipment and supplies	0	2	G1: See preamble text	\$1.08
364X5	Njx noncmpnd sclrsnt 1 vein	SG055	gauze, sterile 4in x 4in	NF		6	0	S7: Supply item replaced by another item; see preamble SG056	-\$0.95
364X5	Njx noncmpnd sclrsnt 1 vein	SG056	gauze, sterile 4in x 4in (10 pack uou)	NF		0	1	S8: Supply item replaces another item; see preamble SG055	\$0.80
364X6	Njx noncmpnd sclrsnt mlt vn	EF014	light, surgical	NF		58	53	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.05
364X6	Njx noncmpnd sclrsnt mlt vn	EF031	table, power	NF		58	53	E1: Refined equipment time to conform to established policies for non-highly technical	-\$0.08

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								equipment	
364X6	Njx noncmpnd sclrsnt mlt vn	EQ250	ultrasound unit, portable	NF		58	53	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.58
364X6	Njx noncmpnd sclrsnt mlt vn	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
364X6	Njx noncmpnd sclrsnt mlt vn	L037D	RN/LPN/MTA	NF	Check dressings, catheters, wounds	5	3	L1: Refined time to standard for this clinical labor task	-\$0.74
364X6	Njx noncmpnd sclrsnt mlt vn	L054A	Vascular Technologist	NF	Setup scope (nonfacility setting only)	2	0	G1: See preamble text	-\$1.08
364X6	Njx noncmpnd sclrsnt mlt vn	L054A	Vascular Technologist	NF	Prepare room, equipment and supplies	0	2	G1: See preamble text	\$1.08
364X6	Njx noncmpnd sclrsnt mlt vn	SG055	gauze, sterile 4in x 4in	NF		6	0	S7: Supply item replaced by another item; see preamble SG056	-\$0.95
364X6	Njx noncmpnd sclrsnt mlt vn	SG056	gauze, sterile 4in x 4in (10 pack uou)	NF		0	1	S8: Supply item replaces another item; see preamble SG055	\$0.80
36555	Insert non-tunnel cv cath	EF023	table, exam	NF		68	38	E1: Refined equipment time to conform to established	-\$0.09

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								policies for non-highly technical equipment	
36555	Insert non-tunnel cv cath	EQ011	ECG, 3-channel (with SpO2, NIBP, temp, resp)	NF		68	0	G1: See preamble text	-\$0.95
36555	Insert non-tunnel cv cath	EQ168	light, exam	NF		68	38	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.13
36555	Insert non-tunnel cv cath	L037D	RN/LPN/MTA	NF	Monitor pt. following procedure/ch eck tubes, monitors, drains, multitasking 1:4	7.5	0	L11: Removed clinical labor associated with moderate sedation; moderate sedation not typical for this procedure	-\$2.78
36569	Insert picc cath	EF023	table, exam	NF		30	0	G1: See preamble text	-\$0.09
36569	Insert picc cath	EQ168	light, exam	NF		30	32	E15: Refined equipment time to conform to changes in clinical labor time	\$0.01
36569	Insert picc cath	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
38220	Dx bone marrow aspirations	EF023	table, exam	NF		84	82	E1: Refined equipment time to conform to	-\$0.01

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								established policies for non-highly technical equipment	
38220	Dx bone marrow aspirations	L033A	Lab Technician	NF	Other Clinical Activity - specify:Lab Tech activities	12	9	G1: See preamble text	-\$0.99
38221	Dx bone marrow biopsies	EF023	table, exam	NF		83	82	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.00
38221	Dx bone marrow biopsies	L033A	Lab Technician	NF	Other Clinical Activity - specify:Lab Tech activities	7.5	7	G1: See preamble text	-\$0.17
382X3	Dx bone marrow bx & aspir	EF023	table, exam	NF		95	92	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.01
382X3	Dx bone marrow bx & aspir	L033A	Lab Technician	NF	Other Clinical Activity - specify:Lab Tech activities	12.5	10	G1: See preamble text	-\$0.83

<b>HCPCS Code</b>	<b>HCPCS Code Description</b>	<b>Input Code</b>	<b>Input Code Description</b>	<b>Nonfacility (NF) / Facility (F)</b>	<b>Labor Activity (where applicable)</b>	<b>RUC Recommendation or Current Value (min or qty)</b>	<b>CMS Refinement (min or qty)</b>	<b>Comment</b>	<b>Direct Costs Change (in dollars)</b>
55X87	Tprml plmt biodegrdabl matrl	EF031	table, power	NF		63	65	E15: Refined equipment time to conform to changes in clinical labor time	\$0.03
55X87	Tprml plmt biodegrdabl matrl	EQ250	ultrasound unit, portable	NF		48	50	E15: Refined equipment time to conform to changes in clinical labor time	\$0.23
55X87	Tprml plmt biodegrdabl matrl	EQ386	Endocavitary US probe	NF		48	50	E15: Refined equipment time to conform to changes in clinical labor time	\$0.13
55X87	Tprml plmt biodegrdabl matrl	ER061	stepper, stabilizer, template (for brachytherapy treatment)	NF		48	50	E15: Refined equipment time to conform to changes in clinical labor time	\$0.12
55X87	Tprml plmt biodegrdabl matrl	ER062	stirrups (for brachytherapy table)	NF		48	50	E15: Refined equipment time to conform to changes in clinical labor time	\$0.02
55X87	Tprml plmt biodegrdabl matrl	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
5857X	Laps tot hyst resj mal	EQ168	light, exam	F		142	125	E7: Refined equipment time to conform to office visit duration	-\$0.07
5857X	Laps tot hyst resj mal	SA051	pack, pelvic exam	F		4	3	G1: See preamble text	-\$1.17



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67820	Revise eyelashes	EL006	lane, screening (oph)	NF		11	5	GI: See preamble text	-\$0.54
67820	Revise eyelashes	L038A	COMT/COT/R N/CST	F	Coordinate pre-surgery services	3	0	L1: Refined time to standard for this clinical labor task	-\$1.14
67820	Revise eyelashes	L038A	COMT/COT/R N/CST	F	Provide pre-service education/obtain consent	3	0	L1: Refined time to standard for this clinical labor task	-\$1.14
67820	Revise eyelashes	L038A	COMT/COT/R N/CST	F	Schedule space and equipment in facility	3	0	L1: Refined time to standard for this clinical labor task	-\$1.14
67820	Revise eyelashes	L038A	COMT/COT/R N/CST	F	Complete pre-service diagnostic and referral forms	3	0	L1: Refined time to standard for this clinical labor task	-\$1.14
67820	Revise eyelashes	L038A	COMT/COT/R N/CST	F	Follow-up phone calls and prescriptions	3	0	L1: Refined time to standard for this clinical labor task	-\$1.14
70544	Mr angiography head w/o dye	ED050	Technologist PACS workstation	NF		72	69	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.07
70544	Mr angiography head w/o dye	ED053	Professional PACS Workstation	NF		17	15	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
70544	Mr angiography head w/o dye	EL008	room, MR	NF		39	38	E15: Refined equipment time to	-\$3.38

<b>HCPCS Code</b>	<b>HCPCS Code Description</b>	<b>Input Code</b>	<b>Input Code Description</b>	<b>Nonfacility (NF) / Facility (F)</b>	<b>Labor Activity (where applicable)</b>	<b>RUC Recommendation or Current Value (min or qty)</b>	<b>CMS Refinement (min or qty)</b>	<b>Comment</b>	<b>Direct Costs Change (in dollars)</b>
								conform to changes in clinical labor time	
70544	Mr angiography head w/o dye	L047A	MRI Technologist	NF	Technologist QC's images in PACS, checking all images, reformats, and dose page	4	3	L1: Refined time to standard for this clinical labor task	-\$0.47
70544	Mr angiography head w/o dye	L047A	MRI Technologist	NF	Provide pre-service education/obtain consent	7	5	G1: See preamble text	-\$0.94
70545	Mr angiography head w/dye	ED050	Technologist PACS workstation	NF		75	74	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.02
70545	Mr angiography head w/dye	ED053	Professional PACS Workstation	NF		17	15	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
70545	Mr angiography head w/dye	EL008	room, MR	NF		37	36	E15: Refined equipment time to conform to changes in clinical labor time	-\$3.38
70545	Mr angiography head w/dye	L047A	MRI Technologist	NF	Technologist QC's images in PACS, checking all images,	4	3	L1: Refined time to standard for this clinical labor task	-\$0.47

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					reformats, and dose page				
70545	Mr angiography head w/dye	L047A	MRI Technologist	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.94
70545	Mr angiography head w/dye	L047A	MRI Technologist	NF	Provide pre-service education/obtain consent	9	7	G1: See preamble text	-\$0.94
70546	Mr angiograph head w/o&w/dye	ED050	Technologist PACS workstation	NF		116	115	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.02
70546	Mr angiograph head w/o&w/dye	ED053	Professional PACS Workstation	NF		20	18	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
70546	Mr angiograph head w/o&w/dye	EL008	room, MR	NF		58	57	E15: Refined equipment time to conform to changes in clinical labor time	-\$3.38
70546	Mr angiograph head w/o&w/dye	L047A	MRI Technologist	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.94
70546	Mr angiograph head w/o&w/dye	L047A	MRI Technologist	NF	Technologist QC's images in PACS, checking all images,	4	3	L1: Refined time to standard for this clinical labor task	-\$0.47

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					reformats, and dose page				
70546	Mr angiograph head w/o&w/dye	L047A	MRI Technologist	NF	Provide pre-service education/obtain consent	9	7	G1: See preamble text	-\$0.94
70547	Mr angiography neck w/o dye	ED050	Technologist PACS workstation	NF		72	69	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.07
70547	Mr angiography neck w/o dye	ED053	Professional PACS Workstation	NF		17	15	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
70547	Mr angiography neck w/o dye	EL008	room, MR	NF		39	38	E15: Refined equipment time to conform to changes in clinical labor time	-\$3.38
70547	Mr angiography neck w/o dye	L047A	MRI Technologist	NF	Technologist QC's images in PACS, checking all images, reformats, and dose page	4	3	L1: Refined time to standard for this clinical labor task	-\$0.47
70547	Mr angiography neck w/o dye	L047A	MRI Technologist	NF	Provide pre-service education/obtain consent	7	5	G1: See preamble text	-\$0.94

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70548	Mr angiography neck w/dye	ED050	Technologist PACS workstation	NF		75	74	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.02
70548	Mr angiography neck w/dye	ED053	Professional PACS Workstation	NF		20	18	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
70548	Mr angiography neck w/dye	EL008	room, MR	NF		37	36	E15: Refined equipment time to conform to changes in clinical labor time	-\$3.38
70548	Mr angiography neck w/dye	L047A	MRI Technologist	NF	Technologist QCs images in PACS, checking all images, reformats, and dose page	4	3	L1: Refined time to standard for this clinical labor task	-\$0.47
70548	Mr angiography neck w/dye	L047A	MRI Technologist	NF	Provide pre-service education/obtain consent	9	7	G1: See preamble text	-\$0.94
70548	Mr angiography neck w/dye	L047A	MRI Technologist	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.94
70549	Mr angiograph neck w/o&w/dye	ED050	Technologist PACS workstation	NF		116	115	E15: Refined equipment time to conform to changes in	-\$0.02

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								clinical labor time	
70549	Mr angiograph neck w/o&w/dye	ED053	Professional PACS Workstation	NF		25	23	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
70549	Mr angiograph neck w/o&w/dye	EL008	room, MR	NF		58	57	E15: Refined equipment time to conform to changes in clinical labor time	-\$3.38
70549	Mr angiograph neck w/o&w/dye	L047A	MRI Technologist	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.94
70549	Mr angiograph neck w/o&w/dye	L047A	MRI Technologist	NF	Provide pre-service education/obtain consent	9	7	G1: See preamble text	-\$0.94
70549	Mr angiograph neck w/o&w/dye	L047A	MRI Technologist	NF	Technologist QCs images in PACS, checking all images, reformats, and dose page	4	3	L1: Refined time to standard for this clinical labor task	-\$0.47
71250	Ct thorax w/o dye	ED053	Professional PACS Workstation	NF		20	18	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
71260	Ct thorax w/dye	ED053	Professional	NF		21	19	E18: Refined	-\$0.12

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			PACS Workstation					equipment time to conform to established policies for PACS Workstations	
71270	Ct thorax w/o & w/dye	ED053	Professional PACS Workstation	NF		25	23	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
72195	Mri pelvis w/o dye	ED053	Professional PACS Workstation	NF		25	23	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
72196	Mri pelvis w/dye	ED050	Technologist PACS workstation	NF		64	66	E15: Refined equipment time to conform to changes in clinical labor time	\$0.04
72196	Mri pelvis w/dye	ED053	Professional PACS Workstation	NF		30	28	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
72196	Mri pelvis w/dye	L047A	MRI Technologist	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.94
72197	Mri pelvis w/o & w/dye	ED050	Technologist PACS workstation	NF		79	81	E15: Refined equipment time to conform to changes in	\$0.04

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								clinical labor time	
72197	Mri pelvis w/o & w/dye	ED053	Professional PACS Workstation	NF		32	30	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
72197	Mri pelvis w/o & w/dye	L047A	MRI Technologist	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.94
73718	Mri lower extremity w/o dye	ED050	Technologist PACS workstation	NF		55	53	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.04
73718	Mri lower extremity w/o dye	ED053	Professional PACS Workstation	NF		20	18	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
73718	Mri lower extremity w/o dye	EL008	room, MR	NF		44	42	E15: Refined equipment time to conform to changes in clinical labor time	-\$6.76
73718	Mri lower extremity w/o dye	L047A	MRI Technologist	NF	Prepare room, equipment, supplies	5	3	G1: See preamble text	-\$0.94
73719	Mri lower extremity w/dye	ED050	Technologist PACS workstation	NF		62	64	E15: Refined equipment time to conform to changes in	\$0.04



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								clinical labor time	
73719	Mri lower extremity w/dye	ED053	Professional PACS Workstation	NF		25	23	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
73719	Mri lower extremity w/dye	EL008	room, MR	NF		48	46	E15: Refined equipment time to conform to changes in clinical labor time	-\$6.76
73719	Mri lower extremity w/dye	L047A	MRI Technologist	NF	Provide pre-service education/obtain consent	5	7	G1: See preamble text	\$0.94
73719	Mri lower extremity w/dye	L047A	MRI Technologist	NF	Prepare room, equipment, supplies	7	5	G1: See preamble text	-\$0.94
73719	Mri lower extremity w/dye	L047A	MRI Technologist	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.94
73720	Mri lwr extremity w/o&w/dye	ED050	Technologist PACS workstation	NF		77	79	E15: Refined equipment time to conform to changes in clinical labor time	\$0.04
73720	Mri lwr extremity w/o&w/dye	ED053	Professional PACS Workstation	NF		29	27	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12

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73720	Mri lwr extremity w/o&w/dye	EL008	room, MR	NF		63	61	E15: Refined equipment time to conform to changes in clinical labor time	-\$6.76
73720	Mri lwr extremity w/o&w/dye	L047A	MRI Technologist	NF	Prepare room, equipment, supplies	7	5	G1: See preamble text	-\$0.94
73720	Mri lwr extremity w/o&w/dye	L047A	MRI Technologist	NF	Provide pre-service education/obtain consent	5	7	G1: See preamble text	\$0.94
73720	Mri lwr extremity w/o&w/dye	L047A	MRI Technologist	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.94
74181	Mri abdomen w/o dye	ED053	Professional PACS Workstation	NF		25	23	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
74182	Mri abdomen w/dye	ED050	Technologist PACS workstation	NF		74	76	E15: Refined equipment time to conform to changes in clinical labor time	\$0.04
74182	Mri abdomen w/dye	ED053	Professional PACS Workstation	NF		30	28	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
74182	Mri abdomen w/dye	L047A	MRI Technologist	NF	Obtain vital signs	3	5	L1: Refined time to standard for	\$0.94

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								this clinical labor task	
74183	Mri abdomen w/o & w/dye	ED050	Technologist PACS workstation	NF		79	81	E15: Refined equipment time to conform to changes in clinical labor time	\$0.04
74183	Mri abdomen w/o & w/dye	ED053	Professional PACS Workstation	NF		35	33	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
74183	Mri abdomen w/o & w/dye	L047A	MRI Technologist	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.94
75635	Ct angio abdominal arteries	ED050	Technologist PACS workstation	NF		119	124	E18: Refined equipment time to conform to established policies for PACS Workstations	\$0.11
75635	Ct angio abdominal arteries	ED053	Professional PACS Workstation	NF		49	44	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.29
75635	Ct angio abdominal arteries	EL007	room, CT	NF		71	70	E15: Refined equipment time to conform to changes in clinical labor time	-\$2.70
75635	Ct angio abdominal arteries	L046A	CT Technologist	NF	Technologist QCs images	4	3	L1: Refined time to standard for	-\$0.46

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					in PACS, checking all images, reformats, and dose page			this clinical labor task	
75710	Artery x-rays arm/leg	ED050	Technologist PACS workstation	NF		52	49	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.07
75710	Artery x-rays arm/leg	ED053	Professional PACS Workstation	NF		55	48	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.41
75710	Artery x-rays arm/leg	L041B	Radiologic Technologist	NF	Technologist QC's images in PACS, checking all images, reformats, and dose page	4	3	L1: Refined time to standard for this clinical labor task	-\$0.41
75710	Artery x-rays arm/leg	L041B	Radiologic Technologist	NF	Prepare room, equipment, supplies	2	0	G1: See preamble text	-\$0.82
75716	Artery x-rays arms/legs	ED050	Technologist PACS workstation	NF		62	59	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.07
75716	Artery x-rays arms/legs	ED053	Professional PACS	NF		65	58	E18: Refined equipment time to	-\$0.41

HCPSC Code	HCPSC Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
			Workstation					conform to established policies for PACS Workstations	
75716	Artery x-rays arms/legs	L041B	Radiologic Technologist	NF	Prepare room, equipment, supplies	2	0	G1: See preamble text	-\$0.82
75716	Artery x-rays arms/legs	L041B	Radiologic Technologist	NF	Technologist QC's images in PACS, checking all images, reformats, and dose page	4	3	L1: Refined time to standard for this clinical labor task	-\$0.41
76881	Us xtr non-vasc complete	EF031	table, power	NF		8	7	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.02
76881	Us xtr non-vasc complete	EQ250	ultrasound unit, portable	NF		8	7	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.12
76881	Us xtr non-vasc complete	L026A	Medical/Technical Assistant	NF	Exam document scanned into PACS. Exam completed in RIS system	1	0	G1: See preamble text	-\$0.26

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
					to generate billing process and to populate images into Radiologist work queue				
78300	Bone imaging limited area	ED053	Professional PACS Workstation	NF		15	13	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
78305	Bone imaging multiple areas	ED053	Professional PACS Workstation	NF		15	13	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
78306	Bone imaging whole body	ED053	Professional PACS Workstation	NF		78	13	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$3.76
88333	Intraop cyto path consult 1	L033A	Lab Technician	NF	Prepare room. Filter and replenish stains and supplies. (including OCT blocks, set up grossing station with colored	10	0	G6: Indirect Practice Expense input and/or not individually allocable to a particular patient for a particular service	-\$3.30

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					stains)				
88333	Intraop cyto path consult 1	L037B	Histotechnologist	NF	Clean room/equipment following procedure (including any equipment maintenance that must be done after the procedure)	5	1	L1: Refined time to standard for this clinical labor task	-\$1.48
88360	Tumor immunohistochem/manual	EP112	Benchmark ULTRA automated slide preparation system	NF		18	16	G1: See preamble text	-\$1.14
88360	Tumor immunohistochem/manual	L033A	Lab Technician	NF	Recycle xylene from tissue processor and stainer	1	0	G6: Indirect Practice Expense input and/or not individually allocable to a particular patient for a particular service	-\$0.33
88360	Tumor immunohistochem/manual	L037B	Histotechnologist	NF	Clean room/equipment following procedure (including any equipment maintenance that must be done after the procedure)	1	0	L2: Clinical labor task redundant with clinical labor task Clean equipment and work station in histology lab	-\$0.37

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88360	Tumor immunohistochem/manual	L037B	Histotechnologist	NF	Verify results and complete work load recording logs	1	0	G6: Indirect Practice Expense input and/or not individually allocable to a particular patient for a particular service	-\$0.37
88360	Tumor immunohistochem/manual	L037B	Histotechnologist	NF	Enter patient data, computational prep for antibody testing, generate and apply bar codes to slides, and enter data for automated slide stainer	5	1	L1: Refined time to standard for this clinical labor task	-\$1.48
88361	Tumor immunohistochem/comput	EP112	Benchmark ULTRA automated slide preparation system	NF		18	16	G1: See preamble text	-\$1.14
88361	Tumor immunohistochem/comput	L033A	Lab Technician	NF	Recycle xylene from tissue processor and stainer	1	0	G6: Indirect Practice Expense input and/or not individually allocable to a particular patient for a particular service	-\$0.33
88361	Tumor immunohistochem/	L037B	Histotechnologist	NF	Verify results and complete	1	0	G6: Indirect Practice Expense	-\$0.37



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	comput				work load recording logs			input and/or not individually allocable to a particular patient for a particular service	
88361	Tumor immunohistochem/ comput	L037B	Histotechnologist	NF	Performing instrument calibration, instrument qc and start up and shutdown.	1	0	G1: See preamble text	-\$0.37
88361	Tumor immunohistochem/ comput	L037B	Histotechnologist	NF	Gate areas to be counted by the machine	1	0	G1: See preamble text	-\$0.37
88361	Tumor immunohistochem/ comput	L037B	Histotechnologist	NF	Enter patient data, computational prep for antibody testing, generate and apply bar codes to slides, and enter data for automated slide stainer	5	1	L1: Refined time to standard for this clinical labor task	-\$1.48
88361	Tumor immunohistochem/ comput	L037B	Histotechnologist	NF	Clean room/equipment following procedure (including any	1	0	L2: Clinical labor task redundant with clinical labor task Clean equipment and work station in	-\$0.37

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
					equipment maintenance that must be done after the procedure)			histology lab	
93279	Pm device progr eval sngl	EF023	table, exam	NF		33	26	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.02
93279	Pm device progr eval sngl	EQ198	pacemaker follow-up system(incl software and hardware) (Paceart)	NF		33	26	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.53
93279	Pm device progr eval sngl	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray requisitions	2	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.52
93279	Pm device progr eval sngl	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Review charts	2	0	L1: Refined time to standard for this clinical labor task	-\$0.74
93280	Pm device progr eval dual	EF023	table, exam	NF		38	31	E1: Refined equipment time to conform to established policies for non-highly technical	-\$0.02

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								equipment	
93280	Pm device progr eval dual	EQ198	pacemaker follow-up system(incl software and hardware) (Paceart)	NF		38	31	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.53
93280	Pm device progr eval dual	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray requisitions	2	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.52
93280	Pm device progr eval dual	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Review charts	2	0	L1: Refined time to standard for this clinical labor task	-\$0.74
93281	Pm device progr eval multi	EF023	table, exam	NF		39	31	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.02
93281	Pm device progr eval multi	EQ198	pacemaker follow-up system(incl software and hardware) (Paceart)	NF		39	31	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.61
93281	Pm device progr eval multi	L026A	Medical/Technical Assistant	NF	Complete diagnostic	2	0	L2: Clinical labor task redundant	-\$0.52

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					forms, lab, X-ray requisitions			with clinical labor task L037D	
93281	Pm device progr eval multi	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Review charts	2	0	L1: Refined time to standard for this clinical labor task	-\$0.74
93281	Pm device progr eval multi	L037D	RN/LPN/MTA	NF	Assist physician in performing procedure	16	15	L15: Refined clinical labor time to match intraservice work time	-\$0.37
93282	Pgrmg eval implantable dfb	EF023	table, exam	NF		35	28	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.02
93282	Pgrmg eval implantable dfb	EQ198	pacemaker follow-up system (incl software and hardware) (Paceart)	NF		35	28	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.53
93282	Pgrmg eval implantable dfb	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray requisitions	2	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.52
93282	Pgrmg eval implantable dfb	L037D	RN/LPN/MTA	NF	Other Clinical Activity -	2	0	L1: Refined time to standard for this clinical labor	-\$0.74

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					specify: Review charts			task	
93283	Prgmng eval implantable dfb	EF023	table, exam	NF		38	31	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.02
93283	Prgmng eval implantable dfb	EQ198	pacemaker follow-up system(incl software and hardware) (Paceart)	NF		38	31	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.53
93283	Prgmng eval implantable dfb	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray requisitions	2	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.52
93283	Prgmng eval implantable dfb	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Review charts	2	0	L1: Refined time to standard for this clinical labor task	-\$0.74
93284	Prgmng eval implantable dfb	EF023	table, exam	NF		40.5	33.5	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.02

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93284	Prgmng eval implantable dfb	EQ198	pacemaker follow-up system(incl software and hardware) (Paceart)	NF		40.5	33.5	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.53
93284	Prgmng eval implantable dfb	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray requisitions	2	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.52
93284	Prgmng eval implantable dfb	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Review charts	2	0	L1: Refined time to standard for this clinical labor task	-\$0.74
93285	Ilr device eval progr	EF023	table, exam	NF		30	25	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.01
93285	Ilr device eval progr	EQ198	pacemaker follow-up system(incl software and hardware) (Paceart)	NF		30	25	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.38
93285	Ilr device eval progr	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray	1	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.26

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					requisitions				
93285	Ilr device eval progr	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Review charts	2	0	L1: Refined time to standard for this clinical labor task	-\$0.74
93286	Peri-px pacemaker device evl	EF023	table, exam	NF		27	20	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.02
93286	Peri-px pacemaker device evl	EQ198	pacemaker follow-up system (incl software and hardware) (Paceart)	NF		27	20	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.53
93286	Peri-px pacemaker device evl	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray requisitions	2	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.52
93286	Peri-px pacemaker device evl	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Review charts	2	0	L1: Refined time to standard for this clinical labor task	-\$0.74
93287	Peri-px device eval & prgr	EF023	table, exam	NF		27	20	E1: Refined equipment time to conform to	-\$0.02

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								established policies for non-highly technical equipment	
93287	Peri-px device eval & prgr	EQ198	pacemaker follow-up system(incl software and hardware) (Paceart)	NF		27	20	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.53
93287	Peri-px device eval & prgr	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray requisitions	2	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.52
93287	Peri-px device eval & prgr	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Review charts	2	0	L1: Refined time to standard for this clinical labor task	-\$0.74
93288	Pm device eval in person	EF023	table, exam	NF		33	26	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.02
93288	Pm device eval in person	EQ198	pacemaker follow-up system(incl software and hardware) (Paceart)	NF		33	26	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.53



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93288	Pm device eval in person	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray requisitions	2	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.52
93288	Pm device eval in person	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Review charts	2	0	L1: Refined time to standard for this clinical labor task	-\$0.74
93289	Interrog device eval heart	EF023	table, exam	NF		33	26	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.02
93289	Interrog device eval heart	EQ198	pacemaker follow-up system (incl software and hardware) (Paceart)	NF		33	26	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.53
93289	Interrog device eval heart	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray requisitions	2	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.52
93289	Interrog device eval heart	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Review charts	2	0	L1: Refined time to standard for this clinical labor task	-\$0.74

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93290	Icm device eval	EF023	table, exam	NF		28	24	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.01
93290	Icm device eval	EQ198	pacemaker follow-up system(incl software and hardware) (Paceart)	NF		28	24	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.30
93290	Icm device eval	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray requisitions	1	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.26
93290	Icm device eval	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Review charts	2	0	L1: Refined time to standard for this clinical labor task	-\$0.74
93291	Ilr device interrogate	EF023	table, exam	NF		27	22	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.01
93291	Ilr device interrogate	EQ198	pacemaker follow-up system(incl software and	NF		27	22	E1: Refined equipment time to conform to established	-\$0.38

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			hardware) (Paceart)					policies for non-highly technical equipment	
93291	Ilr device interrogate	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray requisitions	1	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.26
93291	Ilr device interrogate	L037D	RN/LPN/MTA	NF	Other Clinical Activity - specify: Review charts	2	0	L1: Refined time to standard for this clinical labor task	-\$0.74
93292	Wcd device interrogate	EF023	table, exam	NF		30	25	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.01
93292	Wcd device interrogate	EQ198	pacemaker follow-up system (incl software and hardware) (Paceart)	NF		30	25	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.38
93292	Wcd device interrogate	L026A	Medical/Technical Assistant	NF	Complete diagnostic forms, lab, X-ray requisitions	1	0	L2: Clinical labor task redundant with clinical labor task L037D	-\$0.26
93292	Wcd device interrogate	L037D	RN/LPN/MTA	NF	Other Clinical Activity -	2	0	L1: Refined time to standard for this clinical labor	-\$0.74

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					specify: Review charts			task	
93350	Stress tte only	ED053	Professional PACS Workstation	NF		20	18	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.12
93351	Stress tte complete	ED050	Technologist PACS workstation	NF		104	114	E18: Refined equipment time to conform to established policies for PACS Workstations	\$0.22
93351	Stress tte complete	ED053	Professional PACS Workstation	NF		30	25	E18: Refined equipment time to conform to established policies for PACS Workstations	-\$0.29
93351	Stress tte complete	EQ078	cardiac monitor w-treadmill (12-lead PC-based ECG)	NF		104	91	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.49
93351	Stress tte complete	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
93351	Stress tte complete	L037D	RN/LPN/MTA	NF	Provide pre-service education/obtain consent	3	2	L1: Refined time to standard for this clinical labor task	-\$0.37

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93351	Stress tte complete	L051A	RN	NF	Setup scope (non facility setting only)	5	0	G1: See preamble text	-\$2.55
94621	Cardiopulm exercise testing	EQ042	Vmax 29c (cardio-pulm stress test equip, treadmill, computer system)	NF		127	115	E6: Refined equipment time to conform to established policies for equipment with 4x monitoring time	-\$1.98
94621	Cardiopulm exercise testing	EQ211	pulse oximeter w-printer	NF		127	115	E6: Refined equipment time to conform to established policies for equipment with 4x monitoring time	-\$0.05
94621	Cardiopulm exercise testing	L047C	RN/Respiratory Therapist	NF	Prepare and position pt/ monitor pt/ set up IV	5	3	G1: See preamble text	-\$0.94
94621	Cardiopulm exercise testing	L047C	RN/Respiratory Therapist	NF	Provide pre-service education/obtain consent	10	5	G1: See preamble text	-\$2.35
94621	Cardiopulm exercise testing	L047C	RN/Respiratory Therapist	NF	Complete diagnostic forms, lab, X-ray requisitions	5	3	L1: Refined time to standard for this clinical labor task	-\$0.94
946X2	Exercise tst bmcpsm	EQ043	Vmax 29s (spirometry testing equip, computer)	NF		87	83	E6: Refined equipment time to conform to established	-\$0.31

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			system)					policies for equipment with 4x monitoring time	
946X2	Exercise tst bmcspsm	EQ078	cardiac monitor w-treadmill (12-lead PC-based ECG)	NF		87	83	E6: Refined equipment time to conform to established policies for equipment with 4x monitoring time	-\$0.15
946X2	Exercise tst bmcspsm	EQ211	pulse oximeter w-printer	NF		87	83	E6: Refined equipment time to conform to established policies for equipment with 4x monitoring time	-\$0.02
946X2	Exercise tst bmcspsm	L047C	RN/Respiratory Therapist	NF	Complete diagnostic forms, lab, X-ray requisitions	4	3	L1: Refined time to standard for this clinical labor task	-\$0.47
946X3	Pulmonary stress testing	EQ211	pulse oximeter w-printer	NF		17	15	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$0.01
946X3	Pulmonary stress testing	L047C	RN/Respiratory Therapist	NF	Complete diagnostic forms, lab, X-ray	2	3	L1: Refined time to standard for this clinical labor task	\$0.47

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					requisitions				
95004	Percut allergy skin tests	EF015	mayo stand	NF		1.28	1.58	E6: Refined equipment time to conform to established policies for equipment with 4x monitoring time	\$0.00
95004	Percut allergy skin tests	EF023	table, exam	NF		1.28	1.58	E6: Refined equipment time to conform to established policies for equipment with 4x monitoring time	\$0.00
96160	Pt-focused hlth risk assmt	L026A	Medical/Technical Assistant	NF	Explain purpose of assessment to patient/caregiver and answer questions	2	0	G1: See preamble text	-\$0.52
96160	Pt-focused hlth risk assmt	L026A	Medical/Technical Assistant	NF	Remain in exam room with patient/caregiver exclusive to completion of assessment	2	0	G1: See preamble text	-\$0.52
96160	Pt-focused hlth risk assmt	L026A	Medical/Technical Assistant	NF	Collate and score data elements on assessment in advance of	1	0	G1: See preamble text	-\$0.26

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					physician exam				
96160	Pt-focused hlth risk assmt	L026A	Medical/Technical Assistant	NF	Scan assessment or enter data elements and total score into electronic health record	2	0	G1: See preamble text	-\$0.52
96160	Pt-focused hlth risk assmt	L026A	Medical/Technical Assistant	NF	Administration, scoring, and documenting results of completed standardized instrument	0	7	G1: See preamble text	\$1.82
96161	Caregiver health risk assmt	L026A	Medical/Technical Assistant	NF	Explain purpose of assessment to patient/caregiver and answer questions	2	0	G1: See preamble text	-\$0.52
96161	Caregiver health risk assmt	L026A	Medical/Technical Assistant	NF	Remain in exam room with patient/caregiver exclusive to completion of assessment	2	0	G1: See preamble text	-\$0.52
96161	Caregiver health risk assmt	L026A	Medical/Technical Assistant	NF	Collate and score data elements on assessment in	1	0	G1: See preamble text	-\$0.26



HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
					advance of physician exam				
96161	Caregiver health risk assmt	L026A	Medical/Technical Assistant	NF	Scan assessment or enter data elements and total score into electronic health record	2	0	G1: See preamble text	-\$0.52
96161	Caregiver health risk assmt	L026A	Medical/Technical Assistant	NF	Administration, scoring, and documenting results of completed standardized instrument	0	7	G1: See preamble text	\$1.82
96360	Hydration iv infusion init	EF023	table, exam	NF		16	24	E6: Refined equipment time to conform to established policies for equipment with 4x monitoring time	\$0.02
96360	Hydration iv infusion init	EQ032	IV infusion pump	NF		16	24	E6: Refined equipment time to conform to established policies for equipment with 4x monitoring time	\$0.05
96360	Hydration iv	L056A	RN/OCN	NF	Obtain vital	3	5	L1: Refined time	\$1.58

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
	infusion init				signs			to standard for this clinical labor task	
96361	Hydrate iv infusion add-on	EF023	table, exam	NF		7	9	E15: Refined equipment time to conform to changes in clinical labor time	\$0.01
96361	Hydrate iv infusion add-on	EQ032	IV infusion pump	NF		7	9	E15: Refined equipment time to conform to changes in clinical labor time	\$0.01
96361	Hydrate iv infusion add-on	L056A	RN/OCN	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$1.58
96372	Ther/proph/diag inj sc/im	EF023	table, exam	NF		12	9	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.01
96372	Ther/proph/diag inj sc/im	EQ189	otoscope-ophthalmoscope (wall unit)	NF		12	9	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.01
96372	Ther/proph/diag inj sc/im	L037D	RN/LPN/MTA	NF	Complete medical record documentation	1	0	G6: Indirect Practice Expense input and/or not individually allocable to a particular patient for a particular service	-\$0.37

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96372	Ther/proph/diag inj sc/im	L037D	RN/LPN/MTA	NF	Document lot number and expiration date	1	0	L3: Refined clinical labor time to conform with identical labor activity in other codes in the family	-\$0.37
96372	Ther/proph/diag inj sc/im	L037D	RN/LPN/MTA	NF	Clean room/equipment by physician staff	1	0	G8: Input removed; code is typically billed with an E/M or other evaluation service	-\$0.37
96374	Ther/proph/diag inj iv push	EF023	table, exam	NF		23	31	E6: Refined equipment time to conform to established policies for equipment with 4x monitoring time	\$0.02
96374	Ther/proph/diag inj iv push	EQ189	otoscope-ophthalmoscope (wall unit)	NF		23	31	E6: Refined equipment time to conform to established policies for equipment with 4x monitoring time	\$0.01
96374	Ther/proph/diag inj iv push	L056A	RN/OCN	NF	Complete medical record documentation	1	0	G6: Indirect Practice Expense input and/or not individually allocable to a particular patient for a particular	-\$0.79

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								service	
96375	Tx/pro/dx inj new drug addon	EF023	table, exam	NF		12	17	E6: Refined equipment time to conform to established policies for equipment with 4x monitoring time	\$0.01
96375	Tx/pro/dx inj new drug addon	EQ189	otoscope-ophthalmoscope (wall unit)	NF		12	17	E6: Refined equipment time to conform to established policies for equipment with 4x monitoring time	\$0.01
96375	Tx/pro/dx inj new drug addon	L056A	RN/OCN	NF	Complete medical record documentation	1	0	G6: Indirect Practice Expense input and/or not individually allocable to a particular patient for a particular service	-\$0.79
96377	Applicaton on-body injector	EF023	table, exam	NF		12	11	E15: Refined equipment time to conform to changes in clinical labor time	\$0.00
96377	Applicaton on-body injector	EQ189	otoscope-ophthalmoscope (wall unit)	NF		12	11	E15: Refined equipment time to conform to changes in clinical labor time	\$0.00

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96377	Applicaton on-body injector	L056A	RN/OCN	NF	Complete medical record documentation	1	0	G6: Indirect Practice Expense input and/or not individually allocable to a particular patient for a particular service	-\$0.79
96910	Photochemotherapy with uv-b	EF023	table, exam	NF		67	65	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.01
96910	Photochemotherapy with uv-b	EQ168	light, exam	NF		67	65	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.01
96910	Photochemotherapy with uv-b	EQ204	phototherapy unit, hand-foot, UVA-UVB	NF		67	65	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.01
96910	Photochemotherapy with uv-b	EQ205	phototherapy unit, whole body, UVA-UVB	NF		67	65	E15: Refined equipment time to conform to changes in clinical labor time	-\$0.07
96910	Photochemotherapy with uv-b	L037D	RN/LPN/MTA	NF	Complete diagnostic forms, lab & X-ray requisitions, and documentation	2	0	G6: Indirect Practice Expense input and/or not individually allocable to a particular patient for a particular service	-\$0.74

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96910	Photochemotherapy with uv-b	L037D	RN/LPN/MTA	NF	Provide pre-service education/obtain consent	3	1	G1: See preamble text	-\$0.74
96910	Photochemotherapy with uv-b	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
96X73	Pdt dstrprmlg les phys/qhp	EF031	table, power	NF		230	52	E1: Refined equipment time to conform to established policies for non-highly technical equipment	-\$2.91
96X73	Pdt dstrprmlg les phys/qhp	EQ169	light, external PDT, w-probe set (LumaCare)	NF		20	52	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$1.12
96X73	Pdt dstrprmlg les phys/qhp	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
96X73	Pdt dstrprmlg les phys/qhp	SJ027	goggles, uv-blocking	NF		0	3	S8: Supply item replaces another item; see preamble	\$12.30
96X74	Dbrdmt prmlg les w/pdt	EF031	table, power	NF		232	54	E1: Refined equipment time to conform to established policies for non-highly technical	-\$2.91

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
								equipment	
96X74	Dbrdmt prmlg les w/pdt	EQ168	light, exam	NF		52	54	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$0.01
96X74	Dbrdmt prmlg les w/pdt	EQ169	light, external PDT, w-probe set (LumaCare)	NF		20	54	E1: Refined equipment time to conform to established policies for non-highly technical equipment	\$1.19
96X74	Dbrdmt prmlg les w/pdt	L037D	RN/LPN/MTA	NF	Obtain vital signs	3	5	L1: Refined time to standard for this clinical labor task	\$0.74
96X74	Dbrdmt prmlg les w/pdt	SJ027	goggles, uv-blocking	NF		0	3	S8: Supply item replaces another item; see preamble	\$12.30
97012	Mechanical traction therapy	EQ241	traction system (hi-low table, digital unit, accessories)	NF		13	15	G1: See preamble text	\$0.03
97012	Mechanical traction therapy	L023A	Physical Therapy Aide	NF	Clean room/equipment by physician staff	1	2	G1: See preamble text	\$0.23
97012	Mechanical traction therapy	L023A	Physical Therapy Aide	NF	Assist therapist	2	0	G1: See preamble text	-\$0.46
97012	Mechanical	L023A	Physical	NF	Other clinical	0	1	G1: See preamble	\$0.23

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	traction therapy		Therapy Aide		Activity - specify: post-treatment assistance			text	
97012	Mechanical traction therapy	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	0	G1: See preamble text	-\$0.23
97012	Mechanical traction therapy	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	0	G1: See preamble text	-\$0.23
97012	Mechanical traction therapy	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	0	1	G1: See preamble text	\$0.39
97012	Mechanical traction therapy	L039B	Physical Therapy Assistant	NF	Assist therapist	0	5	G1: See preamble text	\$1.95
97012	Mechanical traction therapy	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97012	Mechanical traction therapy	SB026	gown, patient	NF		1	0	G1: See preamble text	-\$0.53
97012	Mechanical traction therapy	SG039	dressings, 5in x 9in (ABD-Combine)	NF		0	1	G1: See preamble text	\$0.27
97012	Mechanical traction therapy	SK082	towel, paper (Bounty) (per sheet)	NF		2	0	G1: See preamble text	-\$0.01
97012	Mechanical traction therapy	SM012	disinfectant spray (Transeptic)	NF		2	0	G1: See preamble text	-\$0.06



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97014	Electric stimulation therapy	EF028	table, mat, hi-lo, 6 x 8 platform	NF		10	15	G1: See preamble text	\$0.05
97014	Electric stimulation therapy	EQ116	electrotherapy stimulator, high volt, 2 channel	NF		10	15	G1: See preamble text	\$0.03
97014	Electric stimulation therapy	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	0	G1: See preamble text	-\$0.23
97014	Electric stimulation therapy	L023A	Physical Therapy Aide	NF	Assist therapist	2	0	G1: See preamble text	-\$0.46
97014	Electric stimulation therapy	L023A	Physical Therapy Aide	NF	Clean room/equipment by physician staff	1	2	G1: See preamble text	\$0.23
97014	Electric stimulation therapy	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97014	Electric stimulation therapy	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	0	G1: See preamble text	-\$0.23
97014	Electric stimulation therapy	L039B	Physical Therapy Assistant	NF	Assist therapist	0	3	G1: See preamble text	\$1.17
97014	Electric stimulation therapy	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	0	1	G1: See preamble text	\$0.39

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97014	Electric stimulation therapy	SB026	gown, patient	NF		1	0	G1: See preamble text	-\$0.53
97014	Electric stimulation therapy	SJ024	electrolyte coupling gel	NF		0	1	G1: See preamble text	\$0.02
97014	Electric stimulation therapy	SK068	razor	NF		0	1	G1: See preamble text	\$0.39
97014	Electric stimulation therapy	SK082	towel, paper (Bounty) (per sheet)	NF		1	0	G1: See preamble text	-\$0.01
97014	Electric stimulation therapy	SM012	disinfectant spray (Transeptic)	NF		1	0	G1: See preamble text	-\$0.03
97016	Vasopneumatic device therapy	EF028	table, mat, hi-lo, 6 x 8 platform	NF		11	20	G1: See preamble text	\$0.09
97016	Vasopneumatic device therapy	EQ263	vasopneumatic compression system	NF		11	20	G1: See preamble text	\$0.02
97016	Vasopneumatic device therapy	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	2	G1: See preamble text	\$0.46
97016	Vasopneumatic device therapy	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	0	G1: See preamble text	-\$0.23
97016	Vasopneumatic device therapy	L023A	Physical Therapy Aide	NF	Clean room/equipment by physician staff	1	2	G1: See preamble text	\$0.23
97016	Vasopneumatic device therapy	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	0	G1: See preamble text	-\$0.23
97016	Vasopneumatic device therapy	L023A	Physical Therapy Aide	NF	Assist therapist	2	0	G1: See preamble text	-\$0.46

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97016	Vasopneumatic device therapy	L039B	Physical Therapy Assistant	NF	Assist therapist	0	10	G1: See preamble text	\$3.90
97016	Vasopneumatic device therapy	L039B	Physical Therapy Assistant	NF	Check dressings & wound/ home care instructions /coordinate office visits /prescriptions	0	5	G1: See preamble text	\$1.95
97016	Vasopneumatic device therapy	L039B	Physical Therapy Assistant	NF	Obtain vital signs	0	2	G1: See preamble text	\$0.78
97016	Vasopneumatic device therapy	SB026	gown, patient	NF		1	0	G1: See preamble text	-\$0.53
97018	Paraffin bath therapy	EQ200	paraffin bath, hand-foot (institutional)	NF		11	15	G1: See preamble text	\$0.03
97018	Paraffin bath therapy	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	3	G1: See preamble text	\$0.46
97018	Paraffin bath therapy	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97018	Paraffin bath therapy	L023A	Physical Therapy Aide	NF	Clean room/equipment by physician staff	1	2	G1: See preamble text	\$0.23
97018	Paraffin bath therapy	L023A	Physical Therapy Aide	NF	Assist therapist	2	0	G1: See preamble text	-\$0.46

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97018	Paraffin bath therapy	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	3	G1: See preamble text	\$0.46
97018	Paraffin bath therapy	L039B	Physical Therapy Assistant	NF	Check dressings & wound/ home care instructions /coordinate office visits /prescriptions	0	1	G1: See preamble text	\$0.39
97018	Paraffin bath therapy	L039B	Physical Therapy Assistant	NF	Assist therapist	0	5	G1: See preamble text	\$1.95
97018	Paraffin bath therapy	SA048	pack, minimum multi-specialty visit	NF		0	0.5	G1: See preamble text	\$0.57
97022	Whirlpool therapy	EF012	lift, hydraulic, chair	NF		26	4	G1: See preamble text	-\$0.28
97022	Whirlpool therapy	EF036	whirlpool, lo-boy tank (whole body)	NF		26	24	G1: See preamble text	-\$0.02
97022	Whirlpool therapy	L023A	Physical Therapy Aide	NF	Prepare and position patient	2	3	G1: See preamble text	\$0.23
97022	Whirlpool therapy	L023A	Physical Therapy Aide	NF	Assist therapist	2	0	G1: See preamble text	-\$0.46
97022	Whirlpool therapy	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	3	G1: See preamble text	\$0.69
97022	Whirlpool therapy	L039B	Physical Therapy Assistant	NF	Assist therapist	0	5	G1: See preamble text	\$1.95

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97022	Whirlpool therapy	L039B	Physical Therapy Assistant	NF	Check dressings & wound/ home care instructions /coordinate office visits /prescriptions	0	1	G1: See preamble text	\$0.39
97022	Whirlpool therapy	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97022	Whirlpool therapy	SB024	gloves, sterile	NF		0	1	G1: See preamble text	\$0.84
97022	Whirlpool therapy	SB033	mask, surgical	NF		0	1	G1: See preamble text	\$0.20
97022	Whirlpool therapy	SG017	bandage, Kling, non-sterile 2in	NF		0	1	G1: See preamble text	\$0.36
97022	Whirlpool therapy	SG027	cast, stockinette 4in	NF		0	1	G1: See preamble text	\$0.46
97022	Whirlpool therapy	SG055	gauze, sterile 4in x 4in	NF		0	5	G1: See preamble text	\$0.80
97022	Whirlpool therapy	SG079	tape, surgical paper lin (Micropore)	NF		0	12	G1: See preamble text	\$0.02
97022	Whirlpool therapy	SJ046	silver nitrate applicator	NF		0	1	G1: See preamble text	\$0.07
97032	Electrical stimulation	EF028	table, mat, hi-lo, 6 x 8 platform	NF		18	15	G1: See preamble text	-\$0.03
97032	Electrical stimulation	EQ116	electrotherapy stimulator, high volt, 2 channel	NF		18	15	G1: See preamble text	-\$0.02
97032	Electrical stimulation	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	0	G1: See preamble text	-\$0.23
97032	Electrical stimulation	L023A	Physical Therapy Aide	NF	Prepare and position	1	0	G1: See preamble text	-\$0.23

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					patient				
97032	Electrical stimulation	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97032	Electrical stimulation	L023A	Physical Therapy Aide	NF	Clean room/equipment by physician staff	1	2	G1: See preamble text	\$0.23
97032	Electrical stimulation	L039B	Physical Therapy Assistant	NF	Assist therapist	0	3	G1: See preamble text	\$1.17
97032	Electrical stimulation	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	0	1	G1: See preamble text	\$0.39
97032	Electrical stimulation	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97032	Electrical stimulation	SB026	gown, patient	NF		1	0	G1: See preamble text	-\$0.53
97032	Electrical stimulation	SD055	electrode, electrical stimulation	NF		0	2	G1: See preamble text	\$2.62
97032	Electrical stimulation	SG079	tape, surgical paper lin (Micropore)	NF		0	6	G1: See preamble text	\$0.01
97032	Electrical stimulation	SJ020	electrode conductive gel	NF		0	5	G1: See preamble text	\$0.08
97032	Electrical	SJ053	swab-pad,	NF		1	2	G1: See preamble	\$0.01

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	stimulation		alcohol					text	
97032	Electrical stimulation	SK068	razor	NF		0	1	G1: See preamble text	\$0.39
97032	Electrical stimulation	SK082	towel, paper (Bounty) (per sheet)	NF		1	0	G1: See preamble text	-\$0.01
97032	Electrical stimulation	SM012	disinfectant spray (Transeptic)	NF		1	0	G1: See preamble text	-\$0.03
97033	Electric current therapy	EF028	table, mat, hi-lo, 6 x 8 platform	NF		20	15	G1: See preamble text	-\$0.05
97033	Electric current therapy	EQ141	iontophoresis machine	NF		20	15	G1: See preamble text	-\$0.01
97033	Electric current therapy	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97033	Electric current therapy	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	2	3	G1: See preamble text	\$0.23
97033	Electric current therapy	L023A	Physical Therapy Aide	NF	Clean room/equipment by physician staff	1	3	G1: See preamble text	\$0.46
97033	Electric current therapy	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Obtain measurements	0	1	G1: See preamble text	\$0.39
97033	Electric current	SG055	gauze, sterile	NF		0	1	G1: See preamble	\$0.16

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	therapy		4in x 4in					text	
97033	Electric current therapy	SK068	razor	NF		0	1	G1: See preamble text	\$0.39
97034	Contrast bath therapy	L023A	Physical Therapy Aide	NF	Clean room/equipment by physician staff	2	5	G1: See preamble text	\$0.69
97034	Contrast bath therapy	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	2	3	G1: See preamble text	\$0.23
97034	Contrast bath therapy	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	2	G1: See preamble text	\$0.23
97034	Contrast bath therapy	L039B	Physical Therapy Assistant	NF	Assist therapist	0	3	G1: See preamble text	\$1.17
97034	Contrast bath therapy	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	0	3	G1: See preamble text	\$1.17
97034	Contrast bath therapy	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97034	Contrast bath therapy	SB026	gown, patient	NF		1	0	G1: See preamble text	-\$0.53
97035	Ultrasound therapy	EF028	table, mat, hi-lo, 6 x 8 platform	NF		16	15	G1: See preamble text	-\$0.01
97035	Ultrasound therapy	EQ251	ultrasound unit, therapeutic	NF		16	8	G1: See preamble text	-\$0.03
97035	Ultrasound therapy	L023A	Physical	NF	Prepare and	1	0	G1: See preamble	-\$0.23



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			Therapy Aide		position patient			text	
97035	Ultrasound therapy	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	0	G1: See preamble text	-\$0.23
97035	Ultrasound therapy	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97035	Ultrasound therapy	L039B	Physical Therapy Assistant	NF	Assist therapist	0	3	G1: See preamble text	\$1.17
97035	Ultrasound therapy	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97035	Ultrasound therapy	SB026	gown, patient	NF		1	0	G1: See preamble text	-\$0.53
97035	Ultrasound therapy	SJ024	electrolyte coupling gel	NF		0	1	G1: See preamble text	\$0.02
97035	Ultrasound therapy	SJ062	ultrasound transmission gel	NF		30	0	G1: See preamble text	-\$0.39
97035	Ultrasound therapy	SK082	towel, paper (Bounty) (per sheet)	NF		1	0	G1: See preamble text	-\$0.01
97035	Ultrasound therapy	SM012	disinfectant spray (Transeptic)	NF		1	0	G1: See preamble text	-\$0.03
97110	Therapeutic exercises	EF028	table, mat, hi-lo, 6 x 8 platform	NF		22	10	G1: See preamble text	-\$0.12
97110	Therapeutic exercises	EQ118	exercise equipment (treadmill, bike, stepper, UBE, pulleys, balance board)	NF		22	8	G1: See preamble text	-\$0.40

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97110	Therapeutic exercises	EQ129	hydrocollator, cold	NF		0	4	G1: See preamble text	\$0.02
97110	Therapeutic exercises	EQ130	hydrocollator, hot	NF		0	4	G1: See preamble text	\$0.01
97110	Therapeutic exercises	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97110	Therapeutic exercises	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	0	G1: See preamble text	-\$0.23
97110	Therapeutic exercises	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	0	G1: See preamble text	-\$0.23
97110	Therapeutic exercises	L023A	Physical Therapy Aide	NF	Assist therapist	5	0	G1: See preamble text	-\$1.15
97110	Therapeutic exercises	L023A	Physical Therapy Aide	NF	Other Clinical Activity - specify: Verify/Coordinate availability of resources/equipment	0	1.5	G1: See preamble text	\$0.35
97110	Therapeutic exercises	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	1.5	2.5	G1: See preamble text	\$0.39

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97110	Therapeutic exercises	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Obtain measurements	0	1.5	G1: See preamble text	\$0.59
97110	Therapeutic exercises	L039B	Physical Therapy Assistant	NF	Assist therapist	2.5	7.5	G1: See preamble text	\$1.95
97110	Therapeutic exercises	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Conduct phone calls/call in prescriptions	0	1	G1: See preamble text	\$0.39
97110	Therapeutic exercises	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Review/read documentation, plan of care, treatment goals	0	1.5	G1: See preamble text	\$0.59
97110	Therapeutic exercises	SA048	pack, minimum multi-specialty visit	NF		0	0.5	G1: See preamble text	\$0.57
97110	Therapeutic exercises	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97110	Therapeutic exercises	SK082	towel, paper (Bounty) (per sheet)	NF		4	0	G1: See preamble text	-\$0.03

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97110	Therapeutic exercises	SM012	disinfectant spray (Transeptic)	NF		5	0	G1: See preamble text	-\$0.14
97112	Neuromuscular reeducation	EF028	table, mat, hi-lo, 6 x 8 platform	NF		22	10	G1: See preamble text	-\$0.12
97112	Neuromuscular reeducation	EQ068	balance assessment-retraining system (Balance Master)	NF		22	15	G1: See preamble text	-\$0.37
97112	Neuromuscular reeducation	EQ118	exercise equipment (treadmill, bike, stepper, UBE, pulleys, balance board)	NF		22	15	G1: See preamble text	-\$0.20
97112	Neuromuscular reeducation	EQ201	parallel bars, platform mounted	NF		22	5	G1: See preamble text	-\$0.06
97112	Neuromuscular reeducation	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	0	G1: See preamble text	-\$0.23
97112	Neuromuscular reeducation	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	0	G1: See preamble text	-\$0.23
97112	Neuromuscular reeducation	L023A	Physical Therapy Aide	NF	Assist therapist	5	0	G1: See preamble text	-\$1.15
97112	Neuromuscular reeducation	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97112	Neuromuscular reeducation	L023A	Physical Therapy Aide	NF	Other Clinical Activity -	0	1.5	G1: See preamble text	\$0.35

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					specify: Verify/Coordinate availability of resources/equipment				
97112	Neuromuscular reeducation	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	1.5	2.5	G1: See preamble text	\$0.39
97112	Neuromuscular reeducation	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Review/read documentation, plan of care, treatment goals	0	1.5	G1: See preamble text	\$0.59
97112	Neuromuscular reeducation	L039B	Physical Therapy Assistant	NF	Assist therapist	2.5	7.5	G1: See preamble text	\$1.95
97112	Neuromuscular reeducation	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Conduct phone calls/call in prescriptions	0	1	G1: See preamble text	\$0.39

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97112	Neuromuscular reeducation	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Obtain measurements	0	1.5	G1: See preamble text	\$0.59
97112	Neuromuscular reeducation	SA048	pack, minimum multi-specialty visit	NF		0	0.5	G1: See preamble text	\$0.57
97112	Neuromuscular reeducation	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97112	Neuromuscular reeducation	SK082	towel, paper (Bounty) (per sheet)	NF		4	0	G1: See preamble text	-\$0.03
97112	Neuromuscular reeducation	SM012	disinfectant spray (Transeptic)	NF		5	0	G1: See preamble text	-\$0.14
97113	Aquatic therapy/exercises	EF012	lift, hydraulic, chair	NF		0	4	G1: See preamble text	\$0.05
97113	Aquatic therapy/exercises	EQ050	aquatic therapy pool	NF		30	15	G1: See preamble text	-\$1.15
97113	Aquatic therapy/exercises	EQ145	kit, aquatic exercise	NF		30	10	G1: See preamble text	-\$0.03
97113	Aquatic therapy/exercises	EQ207	pool cleaner	NF		0	15	G1: See preamble text	\$0.05
97113	Aquatic therapy/exercises	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	2	0	G1: See preamble text	-\$0.46
97113	Aquatic therapy/exercises	L023A	Physical Therapy Aide	NF	Other Clinical Activity - specify: Verify/Coordinate	0	1.5	G1: See preamble text	\$0.35

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					availability of resources/equipment				
97113	Aquatic therapy/exercises	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	2	3	G1: See preamble text	\$0.23
97113	Aquatic therapy/exercises	L023A	Physical Therapy Aide	NF	Greet patient, provide gowning, ensure appropriate medical records are available	2	1.5	G1: See preamble text	-\$0.12
97113	Aquatic therapy/exercises	L023A	Physical Therapy Aide	NF	Prepare and position patient	3	1.5	G1: See preamble text	-\$0.35
97113	Aquatic therapy/exercises	L023A	Physical Therapy Aide	NF	Clean room/equipment by physician staff	2	1	G1: See preamble text	-\$0.23
97113	Aquatic therapy/exercises	L023A	Physical Therapy Aide	NF	Assist therapist	15	0	G1: See preamble text	-\$3.45
97113	Aquatic therapy/exercises	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	2	2.5	G1: See preamble text	\$0.20

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97113	Aquatic therapy/exercises	L039B	Physical Therapy Assistant	NF	Obtain vital signs	2	1	G1: See preamble text	-\$0.39
97113	Aquatic therapy/exercises	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Review/read documentation, plan of care, treatment goals	0	1.5	G1: See preamble text	\$0.59
97113	Aquatic therapy/exercises	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Obtain measurements	0	1.5	G1: See preamble text	\$0.59
97113	Aquatic therapy/exercises	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Conduct phone calls/call in prescriptions	0	1	G1: See preamble text	\$0.39
97113	Aquatic therapy/exercises	L039B	Physical Therapy Assistant	NF	Assist therapist	2	7.5	G1: See preamble text	\$2.15
97113	Aquatic therapy/exercises	SA048	pack, minimum multi-specialty visit	NF		0	0.5	G1: See preamble text	\$0.57
97113	Aquatic therapy/exercises	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08



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97113	Aquatic therapy/exercises	SB041	swimsuit, female for hydrotherapy	NF		0	1	G1: See preamble text	\$6.87
97113	Aquatic therapy/exercises	SK082	towel, paper (Bounty) (per sheet)	NF		4	0	G1: See preamble text	-\$0.03
97113	Aquatic therapy/exercises	SL032	culture media	NF		0	10	G1: See preamble text	\$0.13
97113	Aquatic therapy/exercises	SL033	culture swab system (Culturette)	NF		0	1	G1: See preamble text	\$0.87
97113	Aquatic therapy/exercises	SM012	disinfectant spray (Transeptic)	NF		5	0	G1: See preamble text	-\$0.14
97116	Gait training therapy	EF028	table, mat, hi-lo, 6 x 8 platform	NF		22	0	G1: See preamble text	-\$0.22
97116	Gait training therapy	EQ144	kit, ambulation	NF		0	15	G1: See preamble text	\$0.03
97116	Gait training therapy	EQ201	parallel bars, platform mounted	NF		22	10	G1: See preamble text	-\$0.04
97116	Gait training therapy	EQ231	stairs, ambulation training	NF		22	5	G1: See preamble text	-\$0.03
97116	Gait training therapy	EQ243	treadmill	NF		22	0	G1: See preamble text	-\$0.29
97116	Gait training therapy	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97116	Gait training therapy	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	0	G1: See preamble text	-\$0.23

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97116	Gait training therapy	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	0	G1: See preamble text	-\$0.23
97116	Gait training therapy	L023A	Physical Therapy Aide	NF	Assist therapist	5	0	G1: See preamble text	-\$1.15
97116	Gait training therapy	L023A	Physical Therapy Aide	NF	Other Clinical Activity - specify: Verify/Coordinate availability of resources/equipment	0	1.5	G1: See preamble text	\$0.35
97116	Gait training therapy	L039B	Physical Therapy Assistant	NF	Assist therapist	2.5	7.5	G1: See preamble text	\$1.95
97116	Gait training therapy	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	1.5	2.5	G1: See preamble text	\$0.39
97116	Gait training therapy	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Review/read documentation, plan of care, treatment goals	0	1.5	G1: See preamble text	\$0.59

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97116	Gait training therapy	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Conduct phone calls/call in prescriptions	0	1	G1: See preamble text	\$0.39
97116	Gait training therapy	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Obtain measurements	0	1.5	G1: See preamble text	\$0.59
97116	Gait training therapy	SA048	pack, minimum multi-specialty visit	NF		0	0.5	G1: See preamble text	\$0.57
97116	Gait training therapy	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97116	Gait training therapy	SJ056	Thera-bands (6in width)	NF		1.5	0	G1: See preamble text	-\$0.90
97116	Gait training therapy	SK082	towel, paper (Bounty) (per sheet)	NF		4	0	G1: See preamble text	-\$0.03
97116	Gait training therapy	SM012	disinfectant spray (Transeptic)	NF		5	0	G1: See preamble text	-\$0.14
97116	Gait training therapy	SM021	sanitizing cloth-wipe (patient)	NF		0	1	G1: See preamble text	\$0.04
97140	Manual therapy 1/> regions	EF029	table, mobilization-manipulation (Lloyd's)	NF		22	15	G1: See preamble text	-\$0.13
97140	Manual therapy 1/> regions	L023A	Physical Therapy Aide	NF	Prepare room,	1	0	G1: See preamble text	-\$0.23

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					equipment, supplies				
97140	Manual therapy 1/> regions	L023A	Physical Therapy Aide	NF	Other Clinical Activity - specify: Verify/Coordinate availability of resources/equipment	0	1.5	G1: See preamble text	\$0.35
97140	Manual therapy 1/> regions	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	0	G1: See preamble text	-\$0.23
97140	Manual therapy 1/> regions	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97140	Manual therapy 1/> regions	L023A	Physical Therapy Aide	NF	Assist therapist	5	0	G1: See preamble text	-\$1.15
97140	Manual therapy 1/> regions	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Conduct phone calls/call in prescriptions	0	1	G1: See preamble text	\$0.39
97140	Manual therapy 1/> regions	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Obtain measurement	0	1.5	G1: See preamble text	\$0.59

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					s				
97140	Manual therapy 1/> regions	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Review/read documentation, plan of care, treatment goals	0	1.5	G1: See preamble text	\$0.59
97140	Manual therapy 1/> regions	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	1.5	2.5	G1: See preamble text	\$0.39
97140	Manual therapy 1/> regions	L039B	Physical Therapy Assistant	NF	Assist therapist	2.5	7.5	G1: See preamble text	\$1.95
97140	Manual therapy 1/> regions	SA048	pack, minimum multi-specialty visit	NF		0	0.5	G1: See preamble text	\$0.57
97140	Manual therapy 1/> regions	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97140	Manual therapy 1/> regions	SK046	lotion, massage, unscented	NF		2	0.5	G1: See preamble text	-\$0.24
97140	Manual therapy 1/> regions	SK082	towel, paper (Bounty) (per sheet)	NF		4	0	G1: See preamble text	-\$0.03
97140	Manual therapy 1/> regions	SM012	disinfectant spray (Transeptic)	NF		5	0	G1: See preamble text	-\$0.14

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97530	Therapeutic activities	EL003	environmental module - the workshop	NF		22	12	G1: See preamble text	-\$0.50
97530	Therapeutic activities	EQ219	rehab and testing system (BTE primus)	NF		22	4	G1: See preamble text	-\$3.20
97530	Therapeutic activities	EQ267	work samples, small tools (Valpar 1)	NF		22	12	G1: See preamble text	-\$0.06
97530	Therapeutic activities	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	0	G1: See preamble text	-\$0.23
97530	Therapeutic activities	L023A	Physical Therapy Aide	NF	Assist therapist	3.75	0	G1: See preamble text	-\$0.86
97530	Therapeutic activities	L023A	Physical Therapy Aide	NF	Other Clinical Activity - specify: Verify/Coordinate availability of resources/equipment	0	1.5	G1: See preamble text	\$0.35
97530	Therapeutic activities	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97530	Therapeutic activities	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	1.5	G1: See preamble text	\$0.12
97530	Therapeutic activities	L039B	Physical Therapy Assistant	NF	Assist therapist	3.75	7.5	G1: See preamble text	\$1.46

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97530	Therapeutic activities	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Review/read documentation, plan of care, treatment goals	0	1.5	G1: See preamble text	\$0.59
97530	Therapeutic activities	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	1.5	2.5	G1: See preamble text	\$0.39
97530	Therapeutic activities	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97530	Therapeutic activities	SK082	towel, paper (Bounty) (per sheet)	NF		4	0	G1: See preamble text	-\$0.03
97530	Therapeutic activities	SM012	disinfectant spray (Transeptic)	NF		5	0	G1: See preamble text	-\$0.14
97533	Sensory integration	EQ224	sensory integration equip (eg, ball pit, glider, trampoline, ramp)	NF		22	15	G1: See preamble text	-\$0.06
97533	Sensory integration	EQ225	sensory integration equipment, suspension	NF		22	15	G1: See preamble text	-\$0.05

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			system						
97533	Sensory integration	L023A	Physical Therapy Aide	NF	Obtain vital signs	0	1	G1: See preamble text	\$0.23
97533	Sensory integration	L023A	Physical Therapy Aide	NF	Other Clinical Activity - specify: Verify/Coordinate availability of resources/equipment	0	1.5	G1: See preamble text	\$0.35
97533	Sensory integration	L023A	Physical Therapy Aide	NF	Assist therapist	0	7.5	G1: See preamble text	\$1.73
97533	Sensory integration	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	1.5	G1: See preamble text	\$0.12
97533	Sensory integration	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	0	G1: See preamble text	-\$0.23
97533	Sensory integration	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97533	Sensory integration	L023A	Physical Therapy Aide	NF	Check dressings & wound/ home care instructions /coordinate office visits /prescriptions	0	2.5	G1: See preamble text	\$0.58



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97533	Sensory integration	L039B	Physical Therapy Assistant	NF	Obtain vital signs	1	0	G1: See preamble text	-\$0.39
97533	Sensory integration	L039B	Physical Therapy Assistant	NF	Assist therapist	7.5	0	G1: See preamble text	-\$2.93
97533	Sensory integration	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	1.5	0	G1: See preamble text	-\$0.59
97533	Sensory integration	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Review/read documentation, plan of care, treatment goals	0	1.5	G1: See preamble text	\$0.59
97533	Sensory integration	SJ053	swab-pad, alcohol	NF		0	3	G1: See preamble text	\$0.04
97533	Sensory integration	SK082	towel, paper (Bounty) (per sheet)	NF		4	0	G1: See preamble text	-\$0.03
97533	Sensory integration	SM012	disinfectant spray (Transeptic)	NF		5	0	G1: See preamble text	-\$0.14
97535	Self care mngment training	EL002	environmental module - kitchen	NF		22	12	G1: See preamble text	-\$1.15

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97535	Self care mngment training	EQ143	kit, ADL	NF		22	16	G1: See preamble text	-\$0.01
97535	Self care mngment training	L023A	Physical Therapy Aide	NF	Other Clinical Activity - specify: Verify/Coordinate availability of resources/equipment	0	1.5	G1: See preamble text	\$0.35
97535	Self care mngment training	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	1.5	G1: See preamble text	\$0.12
97535	Self care mngment training	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	0	G1: See preamble text	-\$0.23
97535	Self care mngment training	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97535	Self care mngment training	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	1.5	2.5	G1: See preamble text	\$0.39
97535	Self care mngment training	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify:	0	1.5	G1: See preamble text	\$0.59

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
					Review/read documentation, plan of care, treatment goals				
97535	Self care mngment training	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97535	Self care mngment training	SK009	bath soap (one bar uou)	NF		0	0.5	G1: See preamble text	\$0.34
97535	Self care mngment training	SK080	toothbrush	NF		0	1	G1: See preamble text	\$0.81
97535	Self care mngment training	SK081	toothpaste	NF		0	0.25	G1: See preamble text	\$0.12
97535	Self care mngment training	SK082	towel, paper (Bounty) (per sheet)	NF		4	0	G1: See preamble text	-\$0.03
97535	Self care mngment training	SM012	disinfectant spray (Transeptic)	NF		5	0	G1: See preamble text	-\$0.14
97535	Self care mngment training	SM013	disinfectant, surface (Envirocide, Sanizide)	NF		0	2	G1: See preamble text	\$0.33
97537	Community/work reintegration	EL001	environmental module - car	NF		22	8	G1: See preamble text	-\$1.01
97537	Community/work reintegration	EQ147	kit, ergonomic (office)	NF		22	8	G1: See preamble text	-\$0.08
97537	Community/work reintegration	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	1.5	G1: See preamble text	\$0.12
97537	Community/work reintegration	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment	0	1	G1: See preamble text	\$0.23

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
					assistance				
97537	Community/work reintegration	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	0	G1: See preamble text	-\$0.23
97537	Community/work reintegration	L023A	Physical Therapy Aide	NF	Other Clinical Activity - specify: Verify/Coordinate availability of resources/equipment	0	1.5	G1: See preamble text	\$0.35
97537	Community/work reintegration	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	1.5	2.5	G1: See preamble text	\$0.39
97537	Community/work reintegration	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Review/read documentation, plan of care, treatment goals	0	1.5	G1: See preamble text	\$0.59
97537	Community/work reintegration	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97537	Community/work reintegration	SK082	towel, paper	NF		4	0	G1: See preamble text	-\$0.03

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
	reintegration		(Bounty) (per sheet)					text	
97537	Community/work reintegration	SM012	disinfectant spray (Transeptic)	NF		5	0	G1: See preamble text	-\$0.14
97542	Wheelchair mngment training	EL002	environmental module - kitchen	NF		22	8	G1: See preamble text	-\$1.61
97542	Wheelchair mngment training	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	1	1.5	G1: See preamble text	\$0.12
97542	Wheelchair mngment training	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97542	Wheelchair mngment training	L023A	Physical Therapy Aide	NF	Prepare and position patient	1	0	G1: See preamble text	-\$0.23
97542	Wheelchair mngment training	L023A	Physical Therapy Aide	NF	Assist therapist	3.75	0	G1: See preamble text	-\$0.86
97542	Wheelchair mngment training	L023A	Physical Therapy Aide	NF	Other Clinical Activity - specify: Verify/Coordinate availability of resources/equipment	0	1.5	G1: See preamble text	\$0.35
97542	Wheelchair mngment training	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care	1.5	2.5	G1: See preamble text	\$0.39

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
					instructions /coordinate office visits /prescriptions				
97542	Wheelchair mngment training	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Review/read documentation, plan of care, treatment goals	0	1.5	G1: See preamble text	\$0.59
97542	Wheelchair mngment training	L039B	Physical Therapy Assistant	NF	Assist therapist	3.75	7.5	G1: See preamble text	\$1.46
97542	Wheelchair mngment training	SB022	gloves, non-sterile	NF		1	0	G1: See preamble text	-\$0.08
97542	Wheelchair mngment training	SK082	towel, paper (Bounty) (per sheet)	NF		4	0	G1: See preamble text	-\$0.03
97542	Wheelchair mngment training	SM012	disinfectant spray (Transeptic)	NF		5	0	G1: See preamble text	-\$0.14
97760	Orthotic mgmt&trainj 1st enc	EF005	cart-workbench, orthotic, mobile	NF		27	10	G1: See preamble text	-\$0.03
97760	Orthotic mgmt&trainj 1st enc	EF033	table, treatment, hi-lo	NF		27	10	G1: See preamble text	-\$0.09
97760	Orthotic mgmt&trainj 1st enc	EQ219	rehab and testing system (BTE primus)	NF		27	5	G1: See preamble text	-\$3.91
97760	Orthotic mgmt&trainj 1st	ER064	water bath, thermoplastic	NF		27	10	G1: See preamble text	-\$0.04

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	enc		softener (20in x 12in)						
97760	Orthotic mgmt&trainj 1st enc	L023A	Physical Therapy Aide	NF	Assist therapist	5	0	G1: See preamble text	-\$1.15
97760	Orthotic mgmt&trainj 1st enc	L023A	Physical Therapy Aide	NF	Other Clinical Activity - specify: Verify/Coordinate availability of resources/equipment	0	1.5	G1: See preamble text	\$0.35
97760	Orthotic mgmt&trainj 1st enc	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97760	Orthotic mgmt&trainj 1st enc	L023A	Physical Therapy Aide	NF	Greet patient, provide gowning, ensure appropriate medical records are available	2	1.5	G1: See preamble text	-\$0.12
97760	Orthotic mgmt&trainj 1st enc	L023A	Physical Therapy Aide	NF	Clean room/equipment by physician staff	2	1	G1: See preamble text	-\$0.23
97760	Orthotic mgmt&trainj 1st enc	L023A	Physical Therapy Aide	NF	Prepare room, equipment,	2	1.5	G1: See preamble text	-\$0.12

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
					supplies				
97760	Orthotic mgmt&trainj 1st enc	L023A	Physical Therapy Aide	NF	Prepare and position patient	2	0	G1: See preamble text	-\$0.46
97760	Orthotic mgmt&trainj 1st enc	L039B	Physical Therapy Assistant	NF	Assist therapist	2.5	7.5	G1: See preamble text	\$1.95
97760	Orthotic mgmt&trainj 1st enc	L039B	Physical Therapy Assistant	NF	Obtain vital signs	2	1	G1: See preamble text	-\$0.39
97760	Orthotic mgmt&trainj 1st enc	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Review/read documentation, plan of care, treatment goals	0	1.5	G1: See preamble text	\$0.59
97760	Orthotic mgmt&trainj 1st enc	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	2	2.5	G1: See preamble text	\$0.20
97760	Orthotic mgmt&trainj 1st enc	L039B	Physical Therapy Assistant	NF	Conduct phone calls/call in prescriptions	2	0	G1: See preamble text	-\$0.78
97760	Orthotic mgmt&trainj 1st enc	SH035	fluori-methane (cold spray)	NF		5	7.5	G1: See preamble text	\$1.06



HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
97760	Orthotic mgmt&trainj 1st enc	SK082	towel, paper (Bounty) (per sheet)	NF		4	0	G1: See preamble text	-\$0.03
97760	Orthotic mgmt&trainj 1st enc	SK087	water, distilled	NF		85	128	G1: See preamble text	\$0.56
97760	Orthotic mgmt&trainj 1st enc	SM012	disinfectant spray (Transeptic)	NF		5	0	G1: See preamble text	-\$0.14
97761	Prosthetic trainj 1st enc	EF028	table, mat, hi-lo, 6 x 8 platform	NF		27	5	G1: See preamble text	-\$0.22
97761	Prosthetic trainj 1st enc	EQ069	balance board	NF		27	4	G1: See preamble text	-\$0.03
97761	Prosthetic trainj 1st enc	EQ201	parallel bars, platform mounted	NF		27	4	G1: See preamble text	-\$0.09
97761	Prosthetic trainj 1st enc	EQ231	stairs, ambulation training	NF		27	3	G1: See preamble text	-\$0.04
97761	Prosthetic trainj 1st enc	EQ243	treadmill	NF		27	3	G1: See preamble text	-\$0.32
97761	Prosthetic trainj 1st enc	L023A	Physical Therapy Aide	NF	Greet patient, provide gowning, ensure appropriate medical records are available	2	1.5	G1: See preamble text	-\$0.12
97761	Prosthetic trainj 1st enc	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	2	0	G1: See preamble text	-\$0.46
97761	Prosthetic trainj 1st enc	L023A	Physical Therapy Aide	NF	Prepare and position patient	2	0	G1: See preamble text	-\$0.46

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
97761	Prosthetic trainj 1st enc	L023A	Physical Therapy Aide	NF	Other Clinical Activity - specify: Verify/Coordinate availability of resources/equipment	0	1.5	G1: See preamble text	\$0.35
97761	Prosthetic trainj 1st enc	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
97761	Prosthetic trainj 1st enc	L023A	Physical Therapy Aide	NF	Assist therapist	10	0	G1: See preamble text	-\$2.30
97761	Prosthetic trainj 1st enc	L023A	Physical Therapy Aide	NF	Clean room/equipment by physician staff	2	1	G1: See preamble text	-\$0.23
97761	Prosthetic trainj 1st enc	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Obtain measurements	0	1.5	G1: See preamble text	\$0.59
97761	Prosthetic trainj 1st enc	L039B	Physical Therapy Assistant	NF	Obtain vital signs	2	1	G1: See preamble text	-\$0.39
97761	Prosthetic trainj 1st enc	L039B	Physical Therapy Assistant	NF	Assist therapist	5	7.5	G1: See preamble text	\$0.98

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
97761	Prosthetic trainj 1st enc	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Review/read documentation, plan of care, treatment goals	0	1.5	G1: See preamble text	\$0.59
97761	Prosthetic trainj 1st enc	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Conduct phone calls/call in prescriptions	0	1	G1: See preamble text	\$0.39
97761	Prosthetic trainj 1st enc	L039B	Physical Therapy Assistant	NF	Conduct phone calls/call in prescriptions	2	0	G1: See preamble text	-\$0.78
97761	Prosthetic trainj 1st enc	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	2	2.5	G1: See preamble text	\$0.20
97761	Prosthetic trainj 1st enc	SB026	gown, patient	NF		0.75	0	G1: See preamble text	-\$0.40
97761	Prosthetic trainj 1st enc	SG027	cast, stockinette 4in	NF		0.3	1	G1: See preamble text	\$0.32
97761	Prosthetic trainj 1st enc	SG058	moleskin 9in width	NF		0.2	0.33	G1: See preamble text	\$0.45

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
97761	Prosthetic trainj 1st enc	SK082	towel, paper (Bounty) (per sheet)	NF		4	0	G1: See preamble text	-\$0.03
97761	Prosthetic trainj 1st enc	SM012	disinfectant spray (Transeptic)	NF		5	0	G1: See preamble text	-\$0.14
977X1	Orthc/prostc mgmt sbsq enc	EF005	cart-workbench, orthotic, mobile	NF		27	10	G1: See preamble text	-\$0.03
977X1	Orthc/prostc mgmt sbsq enc	EF033	table, treatment, hi-lo	NF		27	16	G1: See preamble text	-\$0.06
977X1	Orthc/prostc mgmt sbsq enc	ER064	water bath, thermoplastic softener (20in x 12in)	NF		27	10	G1: See preamble text	-\$0.04
977X1	Orthc/prostc mgmt sbsq enc	L023A	Physical Therapy Aide	NF	Other clinical Activity - specify: post-treatment assistance	0	1	G1: See preamble text	\$0.23
977X1	Orthc/prostc mgmt sbsq enc	L023A	Physical Therapy Aide	NF	Greet patient, provide gowning, ensure appropriate medical records are available	2	1.5	G1: See preamble text	-\$0.12
977X1	Orthc/prostc mgmt sbsq enc	L023A	Physical Therapy Aide	NF	Clean room/equipment by physician staff	2	1	G1: See preamble text	-\$0.23
977X1	Orthc/prostc mgmt sbsq enc	L023A	Physical Therapy Aide	NF	Other Clinical Activity - specify:	0	1.5	G1: See preamble text	\$0.35

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
					Verify/Coordinate availability of resources/equipment				
977X1	Orthc/prostc mgmt sbsq enc	L023A	Physical Therapy Aide	NF	Assist therapist	5	0	G1: See preamble text	-\$1.15
977X1	Orthc/prostc mgmt sbsq enc	L023A	Physical Therapy Aide	NF	Prepare room, equipment, supplies	2	1.5	G1: See preamble text	-\$0.12
977X1	Orthc/prostc mgmt sbsq enc	L023A	Physical Therapy Aide	NF	Prepare and position patient	2	0	G1: See preamble text	-\$0.46
977X1	Orthc/prostc mgmt sbsq enc	L039B	Physical Therapy Assistant	NF	Other Clinical Activity - specify: Review/read documentation, plan of care, treatment goals	0	1.5	G1: See preamble text	\$0.59
977X1	Orthc/prostc mgmt sbsq enc	L039B	Physical Therapy Assistant	NF	Obtain vital signs	2	1	G1: See preamble text	-\$0.39
977X1	Orthc/prostc mgmt sbsq enc	L039B	Physical Therapy Assistant	NF	Check dressings & wound/home care instructions /coordinate office visits /prescriptions	2	2.5	G1: See preamble text	\$0.20

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
977X1	Orthc/prostc mgmt sbsq enc	L039B	Physical Therapy Assistant	NF	Assist therapist	2.5	7.5	G1: See preamble text	\$1.95
977X1	Orthc/prostc mgmt sbsq enc	SA048	pack, minimum multi-specialty visit	NF		0.5	1	G1: See preamble text	\$0.57
977X1	Orthc/prostc mgmt sbsq enc	SG027	cast, stockinette 4in	NF		0.4	0.5	G1: See preamble text	\$0.05
977X1	Orthc/prostc mgmt sbsq enc	SG058	moleskin 9in width	NF		0.7	1	G1: See preamble text	\$1.04
977X1	Orthc/prostc mgmt sbsq enc	SG060	outrigger line	NF		7	50	G1: See preamble text	\$3.91
977X1	Orthc/prostc mgmt sbsq enc	SG061	outrigger post	NF		3	4	G1: See preamble text	\$0.40
977X1	Orthc/prostc mgmt sbsq enc	SH035	fluori-methane (cold spray)	NF		5	7.5	G1: See preamble text	\$1.06
977X1	Orthc/prostc mgmt sbsq enc	SJ047	splint straps 1in	NF		0.7	1	G1: See preamble text	\$0.39
977X1	Orthc/prostc mgmt sbsq enc	SJ048	splint straps 2in	NF		1.3	2	G1: See preamble text	\$1.07
977X1	Orthc/prostc mgmt sbsq enc	SK071	rubber bands, non-sterile	NF		4	6	G1: See preamble text	\$0.04
977X1	Orthc/prostc mgmt sbsq enc	SK082	towel, paper (Bounty) (per sheet)	NF		4	0	G1: See preamble text	-\$0.03
977X1	Orthc/prostc mgmt sbsq enc	SK087	water, distilled	NF		85	128	G1: See preamble text	\$0.56
977X1	Orthc/prostc mgmt sbsq enc	SM012	disinfectant spray (Transeptc)	NF		5	0	G1: See preamble text	-\$0.14
97X11	Ther ivntj w/focus cog funcj	ED038	notebook (Dell Latitute D600)	NF		60	0	G1: See preamble text	-\$0.52
97X11	Ther ivntj w/focus cog funcj	EF027	table, instrument, mobile	NF		60	5	G1: See preamble text	-\$0.08

HCPCS Code	HCPCS Code Description	Input Code	Input Code Description	Nonfacility (NF) / Facility (F)	Labor Activity (where applicable)	RUC Recommendation or Current Value (min or qty)	CMS Refinement (min or qty)	Comment	Direct Costs Change (in dollars)
97X11	Ther ivntj w/focus cog funcj	L023A	Physical Therapy Aide	NF	Assist physician in performing procedure	0	12	G1: See preamble text	\$2.76
97X11	Ther ivntj w/focus cog funcj	SK057	paper, laser printing (each sheet)	NF		10	0	G1: See preamble text	-\$0.05
994X1	1st psyc collab care mgmt	EF042	One Couch and Two Chairs	F		38	0	G1: See preamble text	-\$0.15
994X1	1st psyc collab care mgmt	L057B	Behavioral Health Care Manager	F	Other clinical Activity - specify: 994X1 and 994X3	85	0	G1: See preamble text	-\$48.45
994X2	Sbsq psyc collab care mgmt	EF042	One Couch and Two Chairs	F		27	0	G1: See preamble text	-\$0.11
994X2	Sbsq psyc collab care mgmt	L057B	Behavioral Health Care Manager	F	Other clinical Activity - specify: 994X2	60	0	G1: See preamble text	-\$34.20
994X3	1st/sbsq psyc collab care	EF042	One Couch and Two Chairs	F		13.5	0	G1: See preamble text	-\$0.05
994X3	1st/sbsq psyc collab care	L057B	Behavioral Health Care Manager	F	Other clinical Activity - specify: 994X1 and 994X3	30	0	G1: See preamble text	-\$17.10
99XX5	Care mgmt svc bhvl hlth cond	L057B	Behavioral Health Care Manager	F	Other clinical Activity - specify: G0507	20	0	G1: See preamble text	-\$11.40
G0507	Care manage serv minimum 20	L057B	Behavioral Health Care Manager	F	Other clinical Activity - specify: G0507	20	0	G1: See preamble text	-\$11.40

**TABLE 12: CY 2018 Proposed Codes with Direct PE Input Recommendations without Refinement**

<b>HCPCS Code</b>	<b>Description</b>
007X1	Anes upr gi ndsc px nos
007X2	Anes upr gi ndsc px ercp
008X1	Anes lwr intst ndsc nos
008X2	Anes lwr intst scr colsc
008X3	Anes upr lwr gi hdsc px
10040	Acne surgery
15734	Muscle-skin graft trunk
15736	Muscle-skin graft arm
15738	Muscle-skin graft leg
157X2	Musc myoq/fscq flp h&n pedcl
19303	Mast simple complete
31255	Nsl/sins ndsc w/tot ethmdct
31256	Exploration maxillary sinus
31267	Endoscopy maxillary sinus
31276	Nsl/sins ndsc frnt tiss rmvl
31287	Nasal/sinus endoscopy surg
31288	Nasal/sinus endoscopy surg
31600	Incision of windpipe
31601	Incision of windpipe
31603	Incision of windpipe
31610	Incision of windpipe
31646	Brnchsc w/ther aspir sbsq
31XX1	Nsl/sins ndsc w/artery lig
31XX2	Nsl/sins ndsc total
31XX3	Nsl/sins ndsc tot w/sphndt
31XX4	Nsl/sins ndsc sphn tiss rmvl
34812	Opn fem art expos
34820	Opn ilac art expos
34833	Opn ilac art expos cndt crtj
34834	Opn brach art expos
34X01	Evasc rpr a-ao ndgft
34X02	Evasc rpr a-ao ndgft rpt
34X03	Evasc rpr a-unilac ndgft
34X04	Evasc rpr a-unilac ndgft rpt
34X05	Evac rpr a-biiliac ndgft
34X06	Evasc rpr a-biiliac rpt
34X07	Evasc rpr ilio-iliac ndgft

<b>HCPCS Code</b>	<b>Description</b>
34X08	Evasc rpr ilio-iliac rpt
34X09	Plmt xtn prosth evasc rpr
34X10	Dlyd plmt xtn prosth 1st vs1
34X11	Dlyd plmt xtn prosth ea addl
34X12	Tcat dlvr enhncd fixj dev
34X13	Perq access & clsr fem art
34X15	Opn fem art expos cndt crtj
34X19	Opn ax/subcla art expos
34X20	Opn ax/subcla art expos cndt
36218	Place catheter in artery
364X4	Endoven ther chem adhes sbsq
36514	Apheresis plasma
36516	Apheresis immunoads slctv
36522	Photopheresis
36556	Insert non-tunnel cv cath
3857X	Laps pelvic lymphadec
43107	Removal of esophagus
43112	Esphg tot w/thrcm
43117	Partial removal of esophagus
432X5	Esphg tot w/laps moblj
432X6	Esphg dstl2/3 w/laps moblj
432X7	Esphg tot thrsc moblj
51798	Us urine capacity measure
52601	Prostatectomy (turp)
57240	Anterior colporrhaphy
57250	Repair rectum & vagina
57260	Cmbn ant pst colprhy
57265	Cmbn ap colprhy w/ntrcl rpr
64418	N block inj suprascapular
64553	Implant neuroelectrodes
64555	Implant neuroelectrodes
64910	Nerve repair w/allograft
64911	Neurorraphy w/vein autograft
64X91	Nrv rpr w/nrv algrft 1st
70490	Ct soft tissue neck w/o dye
70491	Ct soft tissue neck w/dye
70492	Ct sft tsue nck w/o & w/dye



<b>HCPCS Code</b>	<b>Description</b>
710X1	X-ray exam chest 1 view
710X2	X-ray exam chest 2 views
710X3	X-ray exam chest 3 views
710X4	X-ray exam chest 4+ views
71100	X-ray exam ribs uni 2 views
71101	X-ray exam unilat ribs/chest
71110	X-ray exam ribs bil 3 views
71111	X-ray exam ribs/chest4/> vws
73100	X-ray exam of wrist
73110	X-ray exam of wrist
73120	X-ray exam of hand
73130	X-ray exam of hand
73140	X-ray exam of finger(s)
74022	X-ray exam series abdomen
740X1	X-ray exam abdomen 1 view
740X2	X-ray exam abdomen 2 views
740X3	X-ray exam abdomen 3+ views
76510	Ophth us b & quant a
76511	Ophth us quant a only
76512	Ophth us b w/non-quant a
76516	Echo exam of eye
76519	Echo exam of eye

<b>HCPCS Code</b>	<b>Description</b>
76882	Us xtr non-vasc lmtd
88334	Intraop cyto path consult 2
92136	Ophthalmic biometry
93293	Pm phone r-strip device eval
93296	Pm/icd remote tech serv
93299	Icm/ilr remote tech serv
93306	Tte w/doppler complete
93307	Tte w/o doppler complete
93308	Tte f-up or lmtd
95250	Glucose monitoring cont
95930	Visual ep test cns w/i&r
96401	Chemo anti-neopl sq/im
96402	Chemo hormon antineopl sq/im
96409	Chemo iv push sngl drug
96411	Chemo iv push addl drug
96567	Pdt dstr prmlg les skn
993X1	Pt/caregiver trainj home intr
993X2	Anticoag mgmt pt warfarin
99XX3	Assmt & care pln pt cog imp
GXXX1	Cognitive skills development

**TABLE 13: CY 2018 Proposed Rule – Invoices Received for New Direct PE Inputs**

<b>CMS Code</b>	<b>Average Price</b>	<b>Number of Invoices</b>	<b>Estimated Non-facility Allowed Services for HCPCS Codes Using This Item</b>
EQ383	790.00	1	39,006
SD322	25.00	1	3,435
EQ384	4,760.00	1	39,006
EQ385	9,034.00	1	39,006
SD323	1,495.00	1	387
SD324	3,195.00	2	1550
SA 125	40.00	2	1550
SD328	353.64	1	41
SD325	39.90	1	4
SA 126	2,850.00	3	4
EQ386	16,146.00	1	4
SA 124	2.35	2	421,539
SJ092	8.44	209	9,931,981
SJ093	0.19	5	9,931,981
SB054	9.99	1	387,359

**TABLE 14: CY 2018 Proposed Rule – Invoices Received for Existing Direct PE Inputs**

<b>CPT/HCPCS Codes</b>	<b>Item Name</b>	<b>CMS Code</b>	<b>Current Price</b>	<b>Updated Price</b>	<b>Percent Change</b>	<b>Number of Invoices</b>	<b>Estimated Non-facility Allowed Services for HCPCS codes Using This Item</b>
17000, 17003, 17004, 46607, 96567, 96X73, 96X74	LMX 4% anesthetic cream	SH092	1.60	0.78	-51%	1	23,584,412
20982, 32998, 50592	probe, radiofrequency, 3 array (StarBurstSDE)	SD109	353.64	2233.00	531%	1	2,972
30140, 30901, 30903, 30905, 30906, 31231, 31237, 31238, 43197, 43198	Atomizer tips (disposable)	SL464	0.00	2.66		1	625,876
36514	tubing set, plasma exchange	SC085	173.33	273.66	58%	1	1,237
36514, 36516	ACD-A anticoagulant	SJ071	6.58	7.10	8%	1	2,517
none (formerly in deleted code 36515)	kit, apheresis treatment	SA072	140.00	243.33	74%	1	22
36522	kit, photopheresis procedure	SA024	858.00	1598.00	86%	1	25
36522, 96567, 96910, 96912, 96913, 96920, 96921, 96922, 96X73, 96X74	goggles, uv-blocking	SJ027	2.30	4.1	78%	1	697,047
88360, 88361	Antibody Estrogen Receptor monoclonal	SL493	14.00	14.47	3%	3	209,384
95004, 95017, 95018	negative control, allergy test	SH101	5.08	5.17	2%	2	10,036,050
95004, 95017, 95018	positive control, allergy test	SH102	17.28	26.12	51%	6	10,036,050
95250	sensor, glucose monitoring (interstitial)	SD114	29.50	53.08	80%	19	26,205

CPT/HCPCS Codes	Item Name	CMS Code	Current Price	Updated Price	Percent Change	Number of Invoices	Estimated Non-facility Allowed Services for HCPCS codes Using This Item
95250	glucose continuous monitoring system	EQ125	2465.00	1170.54	-53%	5	26,205
993X1, G0249	test strip, INR	SJ055	21.88	5.66	-74%	2	1,265,540

## I. Evaluation & Management (E/M) Guidelines and Care Management Services

In recent years, we have sought to recognize significant changes in health care practice, especially innovations in the active management and ongoing care of chronically ill patients. We have been engaged in an ongoing incremental effort to identify gaps in appropriate coding and payment for care management/coordination, cognitive services and primary care within the PFS. This has included working with the CPT Editorial Panel (CPT) to develop and value (or revalue) the following service codes:

- Transitional care management (TCM) services (2013).
- Chronic care management services (CCM) (2015, 2017).
- Behavioral health integration (BHI) services (2017).
- Assessment/care planning services for cognitive impairment (2017).
- Prolonged E/M services without direct patient contact (2017).

In response to public feedback regarding the initial implementation of TCM and CCM, in the CY 2017 PFS final rule (81 FR 80225 through 80256), we finalized significant administrative burden reduction for CCM and focused on limiting as much as possible the ways in which Medicare's rules differed from the CPT guidance that generally applies for all payers. We also worked with the CPT Editorial Panel and other stakeholders to develop coding and improve payment accuracy for BHI, cognitive impairment assessment/management, and prolonged services. In the CY 2017 PFS final rule (81 FR 80255), we also reiterated our commitment to addressing disparities for individuals with disabilities and advancing health equity, and noted that we will continue to explore improvements in payment accuracy for services furnished to individuals with disabilities. We look forward to continued work with stakeholders to ensure that the coding and valuation of these services accurately reflects the

resource costs involved in furnishing these services. We are soliciting public comments on ways we might further reduce administrative burden for these and similar services under the PFS.

## 1. E/M Guidelines

### a. Background

Most physicians and other billing practitioners bill patient visits to the PFS under a relatively generic set of codes that distinguish level of complexity, site of care, and in some cases between new or established patients. These codes are called Evaluation and Management (E/M) visit codes. For example, there are generally three levels of hospital and nursing facility inpatient E/M visit codes, and five levels of office or hospital outpatient E/M visit codes, that vary based on complexity. The latter also distinguish whether or not the patient is new to the billing practitioner.

Billing practitioners must maintain information in the medical record to document that they have reported the appropriate level of E/M visit code. CMS maintains guidelines that specify the kind of information that is required to support Medicare payment for each level. According to these documentation guidelines, there are three key components to selecting the appropriate level:

- History of Present Illness (HPI or History);
- Physical Examination (Exam); and
- Medical Decision Making (MDM).

There are two versions of the documentation guidelines, commonly referenced based on the year of their release (the “1995” and “1997” guidelines), available under downloads on the CMS Website at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/index.html>. The most substantial differences between the two sets

of guidelines pertain to requirements for the physical exam. The two versions have a slight difference in requirements for documenting the history, and no difference in requirements for MDM. In documenting a given E/M service, practitioners must use one version of the guidelines or the other, with one exception related to extended histories (see the Evaluation and Management Services guide available on the CMS website at <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/Downloads/eval-mgmt-serv-guide-ICN006764.pdf>). These guidelines are very similar to guidelines within the CPT codebook for E/M visits. We provide an example of how the guidelines distinguish between level 2 and level 3 visits in Table 15.

Stakeholders have long maintained that both the 1995 and 1997 guidelines are administratively burdensome and outdated with respect to the practice of medicine, stating that they are too complex, ambiguous, and that they fail to distinguish meaningful differences among code levels. In general, we agree that there may be unnecessary burden with these guidelines and that they are potentially outdated, and believe this is especially true for the requirements for the history and the physical exam. The guidelines have not been updated to account for significant changes in technology, especially electronic health record (EHR) use, which presents challenges for data and program integrity and potential upcoding given the frequently automated selection of code level.

While CMS conducts few audits on E/M visits relative to the volume of PFS services they comprise, we have repeatedly heard from practitioners that compliance with the guidelines is a source of significant audit vulnerability and administrative burden. Our prior attempts to revise the guidelines met with a lack of stakeholder consensus and support, which contributed to

the current policy that allows practitioners to use either the 1995 guidelines or 1997 guidelines, resulting in further complexity in determining or selecting the applicable requirements.

b. E/M Guidelines Public Comment Solicitation

We continue to agree with stakeholders that the E/M documentation guidelines should be substantially revised. We believe that a comprehensive reform of E/M documentation guidelines would require a multi-year, collaborative effort among stakeholders. We believe that revised guidelines could both reduce clinical burden and improve documentation in a way that would be more effective in clinical workflows and care coordination. We also think updated E/M guidelines coupled with technological advancements in voice recognition, natural language processing and user-centered design of EHRs could improve documentation for patient care while also meeting requirements for billing and population health management. We recognize that achieving the goal of reduced clinician burden and improved, meaningful documentation for patient care will require both updated E/M guidelines, as well as changes in technology, clinician documentation practices and workflow. We are seeking input from a broad array of stakeholders, including patient advocates, on the specific changes we should undertake to reform the guidelines, reduce the associated burden, and better align E/M coding and documentation with the current practice of medicine. We are specifically seeking comment on how we might focus on initial changes to the guidelines for the history and physical exam because we believe documentation for these elements may be more significantly outdated, and that differences in MDM are likely the most important factors in distinctions between visits of different levels. We are also specifically seeking comment on whether it would be appropriate to remove our documentation requirements for the history and physical exam for all E/M visits at all levels. We believe medical decision-making and time are the more significant factors in distinguishing



visit levels, and that the need for extended histories and exams is being replaced by population-based screening and intervention, at least for some specialties. In addition, an increase in the utilization of EHRs, and to some extent, shared health information via EHRs, may have changed the character of extended patient histories since the guidelines were established. As long as a history and physical exam are documented and generally consistent with complexity of MDM, there may no longer be a need for us to maintain such detailed specifications for what must be performed and documented for the history and physical exam (for example, which and how many body systems are involved). We are seeking comment on whether clinicians and other stakeholders believe removing the documentation requirements for the history and physical exam would be a good approach.

While we believe MDM guidelines may also need to be updated, we believe in the nearer term it may be possible to eliminate the current focus on details of history and physical exam, and allow MDM and/or time to serve as the key determinant of E/M visit level. We are seeking public comment on this approach. We are also seeking comment on how such reforms may differentially affect physicians and practitioners of different specialties, including primary care clinicians, and how we could or should account for such effects as we examine this issue. We note, however, that there may still be clinical or legal reasons for individual practitioners to document an extended history or physical exam (for example, where there are negative findings for certain body systems in support of differential diagnosis). We are additionally seeking comment on whether CMS should leave it largely to the discretion of individual practitioners to what degree they should perform and document the history and physical exam. We also welcome comments on specific ideas that stakeholders may have on how to update MDM guidelines to foster appropriate documentation for patient care commensurate with the level of

patient complexity, while avoiding burdensome documentation requirements and/or inappropriate upcoding.

We note that through letters, meetings, public comment letters in past rulemaking cycles, and other avenues, we have heard from many stakeholders that the E/M code set itself is outdated and needs to be revised. For example, some stakeholders recommend an extensive research effort to revise and revalue E/M services, especially physician work inputs (see 81 FR 46200). In prior rulemaking cycles, we acknowledged the limitations of the current E/M code set and agree that the structure of the underlying code set and its valuation relative to other PFS services are also important issues that we expect to continue to explore, though we are immediately focused on revision of the current E/M guidelines in order to reduce unnecessary administrative burden.

## 2. Care Management Public Comment Solicitation

We continue to be interested in the ongoing work of the medical community and other stakeholders to refine the set of codes used to describe care management services. In section II.H., we are proposing to adopt CPT codes for CY 2018 to replace the G-codes we established for several of the care management services finalized last year. We are committed to continued work with stakeholders on necessary refinements to the code set, especially describing the professional work involved in caring for complex patients in other clinical contexts. We are seeking comment on ways we might further reduce burden on reporting practitioners for care management services, including through stronger alignment between CMS requirements and CPT guidance for existing and potential new codes.

**TABLE 15: Key Component Documentation Requirements for Level 2 vs 3 Evaluation & Management (E/M) Visit**

Key Component†	Level 2 (1995)	Level 3 (1995)	Level 2 (1997)	Level 3 (1997)
<b>History</b> (History of Present Illness or HPI)	Review of Systems (ROS) n/a	Problem Pertinent ROS: inquires about the system directly related to the problem(s) identified in the HPI	No change from 1995	No change from 1995
<b>Physical Examination (Exam)</b>	A limited examination of the affected body area or organ system	A limited examination of the affected body area or organ system and other symptomatic or related organ system(s)	General multi-system exam: Performance and documentation of one to five elements in one or more organ system(s) or body area(s).  Single organ system exam: Performance and documentation of one to five elements	General multi-system exam: Performance and documentation of at least six elements in one or more organ system(s) or body area(s).  Single organ system exam: Performance and documentation of at least six elements
<b>Medical Decision Making (MDM)</b>  Measured by:* 1. <b>Problem</b> – Number of diagnoses/treatment options 2. <b>Data</b> - Amount and/or complexity of data to be reviewed 3. <b>Risk</b> - Risk of complications and/or morbidity or mortality *Two of three met or exceeded	Straightforward: 1. Minimal 2. Minimal or no data review 3. Minimal risk	Low complexity: 1. Limited 2. Limited data review 3. Low risk	No change from 1995	
†For certain settings and patient types, each of these three key components must be met or exceeded (for example, new patient s; initial hospital visits). For others, only two of the three key components must be met or exceeded (for example, established patients, subsequent hospital or other visits).				

### **III. Other Provisions of the Proposed Rule**

#### A. New Care Coordination Services and Payment for Rural Health Clinics (RHCs) and Federally-Qualified Health Centers (FQHCs)

##### 1. Overview

We have been engaged in a multi-year examination of coordinated and collaborative care services in professional settings, and as a result established codes and separate payment in the Physician Fee Schedule (PFS) to separately recognize and pay for these important services. As part of this initiative, the CY 2016 PFS proposed rule (80 FR 41708) solicited public comments on (1) improving payment for the professional work of care management services; (2) establishing separate payment for collaborative care, particularly inter-professional consultation between primary care physicians, psychiatrists, and other practitioners; and (3) assessing whether current PFS payment for Chronic Care Management (CCM) services is adequate and whether the administrative burden associated with furnishing and billing these services should be reduced.

As a result of the comments we received in response to our request, we established in the PFS separate payment for complex CCM services, and temporary codes to make separate payment for general behavioral health integration (BHI) services and a psychiatric collaborative care model (CoCM). We established four G codes to describe BHI and psychiatric CoCM services and stated that we would consider whether to adopt and establish values for any associated new CPT codes being developed under our standard process once those codes are active. The separate payment for complex CCM services, general BHI, and psychiatric CoCM services were finalized in the CY 2017 PFS final rule (81 FR 80225) beginning January 1, 2017, for practitioners billing under the PFS. Based on these payments and codes, we are proposing revisions to the CCM payment for RHCs and FQHCs, and proposing requirements and payment

for general BHI and psychiatric CoCM services furnished in RHCs and FQHCs, beginning on January 1, 2018.

## 2. Background

### a. RHC and FQHC Payment Methodologies

RHC and FQHC visits are face-to-face encounters between a patient and one or more RHC or FQHC practitioners during which time one or more RHC or FQHC qualifying services are furnished. RHC and FQHC practitioners are physicians, nurse practitioners (NPs), physician assistants (PA), certified nurse midwives (CNMs), clinical psychologists, and clinical social workers, and under certain conditions, a registered nurse or licensed practical nurse furnishing care to a homebound RHC or FQHC patient. A Transitional Care Management (TCM) service can also be an RHC or FQHC visit, and a Diabetes Self-Management Training (DSMT) service or a Medical Nutrition Therapy (MNT) service furnished by a certified DSMT or MNT provider may also be an FQHC visit. Only medically-necessary medical, mental health, or qualified preventive health services that require the skill level of an RHC or FQHC practitioner are RHC or FQHC billable visits. Services furnished by auxiliary personnel (for example, nurses, medical assistants, or other clinical personnel acting under the supervision of the RHC or FQHC practitioner) are considered incident to the visit and are included in the per-visit payment.

RHCs are paid an all-inclusive rate (AIR) for medically necessary medical and mental health services and qualified preventive health services furnished on the same day (with some exceptions). In general, the A/B Medicare Administrative Contractor (MAC) calculates the AIR for each RHC by dividing total allowable costs by the total number of visits for all patients. Productivity, payment limits, and other factors are also considered in the calculation. Allowable costs must be reasonable and necessary and may include practitioner compensation, overhead,

equipment, space, supplies, personnel, and other costs incident to the delivery of RHC services. The AIR is subject to a payment limit, except for certain provider-based RHCs that have an exception to the payment limit.

FQHCs were paid under the same AIR methodology until October 1, 2014, when, in accordance with section 1834(o) of the Act (as added by section 10501(i)(3) of the Affordable Care Act), they began to transition to an FQHC PPS system in which they are paid based on the lesser of the FQHC PPS rate or their actual charges. The FQHC PPS rate is adjusted for geographic differences in the cost of services by the FQHC PPS geographic adjustment factor (GAF). The rate is increased by 34 percent when an FQHC furnishes care to a patient that is new to the FQHC, or to a beneficiary receiving an Initial Preventive Physical Examination (IPPE) or has an Annual Wellness Visit (AWV).

Both the RHC AIR and FQHC PPS payment rates were designed to reflect the cost of all services and supplies that an RHC or FQHC furnishes to a patient in a single day. The rates are not adjusted for the complexity of the patient health care needs, the length of the visit, or the number or type of practitioners involved in the patient's care.

#### b. Current CCM Requirements and Payment for RHCs and FQHCs

In the CY 2016 PFS final rule with comment period (80 FR 71080), we finalized policies for payment of CCM services in RHCs and FQHCs. Payment for CCM services in RHCs and FQHCs was effective beginning on January 1, 2016, for RHCs and FQHCs that furnish a minimum of 20 minutes of qualifying CCM services during a calendar month to patients with multiple (two or more) chronic conditions that are expected to last at least 12 months or until the death of the patient, and that would place the patient at significant risk of death, acute

exacerbation/decompensation, or functional decline. The requirement that RHC or FQHC services be furnished face-to-face was waived for CCM services.

In the CY 2017 PFS final rule (81 FR 80256), we finalized revisions to the CCM requirements for RHCs and FQHCs. Specifically, we revised §405.2413(a)(5) and §405.2415(a)(5) to state that services and supplies furnished incident to CCM and TCM services can be furnished under general supervision of an RHC or FQHC practitioner, consistent with §410.26(b)(5), which allows CCM and TCM services and supplies to be furnished by clinical staff under general supervision when billed under the PFS. We also revised requirements pertaining to the provision of CCM services, consistent with the same revisions for practitioners billing under the PFS to reduce the burden of furnishing these services and promote beneficiary access to these services. These revisions were effective beginning on January 1, 2017, and included:

- Revising the requirement that CCM be initiated during a comprehensive evaluation and management (E/M), AWW, or IPPE visit, to require a separately billable initiating visit only for new patients or patients that have not had an E/M, AWW, or IPPE visit within the previous year;
- Revising the requirement that CCM services be available 24/7 with an RHC or FQHC practitioner who has access to the patient's electronic care plan, to allow 24/7 access to auxiliary personnel with a means to make contact with an RHC or FQHC practitioner;
- Removing the restriction on faxing information, and no longer requiring that care plan information be available on a 24/7 basis;
- Removing the requirement that clinical summaries must be formatted according to certified EHR technology, and instead requiring that the RHC or FQHC create, exchange, and

transmit continuity of care document(s) in a timely manner with other practitioners and providers;

- Removing the description of the format of the care plan that is given to the patient or caregiver; and
- Revising the requirement that RHCs and FQHCs obtain a written agreement that the elements of CCM were discussed, to allowing this information to be documented in the medical record.

In the CY 2017 PFS final rule, we stated that although CCM is typically associated with primary care conditions, patient eligibility is determined by the RHC or FQHC practitioner, and mental health conditions are not excluded. We invited comments on whether an additional code specifically for mental health conditions is necessary for RHCs and FQHCs that want to include beneficiaries with mental health conditions in their CCM services. We received a few comments regarding mental health services in RHCs and FQHCs and appreciate the information that was provided.

The CCM payment rate for RHCs and FQHCs is set annually based on the PFS national non-facility payment rate, and is paid when CPT code 99490 is billed alone or with other payable services on an RHC or FQHC claim. The 2017 rate for RHCs and FQHCs is \$42.71 for 20 minutes or more of CCM services. This is the only RHC and FQHC service that is paid in this manner, and RHCs and FQHCs are not currently authorized to be paid for any other CCM or other care management codes. Also, RHCs and FQHCs cannot bill for CCM services for a beneficiary during the same service period as billing for TCM or any other program that provides additional payment for care management services (outside of the RHC AIR or FQHC PPS payment) for the same beneficiary.



Additional information on CCM requirements is available on the CMS Care Management webpage at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/Care-Management.html> and on the CMS RHC and FQHC webpages at <https://www.cms.gov/Center/Provider-Type/Rural-Health-Clinics-Center.html> and <https://www.cms.gov/Center/Provider-Type/Federally-Qualified-Health-Centers-FQHC-Center.html>.

c. Payment for Care Management Codes under the PFS  
*CCM Services (CPT code 99487 and CPT code 99489)*

As we stated in the CY 2017 PFS final rule (81 FR 80244), the initial claims data for CCM services billed under the PFS showed that although utilization was increasing steadily, use of CPT code 99490 was still relatively low, and interviews with practitioners indicated that many believed that they were exceeding the 20-minute time threshold for billing this code. To pay as accurately as possible and to encourage access to CCM services, the CY 2017 PFS final rule established separate payment for two additional CCM codes, CPT code 99487 and CPT code 99489, effective beginning on January 1, 2017, for practitioners billing under the PFS. These codes are for complex CCM services that reflect additional clinical staff time, more extensive care planning, and higher complexity of the patient.

CPT code 99487 is for complex CCM services. It requires multiple (two or more) chronic conditions expected to last at least 12 months, or until the death of the patient; chronic conditions that place the patient at significant risk of death, acute exacerbation/decompensation, or functional decline; establishment or substantial revision of a comprehensive care plan; moderate or high complexity medical decision making; and 60 minutes of clinical staff time directed by a physician or other qualified health care professional, per calendar month.

CPT code 99489 is for each additional 30 minutes of clinical staff time directed by a physician or other qualified health care professional, per calendar month.

Practitioners paid under the PFS can bill either complex (CPT code 99487 and CPT code 99489) or non-complex (CPT code 99490) CCM services during a given service period, and can submit only one professional claim for CCM services for that service period.

*General BHI Services (HCPCS Code G0507)*

The types of chronic conditions that are eligible for CCM services are not specified and could include chronic mental health or behavioral health conditions or chronic cognitive disorders as long as the CCM requirements are met. However, because not all behavioral health issues fit into the CCM model, and Medicare beneficiaries with behavioral health conditions often require extensive care management discussions, information-sharing, and planning between a primary care practitioner and a behavioral health specialist, the CY 2017 PFS final rule established HCPCS code G0507 for 20 minutes or more of general BHI services. Payment for this code was effective beginning on January 1, 2017, for practitioners billing under the PFS.

BHI is a team-based, collaborative approach to care that focuses on integrative treatment of patients with primary care and mental or behavioral health conditions. As finalized in the CY 2017 PFS final rule, requirements for this code include an initial assessment or follow-up monitoring (including the use of applicable validated rating scales); behavioral health care planning in relation to behavioral/psychiatric health problems (including revision for patients who are not progressing or whose status changes); facilitating and coordinating treatment such as psychotherapy, pharmacotherapy, counseling and/or psychiatric consultation; and continuity of care with a designated member of the care team.

*Psychiatric CoCM Services (HCPCS codes G0502, G0503, and G0504)*

Psychiatric CoCM is a specific model of care provided by a primary care team consisting of a primary care provider and a health care manager who works in collaboration with a psychiatric consultant. As finalized in the CY 2017 PFS final rule, we provide Medicare payment for psychiatric CoCM services to practitioners billing under the PFS when these services are directed by a treating physician or other qualified health care professional. We also finalized that the treating physician or other qualified health care professional directs the behavioral health care manager, who must be an individual with formal education or specialized training in behavioral health, including social work, nursing, or psychology, working under the oversight and direction of the physician or qualified health care professional. We finalized that a psychiatric consultant must be a medical professional trained in psychiatry and qualified to prescribe the full range of medications. Finally, psychiatric CoCM services may be furnished to beneficiaries with any psychiatric or behavioral health condition(s) and may include substance use disorders. The three psychiatric CoCM codes established in the CY 2017 PFS final rule were G0502, G0503, and G0504.

HCPCS code G0502 is for 70 minutes or more of initial psychiatric CoCM services in the first calendar month of behavioral health care manager activities, in consultation with a psychiatric consultant, and directed by the treating physician or other qualified health care professional. Required elements include: outreach to and treatment of a patient as directed by the treating physician or other qualified health care professional; initial assessment of the patient, including administration of validated rating scales, with the development of an individualized treatment plan; review by the psychiatric consultant with modifications of the plan, if recommended; entering of the patient into a registry and tracking patient follow-up and progress using the registry (with appropriate documentation), participation in weekly caseload

consultation with the psychiatric consultant; and provision of brief interventions using evidence-based techniques such as behavioral activation, motivational interviewing, and other focused treatment strategies.

HCPCS code G0503 is for 60 minutes of subsequent psychiatric CoCM services in a subsequent month and includes: tracking patient follow-up and progress using the registry (with appropriate documentation); participation in weekly caseload consultation with the psychiatric consultant; ongoing collaboration with and coordination of the patient's mental health care with the treating physician or other qualified health care professional and any other treating mental health providers; additional review of progress and recommendations for changes in treatment, as indicated, including medications, based on recommendations provided by the psychiatric consultant; provision of brief interventions using evidence-based techniques (such as behavioral activation, motivational interviewing, and other focused treatment strategies); monitoring of patient outcomes using validated rating scales; and relapse prevention planning with patients as they achieve remission of symptoms and/or other treatment goals and are prepared for discharge from active treatment.

HCPCS code G0504 is for each additional 30 minutes of initial or subsequent psychiatric CoCM services in a calendar month.

### 3. Proposed Care Management Requirements and Payment for RHCs and FQHCs

To ensure that RHC and FQHC patients have access to new care management services in a manner consistent with the RHC and FQHC per diem payment methodologies, we are proposing the establishment of two new G codes for use by RHCs and FQHCs. The first new G code, GCCC1, would be a General Care Management code for RHCs and FQHCs, with the payment amount set at the average of the national non-facility PFS payment rates for CCM codes

99490 and 99487 and general BHI code G0507. The second new G code for RHCs and FQHCs, G0502, would be a Psychiatric CoCM code, with the payment amount set at the average of the national non-facility PFS payment rates for psychiatric CoCM codes G0502 and G0503. The following is a detailed discussion of our proposal, as well as alternatives that we considered.

a. Proposed Establishment of a General Care Management Code for RHCs and FQHCs

The RHC AIR and the FQHC PPS rate, which include all costs associated with an RHC or FQHC visit, are based on the RHC's and FQHC's costs. Although many RHCs and FQHCs have always provided some coordination of care within and outside their facilities, the type of structured care management services that are now billable under the PFS are generally not included in the RHC AIR or the FQHC PPS rate. Because CCM services are not required to be face-to-face encounters, and do not require the skill level of an RHC or FQHC practitioner, they do not meet the requirements for an RHC or FQHC billable visit. In addition, RHC and FQHC services cannot be separately billed to the PFS. Therefore, in the CY 2016 PFS final rule with comment period, we established payment for CCM services at the PFS national non-facility rate when CPT code 99490 is billed alone or with other payable services on an RHC or FQHC claim to pay for the costs of CCM services that are not already captured in the RHC AIR or the FQHC PPS payment.

When CCM services were first established for RHCs and FQHCs, CPT code 99490 was the only CCM code that was billable under the PFS. Now that there are additional codes for more complex CCM services and for general BHI and psychiatric CoCM services, we believe it is necessary to revise our payment approach for payment of care management services.

RHCs and FQHCs are paid per-visit rates that are not adjusted based on the complexity of a service or the time spent furnishing services, and the payment rate is not designed to be

equal to the payment under the PFS for a specific service. We sought to develop a methodology for payment of care management services that is consistent with the RHC and FQHC payment principles of bundling services and not paying for services based on time increments. We also sought to develop a methodology that would support the provision of care management services without creating additional reporting burdens, while promoting beneficiary access to comprehensive CCM and BHI services furnished by RHCs and FQHCs.

Therefore, effective for services furnished on or after January 1, 2018, we are proposing to create General Care Management code GCCC1 for RHCs and FQHCs, with the payment amount set at the average of the 3 national non-facility PFS payment rates for the CCM and general BHI codes and updated annually based on the PFS amounts. The 3 codes are:

- CPT 99490 - 20 minutes or more of CCM services
- CPT 99487 - at least 60 minutes of complex CCM services
- HCPCS G0507 - 20 minutes or more of BHI services

RHCs and FQHCs could bill the new General Care Management code when the requirements for any of these 3 codes (CPT codes 99490, 99487, or HCPCS code G0507) are met. The General Care Management code would be billed alone or in addition to other services furnished during the RHC or FQHC visit. This code could only be billed once per month per beneficiary, and could not be billed if other care management services (such as TCM or home health care supervision) are billed for the same time period. We note that CPT 99489 is an add-on code when CPT 99487 is furnished, and is therefore not included as RHCs and FQHCs are not paid for additional time once the minimum requirements have been met.

As previously noted, the program requirements for RHCs and FQHCs furnishing CCM services were established in the CY 2016 PFS final rule with comment period (80 FR 71080) and

revised in the CY 2017 PFS final rule (81 FR 80256). We are not proposing any changes to these requirements at this time.

BHI refers to care management services that integrate behavioral health services with primary care and other clinical services. To bill for this service using the proposed General Care Management Code for RHCs and FQHCs, 20 minutes or more of clinical staff time, directed by an RHC or FQHC practitioner, must be furnished per calendar month. We are proposing the following requirements for RHCs and FQHCs furnishing BHI services:

- **Initiating Visit:** An E/M, AWV, or IPPE visit with an RHC or FQHC primary care practitioner (physician, NP, PA, or CNM) occurring no more than one-year prior to commencing BHI services. This could be the same initiating visit that is used for initiating CCM services, and would be billed separately as an RHC or FQHC visit (if the RHC or FQHC has not already billed for this visit).
- **Beneficiary Consent:** Documentation in the medical record that the beneficiary has consented to receive BHI services, given permission to consult with relevant specialists as needed, and been informed that there may be beneficiary cost-sharing, including deductible and coinsurance amounts as applicable, for both in-person and non-face-to-face services that are provided. The beneficiary consent process would also include informing the patient that only one practitioner/facility can furnish and be paid for these services during a calendar month, and that the patient can stop care coordination services at any time (effective at the end of the calendar month). This could be obtained at the same time that beneficiary consent is obtained for CCM services.
- **Billing Requirements:** At least 20 minutes of care management services per calendar month, furnished under the direction of the RHC or FQHC primary care physician, NP, PA, or

CNM, and furnished by an RHC or FQHC practitioner, or by clinical personnel under general supervision. These are the same billing requirements as for CCM services. If both CCM and BHI services are furnished in the same month, the time would be combined and billed as one under the new care coordination code.

- Patient Eligibility: One or more new or pre-existing behavioral health or psychiatric conditions being treated by the RHC or FQHC primary care practitioner, including substance use disorders, that, in the clinical judgment of the RHC or FQHC primary care practitioner, warrants BHI services.

- Required Service Elements: An initial assessment or follow-up monitoring, including the use of applicable validated rating scales; behavioral health care planning in relation to behavioral/psychiatric health problems, including revision for patients who are not progressing or whose status changes; facilitating and coordinating treatment such as psychotherapy, pharmacotherapy, counseling and/or psychiatric consultation; and continuity of care with a designated member of the care team.

Both CCM and general BHI services are intended to provide a structured and coordinated approach to care management that is not typically included in the RHC's AIR or the FQHC PPS payment methodology. Care management services are directed by the RHC or FQHC primary care practitioner, who remains involved through ongoing oversight, management, collaboration and reassessment, while care management services are typically furnished in a non-face-to-face setting primarily by a non-RHC or FQHC practitioner working under general supervision requirements. Time spent by administrative or clerical staff cannot be counted towards the time required to bill these services.



Table 16 compares the requirements for CCM and general BHI services. We believe that even though there are some differences in the requirements of CCM and general BHI, bundling them together will help to promote integrated care management services for Medicare beneficiaries who have either or both primary care and behavioral health needs. It will also result in the least amount of reporting burden for RHCs and FQHCs because once the 20-minute threshold is met for either CCM or general BHI, reporting and tracking of additional time increments is not required.

If this policy had been adopted for CY 2017, the payment amount for General Care Management for RHCs and FQHCs would have been approximately \$61 (CPT 99490 at \$42.71, + CPT 99487 at \$93.67, + G0507 at \$47.73 = \$184.11/3 = \$61.37). This is more than is the CY 2017 PFS national non-facility rates for CPT code 99490 and HCPCS code G0507, and less than the PFS national non-facility rate for CPT code 99487. We believe that this bundling methodology is consistent with the RHC and FQHC payment methodology of averaging costs to determine a payment rate rather than paying for each individual service.

**TABLE 16: Comparison of Proposed CCM and General BHI Requirements For RHCs and FQHCs**

<b>Requirements</b>	<b>CCM (CPT codes 99490 and 99487)</b>	<b>General BHI (Proposed) (HCPCS code G0507)</b>
Initiating Visit	An E/M, AWV, or IPPE visit occurring no more than one-year prior to commencing care coordination services.	Same
	Furnished by a primary care physician, NP, PA, or CNM.	Same
	Billed as an RHC/FQHC visit.	Same
Beneficiary Consent	Obtained during or after initiating visit and before provision of care coordination services by RHC or FQHC practitioner or clinical staff.	Same
	Written or verbal, documented in the medical record.	Same

Requirements	CCM (CPT codes 99490 and 99487)	General BHI (Proposed) (HCPCS code G0507)
	<p>Includes information:</p> <ul style="list-style-type: none"> <li>● On the availability of care coordination services and applicable cost-sharing;</li> <li>● That only one practitioner can furnish and be paid for care coordination services during a calendar month;</li> <li>● That the patient has right to stop care coordination services at any time (effective at the end of the calendar month); and</li> <li>● That the patient has given permission to consult with relevant specialists.</li> </ul>	<p>Same</p>
<p>Billing Requirements</p>	<p>At least 20 minutes of care coordination services per calendar month that is:</p> <ul style="list-style-type: none"> <li>● Furnished under the direction of the RHC or FQHC primary care physician, NP, PA, or CNM; and</li> <li>● Furnished by an RHC or FQHC practitioner, or by clinical personnel under general supervision.</li> </ul>	<p>Same</p>
<p>Patient Eligibility</p>	<p>Multiple (two or more) chronic conditions expected to last at least 12 months, or until the death of the patient, and place the patient at significant risk of death, acute exacerbation/decompensation, or functional decline</p>	<p>Any behavioral health or psychiatric condition being treated by the RHC or FQHC primary care practitioner, including substance use disorders, that, in the clinical judgment of the RHC or FQHC practitioner, warrants BHI services</p>
<p>Requirement Service Elements</p>	<p>Includes:</p> <ul style="list-style-type: none"> <li>● Structured recording of patient health information using Certified EHR Technology and includes demographics, problems, medications, and medication allergies that inform the care plan, care coordination, and ongoing clinical care;</li> <li>● 24/7 access to physicians or</li> </ul>	<p>Includes:</p> <ul style="list-style-type: none"> <li>● Initial assessment or follow-up monitoring, including the use of applicable validated rating scales;</li> <li>● Behavioral health care planning in relation to behavioral/psychiatric health problems, including revision for patients who are not</li> </ul>

Requirements	CCM (CPT codes 99490 and 99487)	General BHI (Proposed) (HCPCS code G0507)
	<p>other qualified health care professionals or clinical staff including providing patients/caregivers with a means to make contact with health care professionals in the practice to address urgent needs regardless of the time of day or day of week, and continuity of care with a designated member of the care team with whom the patient is able to schedule successive routine appointments;</p> <ul style="list-style-type: none"> <li>● Comprehensive care management including systematic assessment of the patient’s medical, functional, and psychosocial needs; system-based approaches to ensure timely receipt of all recommended preventive care services; medication reconciliation with review of adherence and potential interactions; and oversight of patient self-management of medications;</li> <li>● Comprehensive care plan including the creation, revision, and/or monitoring of an electronic care plan based on a physical, mental, cognitive, psychosocial, functional, and environmental (re)assessment and an inventory of resources and supports; a comprehensive care plan for all health issues with particular focus on the chronic conditions being managed;</li> <li>● Care plan information made available electronically (including fax) in a timely</li> </ul>	<p>progressing or whose status changes;</p> <ul style="list-style-type: none"> <li>● Facilitating and coordinating treatment (such as psychotherapy, pharmacotherapy, counseling and/or psychiatric consultation); and</li> <li>● Continuity of care with a designated member of the care team.</li> </ul>

Requirements	CCM (CPT codes 99490 and 99487)	General BHI (Proposed) (HCPCS code G0507)
	<p>manner within and outside the RHC or FQHC as appropriate and a copy of the plan of care given to the patient and/or caregiver;</p> <ul style="list-style-type: none"> <li>● Management of care transitions between and among health care providers and settings, including referrals to other clinicians; follow-up after an emergency department visit; and follow-up after discharges from hospitals, skilled nursing facilities, or other health care facilities; timely creation and exchange/transmit continuity of care document(s) with other practitioners and providers;</li> <li>● Coordination with home- and community-based clinical service providers, and documentation of communication to and from home- and community-based providers regarding the patient’s psychosocial needs and functional deficits in the patient’s medical record; and</li> <li>● Enhanced opportunities for the patient and any caregiver to communicate with the practitioner regarding the patient’s care through not only telephone access, but also through the use of secure messaging, Internet, or other asynchronous non-face-to-face consultation methods.</li> </ul>	
<p>CY 2017 PFS Non-Facility Payment</p>	<p>CPT 99490 - \$42.71 CPT 99487 - \$93.67</p>	<p>G0507 - \$47.73</p>
<p>RHC/FQHC Payment for new General Care</p>	<p>Current: \$42.71 Proposed: Average of CPT codes 99490, 99487 and G0507 (If using</p>	<p>Current: N/A Proposed: Average of CPT codes 99490, 99487 and G0507 (If</p>

Requirements	CCM (CPT codes 99490 and 99487)	General BHI (Proposed) (HCPCS code G0507)
Management G code	the 2017 payment amounts, this would be \$61.37)	using the 2017 payment amounts, this would be \$61.37)

We expect that utilization of care coordination services will continue to increase as more health care practices, including RHCs and FQHCs, implement these services. Because the separate payments for the complex CCM codes have only been implemented this year for practitioners billing under the PFS, we do not have adequate data to determine the frequency of billing for CCM codes CPT codes 99487 by practitioners billing under the PFS compared with CPT code 99490. Although billing practices may vary between physician offices and RHCs and FQHCs (and within and between RHCs and FQHCs), we believe that utilization patterns under the PFS can provide a reasonable proxy for utilization practices in RHCs and FQHCs of care coordination utilization. If the PFS data starts to show definitive trends in billing certain CCM and BHI codes, or if data becomes available that provides information on the extent of these services in RHCs and FQHCs, we may consider using a weighted average in determining the payment rate in the future. Similarly, if the proposal to create a new care management code for RHCs and FQHCs is finalized, and any additional care management codes become available on the PFS, we would review the new codes to determine if they should also be factored into the RHC and FQHC General Care Management Code. Any changes would be undertaken through future rulemaking.

b. Proposed Establishment of a Psychiatric CoCM Code for RHCs and FQHCs

Psychiatric CoCM is a defined model of care that integrates primary health care services with care management support for patients receiving behavioral health treatment, and includes regular psychiatric inter-specialty consultation with the primary care team, particularly regarding

patients whose conditions are not improving. We recognize that the requirements of this model may be challenging for some RHCs and FQHCs, especially those who have difficulty maintaining adequate primary care and mental health staffing in rural and or underserved areas. For those RHCs and FQHCs that choose to offer these services, we believe this model may be particularly helpful, especially for patients with primary care and mental health conditions who have not benefited from standard treatment.

Effective for services furnished on or after January 1, 2018, we are proposing to create a psychiatric CoCM code for RHCs and FQHCs, G0502, with the payment amount set at the average of the 2 national non-facility PFS payment rates for CoCM codes, to be updated annually based on the PFS amounts. The 2 codes are:

- G0502 - 70 minutes or more of initial psychiatric CoCM services
- G0503 - 60 minutes or more of subsequent psychiatric CoCM services

RHCs and FQHCs could bill the new psychiatric CoCM code when the requirements for any of these 2 codes (G0502 or G0503) are met. The psychiatric CoCM code would be billed alone or in addition to other services furnished during the RHC or FQHC visit. To prevent duplication of payment, this code could only be billed once per month per beneficiary, and could not be billed if other care management services, including the proposed General Care Management code, are billed for the same time period. We note that G0504 is an add-on code when G0503 is furnished and is therefore not included as RHCs and FQHCs are not paid for additional time once the minimum requirements have been met.

If this policy had been adopted for CY 2017, the payment amount for psychiatric CoCM for RHCs and FQHCs would have been approximately \$134.58 (G0502 at \$142.84 + G0503 at \$126.33 = \$269.17/2 = \$134.58).

All care management services, including psychiatric CoCM, require a separately billable initiating visit (E/M, AWW, or IPPE) for new patients or beneficiaries not seen within 1 year prior to commencement of care management services. Prior to commencement of psychiatric CoCM services, the beneficiary must provide consent for this service, including permission to consult with a psychiatric consultant and relevant specialists. Advance consent must also include information on cost sharing for both face-to-face and non-face-to-face services, and acceptance of these requirements must be documented in the medical record.

Patients with mental health, behavioral health, or psychiatric conditions, including substance use disorders, who are being treated by an RHC or FQHC practitioner, may be eligible for psychiatric CoCM services, as determined by the RHC or FQHC practitioner. Psychiatric CoCM services, like CCM and general BHI services, are intended to provide a structured and coordinated approach to care management that is not typically included in the RHC's AIR or the FQHC PPS payment methodology.

The psychiatric CoCM team must include the RHC or FQHC practitioner, a behavioral health manager, and a psychiatric consultant. Proposed specific requirements of the psychiatric CoCM team are as follows:

*Psychiatric CoCM Team - RHC or FQHC Practitioner*

For psychiatric CoCM, the RHC or FQHC practitioner may be a primary care physician, NP, PA, or CNM. The psychiatric CoCM requirements of the RHC or FQHC practitioner are to:

- Direct the behavioral health care manager and any other clinical staff;
- Oversee the beneficiary's care, including prescribing medications, providing treatments for medical conditions, and making referrals to specialty care when needed; and

- Remain involved through ongoing oversight, management, collaboration and reassessment.

*Psychiatric CoCM Team - Behavioral Health Care Manager*

For psychiatric CoCM, the behavioral health care manager is a designated individual with formal education or specialized training in behavioral health such as social work, nursing, or psychology. A behavioral health care manager in an RHC or FQHC would be expected to have a minimum of a bachelor's degree in a behavioral health field (such as in clinical social work or psychology), or be a clinician with behavioral health training, including RNs and LPNs. The behavioral health care manager furnishes both face-to-face and non-face-to-face services under the general supervision of the RHC or FQHC practitioner and may be employed by or working under contract to the RHC or FQHC. The psychiatric CoCM requirements of the behavioral health care manager are:

- Providing assessment and care management services, including the administration of validated rating scales; behavioral health care planning in relation to behavioral/psychiatric health problems, including revision for patients who are not progressing or whose status changes; provision of brief psychosocial interventions; ongoing collaboration with the RHC or FQHC practitioner; maintenance of the registry; acting in consultation with the psychiatric consultant;
- Being available to provide services face-to-face with the beneficiary; having a continuous relationship with the patient and a collaborative, integrated relationship with the rest of the care team; and
- Being available to contact the patient outside of regular RHC or FQHC hours as necessary to conduct the behavioral health care manager's duties.

*Psychiatric CoCM Team - Psychiatric Consultant*



For CoCM, a psychiatric consultant is a medical professional trained in psychiatry and qualified to prescribe the full range of medications. The psychiatric consultant is not required to be on site or to have direct contact with the patient and does not prescribe medications or furnish treatment to the beneficiary directly. The CoCM requirements of the psychiatric consultant are:

- Participating in regular reviews of the clinical status of patients receiving psychiatric CoCM services;
- Advising the RHC or FQHC practitioner regarding diagnosis and options for resolving issues with beneficiary adherence and tolerance of behavioral health treatment; making adjustments to behavioral health treatment for beneficiaries who are not progressing; managing any negative interactions between beneficiaries' behavioral health and medical treatments; and
- Facilitating referral for direct provision of psychiatric care when clinically indicated.

RHCs and FQHCs could bill the new psychiatric CoCM code, GCCC2, when the requirements for HCPCS code G0502 or G0503 are met. This code could only be billed once per month per beneficiary, and could not be billed if other care management services, including the General Care Management code GCCC1, are billed for the same time period.

As with the proposed General Care Management code GCCC1, we would monitor PFS data to determine if a weighted average would be more appropriate in determining the psychiatric CoCM payment rate for RHCs and FQHCs, and whether any additional codes that may be added to the PFS in the future should also be factored into the RHC and FQHC psychiatric CoCM code. Any changes would be done through future rulemaking.

Table 17 compares the requirements for general BHI, which would be billed using the proposed General Care Management code GCCC1, and psychiatric CoCM services, which would be billed using the proposed psychiatric CoCM code, GCCC2.

**TABLE 17: Comparison of Proposed General BHI and Psychiatric CoCM Requirements for RHCs and FQHCs**

Requirements	General BHI (Proposed) (HCPCS code G0507)	Psychiatric CoCM (Proposed) (HCPCS code G0502 and G0503)
Initiating Visit	An E/M, AWV, or IPPE visit occurring no more than one-year prior to commencing care coordination services	Same
	Furnished by a primary care physician, NP, PA, or CNM.	Same
	Billed as an RHC or FQHC visit.	Same
Beneficiary Consent	Obtained during or after initiating visit and before provision of care coordination services by RHC or FQHC practitioner or clinical staff.	Same
	Written or verbal, documented in the medical record.	Same
	Includes information: <ul style="list-style-type: none"> <li>● On the availability of care coordination services and applicable cost-sharing;</li> <li>● That only one entity can furnish and be paid for care coordination services during a calendar month;</li> <li>● That the patient has the right to stop care coordination services at any time (effective at the end of the calendar month); and</li> <li>● That the patient has given permission to consult with relevant specialists.</li> </ul>	Same
Billing Requirements	At least 20 minutes of care management services per calendar month that is: <ul style="list-style-type: none"> <li>● Furnished under the direction of the RHC or FQHC primary care physician, NP, PA, or CNM; and</li> <li>● Furnished by an RHC or FQHC practitioner, or by clinical personnel under</li> </ul>	At least 70 minutes in the first calendar month, and at least 60 minutes in subsequent calendar months of psychiatric CoCM services that is: <ul style="list-style-type: none"> <li>● Furnished under the direction of the RHC or FQHC primary care practitioner; and</li> <li>● Furnished by an RHC or FQHC practitioner or behavioral health care manager under general</li> </ul>

Requirements	General BHI (Proposed) (HCPCS code G0507)	Psychiatric CoCM (Proposed) (HCPCS code G0502 and G0503)
	general supervision.	supervision.
Patient Eligibility	Any mental, behavioral health, or psychiatric condition being treated by the RHC or FQHC primary care practitioner, including substance use disorders, that, in the clinical judgment of the RHC or FQHC practitioner, warrants BHI services.	Same
Requirement Elements	<p>Includes:</p> <ul style="list-style-type: none"> <li>● Initial assessment or follow-up monitoring, including the use of applicable validated rating scales</li> <li>● Behavioral health care planning in relation to behavioral/psychiatric health problems, including revision for patients who are not progressing or whose status changes</li> <li>● Facilitating and coordinating treatment (such as psychotherapy, pharmacotherapy, counseling and/or psychiatric consultation)</li> </ul> <p>Continuity of care with a designated member of the care team</p>	<p>Includes: RHC or FQHC primary care practitioner:</p> <ul style="list-style-type: none"> <li>● Direct the behavioral health care manager or clinical staff;</li> <li>● Oversee the beneficiary’s care, including prescribing medications, providing treatments for medical conditions, and making referrals to specialty care when needed; and</li> <li>● Remain involved through ongoing oversight, management, collaboration and reassessment</li> </ul> <p>Behavioral Health Care Manager:</p> <ul style="list-style-type: none"> <li>● Provide assessment and care management services, including the administration of validated rating scales; behavioral health care planning in relation to behavioral/psychiatric health problems, including revision for patients who are not progressing or whose status changes; provision of brief psychosocial interventions; ongoing collaboration with the RHC or FQHC practitioner; maintenance of the registry; acting in consultation with the psychiatric consultant;</li> <li>● Be available to provide services face-to-face with the beneficiary; having a continuous relationship with the patient and a</li> </ul>

Requirements	General BHI (Proposed) (HCPCS code G0507)	Psychiatric CoCM (Proposed) (HCPCS code G0502 and G0503)
		collaborative, integrated relationship with the rest of the care team; and <ul style="list-style-type: none"> <li>● Be available to contact the patient outside of regular RHC or FQHC hours as necessary to conduct the behavioral health care manager’s duties.</li> </ul> Psychiatric Consultant: <ul style="list-style-type: none"> <li>● Participate in regular reviews of the clinical status of patients receiving CoCM services;</li> <li>● Advise the RHC or FQHC practitioner regarding diagnosis, options for resolving issues with beneficiary adherence and tolerance of behavioral health treatment; making adjustments to behavioral health treatment for beneficiaries who are not progressing; managing any negative interactions between beneficiaries’ behavioral health and medical treatments; and</li> <li>● Facilitate referral for direct provision of psychiatric care when clinically indicated</li> </ul>
Cy 2017 PFS Non-Facility Payment	G0507 - \$47.73	G0502 - \$142.84 G0503 - \$126.33
RHC/FQHC Payment for New Psychiatric CoCM G Code	Current: N/A Proposed: Average of CPT codes 99490, 99487, and G0507. (If using the 2017 payment amounts, this would be \$61.37)	Current: N/A Proposed: Average of HCPCS codes G0502 and G0503. (If using the 2017 payment amounts, this would be \$134.58)

c. Other Options Considered

We considered allowing RHCs and FQHCs to bill for the complex CCM codes, the BHI code, and the psychiatric CoCM codes by allowing the individual CPT or HCPCS codes to be added to an RHC or FQHC claim, in the same manner as we currently allow CPT code 99490 to

be added to a claim. We do not believe this approach is in the best interest of RHCs and FQHCs. There are now 5 separate care management codes that are applicable to RHCs and FQHCs, and more codes could be added in the future as we learn more about the benefits of non-face-to-face care management services. Each of these codes has specific time increments that must be tracked and reported for payment under the PFS. We believe that bundling the CCM and BHI codes and the psychiatric CoCM codes into 2 G codes is more consistent with the RHC and FQHC payment methodology of averaging actual costs to determine a payment rate and not paying for services based on time increments. It also requires less record keeping, monitoring, and coding expertise, while maintaining the same quality of care standards.

We also considered bundling all 5 codes together into one G code, or developing 3 G codes – one for the CCM codes, one for the BHI code, and one for the psychiatric CoCM codes. We did not choose either of these approaches because CCM and BHI are similar services that complement each other, and bundling them together is consistent with an integrated approach to care with reduced reporting requirements. We also believe that psychiatric CoCM is different enough from both CCM and BHI in its requirements, particularly in staffing and required services, that it warrants a separate G code. We believe that our proposal of creating 2 new G codes to encompass the 5 care management codes is the best option for RHCs and FQHCs now and in the future if new care management codes are developed. We welcome comments on the proposal.

#### 4. Implementation

RHCs and FQHCs are familiar with billing G codes. If this proposal is finalized as proposed, RHCs and FQHCs would continue to receive payment for CCM when CPT code 99490 is billed alone or with other payable services on an RHC or FQHC claim until December

31, 2017. Beginning on January 1, 2018, we propose that RHCs and FQHCs would use the new General Care Management G code GCCC1 when billing for CCM or general BHI services, and the new psychiatric CoCM G code GCCC2 when billing for psychiatric CoCM services, either alone or with other payable services on an RHC or FQHC claim. Claims submitted using CPT 99490 on January 1, 2018, or after, will not be paid.

Both the current RHC and FQHC payment rate for CCM, and the proposed RHC and FQHC payment rates for General Care Management and Psychiatric CoCM codes, are based on the PFS national non-facility rates. The PFS rates are updated annually, and the new G codes for RHCs and FQHCs would be updated accordingly and finalized when the PFS rates are finalized for the year. No geographic adjustment would be applied to the General Care Management or Psychiatric CoCM G codes. RHCs and FQHCs are required to submit claims for RHC and FQHC services on an institutional claim (electronically per the HIPAA compliant ANSI X12 837I or the Form CMS 1450, also known as the UB-04,) and are not authorized to bill RHC or FQHC services separately to the PFS. Specific information on billing and claims processing for the new G codes will be provided when the policy is finalized.

We note that in **section X** of this proposed rule, G0502, G0503, and G0507 are proposed to be replaced by new CPT codes. Corresponding changes would be made for RHCs and FQHCs when the new CPT codes become available.

## 5. Regulatory Changes

As previously noted, §405.2413(a)(5) and §405.2415(a)(5) was revised effective January 1, 2017, to state that services and supplies furnished incident to CCM and TCM services can be furnished under general supervision of an RHC or FQHC practitioner, consistent with §410.26(b)(5), which allows CCM and TCM services and supplies to be furnished by clinical

staff under general supervision when billed under the PFS. We propose to further revise §405.2413(a)(5) and §405.2415(a)(5) to state that services and supplies incident to the services of a physician, NP, PA, or CNM are furnished under the direct supervision of a physician, NP, PA, or CNM, except for TCM, General Care Management, and Psychiatric CoCM services, which can be furnished under general supervision of a physician, NP, PA, or CNM when these services or supplies are furnished by auxiliary personnel, as defined in §410.26(a)(1).

B. Part B Drug Payment: Infusion Drugs Furnished through an Item of Durable Medical Equipment (DME)

Section 303(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108-173, enacted on December 8, 2003) revised the payment methodology for most Medicare-covered Part B drugs and biologicals by adding section 1847A to the Act, which established a new average sales price (ASP) drug payment methodology beginning January 1, 2005. However, section 303(b) of the MMA specified payments for certain drugs using methodologies other than the ASP pricing methodology. Specifically, section 303(b) of the MMA added section 1842(o)(1)(D)(i) of the Act that required that an infusion drug furnished through an item of DME covered under section 1861(n) of the Act be paid 95 percent of the average wholesale price (AWP) for that drug in effect on October 1, 2003.

Section 5004(a) of the 21st Century Cures Act (Cures Act) (Pub. L. 114-255, enacted on December 13, 2016) revised sections 1842(o)(1)(C) and (D) of the Act, changing the payment methodology for DME infusion drugs from being based on AWP to the methodologies in sections 1847, 1847A, 1847B, or 1881(b)(13) of the Act, as the case may be for the drug or biological. To implement the pricing changes required by section 5004(a) of Cures Act, which modifies the payment for DME infusion drugs to the amount under section 1847A of the Act (ASP payment methodology), by the statutorily mandated effective date of January 1, 2017, we incorporated the ASP-based infusion drug payment amounts into the January 2017 quarterly ASP drug pricing files and instructed claims processing contractors to use the updated payment limits for DME infusion drugs.

To conform regulations with the new payment requirements in section 5004(a) of the Cures Act as they pertain to section 1847A of the Act, we propose revising §414.904(e)(2).



Currently, this describes an exception to ASP-based payments and requires pricing DME infusion drugs at 95 percent of the 2003 AWP. Consistent with section 5004(a) of the Cures Act, the proposed revision limits the exception to infusion drugs furnished before January 1, 2017. In addition, we propose at §414.904(e)(2) to delete the phrase “and is not updated in 2006.” We believe this language is not relevant since there was no update for pricing DME infusion drugs in 2006, and the proposed revision will serve to simplify the language. Effective January 1, 2017, payment limits for these drugs are determined under section 1847A of the Act.

C. Solicitation of Public Comments on Initial Data Collection and Reporting Periods for Clinical Laboratory Fee Schedule

1. Background on Medicare Clinical Diagnostic Laboratory Tests Payment System Final Rule

In the final rule published in the June 23, 2016 **Federal Register** (81 FR 41036) entitled, “Medicare Program; Medicare Clinical Diagnostic Laboratory Tests Payment System,” we implemented the requirements of section 1834A of the Act, which requires extensive revisions to the Medicare payment, coding, and coverage for clinical diagnostic laboratory tests (CDLTs) paid under the Clinical Laboratory Fee Schedule (CLFS).

Under the CLFS final rule, reporting entities are required to report to CMS certain applicable information for their component applicable laboratories. The applicable information includes, for each CDLT furnished during a data collection period, the specific HCPCS code associated with the test, each private payor rate for which final payment has been made, and the associated volume of tests performed corresponding to each private payor rate. In general, the payment amount for a test on the CLFS furnished on or after January 1, 2018, will be equal to the weighted median of private payor rates determined for the test, based on the applicable information that is collected during a data collection period and reported to us during a data reporting period.

In the CLFS final rule, we established a data collection period that is the 6 months from January 1 through June 30 during which applicable information is collected and that precedes the data collection period. We established a data reporting period that is the 3-month period, January 1 through March 31, during which a reporting entity reports applicable information to CMS and that follows the preceding data collection period. The first data collection period was January 1, 2016 through June 30, 2016. The first data reporting period was January 1, 2017

through March 31, 2017. This 6-month data collection period and 3-month data reporting period schedule will be repeated every 3 years for CDLTs that are not advanced diagnostic laboratory tests (ADLTs), and every year for ADLTs that are not new ADLTs.

For the first data reporting period, industry feedback suggested that many reporting entities would not be able to submit a complete set of applicable information to us by the March 31, 2017 deadline, and that entities required additional time to review collected data, address any issues identified during such review, and compile the data into our required reporting format. As a result, on March 30, 2017, we announced that we would exercise enforcement discretion until May 30, 2017, with respect to the data reporting period for reporting applicable information under the Medicare CLFS and the application of the Secretary's potential assessment of civil monetary penalties for failure to report applicable information.<sup>1</sup> The enforcement discretion applied to entities that were subject to the data reporting requirements adopted in the CLFS final rule (81 FR 41036). We noted in the announcement that the 60-day enforcement discretion period was the maximum amount of time we could permit to still have sufficient time to calculate the CLFS payment rates scheduled to go into effect on January 1, 2018.

The announcement stated that the enforcement discretion period would not prevent reporting entities prepared to report applicable information from doing so before May 30, 2017. We explained in the announcement that we were committed to the successful implementation of the new private payor rate-based CLFS and looked forward to working with the laboratory industry to ensure accurate payment rates. Over the coming months, we will be analyzing the applicable information we received, holding our Annual Laboratory Public Meeting, meeting

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<sup>1</sup> <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ClinicalLabFeeSched/Downloads/2017-March-Announcement.pdf>.

with the Advisory Panel for Clinical Diagnostic Laboratory tests, and posting preliminary payment rates.

## 2. Solicitation of Public Comments on Medicare Clinical Diagnostic Laboratory Tests Payment System Initial Data Collection and Reporting Periods

To better understand the applicable laboratories' experiences with the data reporting, data collection, and other compliance requirements for the first data collection and reporting periods, we are interested in public comments from applicable laboratories and reporting entities on the following questions:

- Was the CMS data reporting system easy to use? Please describe your overall experience with navigating the CMS data reporting system. For example, describe the aspects of the CMS data reporting system that worked well for your reporting entity and/or any problems the reporting entity experienced with submitting applicable information to us.

- Did the applicable laboratory (or its reporting entity) request and receive assistance from our Help Desk regarding the CMS data reporting system? Please describe your experience with receiving assistance.

- Did the applicable laboratory (or its reporting entity) request and receive assistance from the CMS CLFS Inquiries Mailbox regarding policy questions? Please describe your experience with receiving assistance.

- Did the applicable laboratory (or its reporting entity) use the subregulatory guidance on data reporting provided on the CMS CLFS website?<sup>2</sup> If so, was the information presented useful?

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<sup>2</sup> <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/ClinicalLabFeeSched/PAMA-Regulations.html>.

- Was the information that the applicable laboratory was required to report readily available in the applicable laboratory's record systems?
- Did the reporting entity have a manual, automated, or semi-automated remittance process for data reporting?
- If the reporting entity used a manual or semi-automated remittance process for data reporting, what percentage of the process was manual?
- How much time (hours) was required to assemble and report applicable information to CMS?
- Is there any other information that will inform us regarding the reporting, recordkeeping, and other compliance requirements from the first data collection and reporting periods?

We believe that industry feedback on these issues will help inform us regarding potential refinements to the private payor rate-based CLFS for future data collection and reporting periods. We welcome comments on these questions from the public.

D. Payment for Biosimilar Biological Products under Section 1847A of the Act.

In the CY 2016 Physician Fee Schedule (PFS) final rule with comment period, we finalized a proposal to amend the regulation text at §414.904(j) to make clear that the payment amount for a biosimilar biological product is based on the ASP of all NDCs assigned to the biosimilar biological products included within the same billing and payment code (80 FR 71096 through 71101, November 16, 2015 **Federal Register**). In general, this means that products that rely on a common reference product's biologics license application are grouped into the same payment calculation for determining a single ASP payment limit and that a single HCPCS code is used for such biosimilar products. The regulation went into effect on January 1, 2016.

The comments received on the rule revealed that stakeholders had varying opinions about payment for biosimilar biological products under Part B. The commenters included individuals, pharmaceutical manufacturers, patient advocate groups, providers, insurers, and members of Congress. A number of commenters opposed a single payment amount for all biosimilars that rely on a common reference product. Most of these commenters believed that the proposed regulation would decrease incentives for biosimilar development and that grouping payment for biosimilar biological products is inconsistent with the statute. Some commenters also expressed concerns that prescribers' choices will be limited, that tracking or pharmacovigilance activities will be impaired, and that innovation and product development will be harmed, leading to market consolidation and increased costs for biosimilar biological products. Many commenters who opposed our proposal suggested that we determine a payment amount for each biosimilar biological product. These stakeholders have expressed concerns that the finalized policy restricts and threatens the viability of their business models and expressed support for a market-based solution. Some of these stakeholders believe that determining a payment for each biosimilar

product by using individual HCPCS codes, would drive and reward innovators producing potential cost savings, of at least 10-15 percent compared to the reference biologic ASP, necessary for biosimilar products to compete with the reference biological.

However, some commenters supported our proposed regulation, stating that the potential marketplace for biosimilar biological products is large and it is less risky than the marketplace for reference biologicals. Commenters also expressed concern that separate payment for each biosimilar biological product would result in less competition among manufacturers, which in turn could lead to higher payment amounts for Medicare and beneficiaries. Some commenters stated that separate billing codes could be perceived as a type of price protection and could artificially increase prices for biosimilars. Commenters who supported the proposed regulation suggested that we remain mindful of our policy as the biosimilar biological product marketplace evolves. Several commenters requested that policy decisions be delayed while issues such as naming conventions and interchangeability standards are finalized by the FDA.

As CMS expected, since the regulation was finalized, the biosimilar product marketplace has continued to grow, and several biosimilar biological products that are paid under Part B have been licensed, including one product that we expect will share a HCPCS code with another biosimilar biological product. Over the next year or so, we anticipate that several more biosimilar biological products will be licensed for use in the United States and that during the following years, the marketplace will continue to grow steadily. We also anticipate that biological products will continue to be heavily utilized in Part B. At the same time, we are aware of concerns that current policy may discourage development of new biosimilars and other innovation in this area potentially resulting in higher costs over time due to a lack of competition in the market place.

In the 2016 PFS final rule, we stated that it is desirable to have fair reimbursement in a healthy marketplace that encourages product development (80 FR 71101). CMS seeks to promote innovation, to provide more options to patients and physicians, and competition to drive prices down, recognizing that even though these two goals may be difficult to achieve concurrently, to delink them would be counterproductive.

Although we believe that the United States biosimilar biological product marketplace is still in an early phase (because only a few products are on the market), we are interested in assessing the effects of Medicare payment policy on this important portion of the Part B drug marketplace at this time, particularly for fostering a robust, and competitive marketplace and encouraging the innovation that is necessary to bring these products to the marketplace. It is essential to take a measured approach that considers all options given the significant federal spending by Medicare on Part B drugs, the effect of payment policies on program sustainability for taxpayers, health care affordability and access for beneficiaries, and the considerable investment the biosimilar industry is making in the nascent market. Failure to do so could potentially restrict innovation in the marketplace, increase costs to the American taxpayer, and limit treatment options. With that in mind, it is CMS's goal to further investigate a solution that allows market forces to provide a robust and comprehensive selection of choices for patients at a fair price. Additionally, we are interested in better understanding if and how the innate differences in biological products and their current regulatory environment should be reflected in Medicare payment policy for biosimilars, particularly as it relates to biosimilars that are licensed for fewer than all indications for which the reference product is licensed or situations where different biosimilars may be licensed for different subsets of indications for which the reference product is licensed.



Thus, we are requesting comments regarding our Medicare Part B biosimilar biological product payment policy. This comment solicitation is seeking new or updated information on the effects of the current biosimilar payment policy that is based on experience with the United States marketplace. We are particularly interested in obtaining material, such as market analyses or research articles that provide data and insight into the current economics of the biosimilar market place. This includes patient, plan, and manufacturer data both domestic and, where applicable, from European markets that may be more established than, and provide insight for, the current United States' market.

We also seek data to demonstrate how individual HCPCS codes could impact the biosimilar market, including innovation, the number of biosimilar products introduced to the market, patient access, and drug spending. Finally, we also seek comment regarding other novel payment policies that would foster competition, increase access, and drive cost savings in the biological product marketplace. These solutions may include legislation, demonstrations, and administrative options. Please note that this is a solicitation for comments on this issue for future consideration. We are not making a proposal to change the existing payment policy in this proposed rule.

### E. Appropriate Use Criteria for Advanced Diagnostic Imaging Services

Section 218(b) of the Protecting Access to Medicare Act (PAMA) amended Title XVIII of the Act to add section 1834(q) of the Act directing us to establish a program to promote the use of appropriate use criteria (AUC) for advanced diagnostic imaging services. The CY 2016 PFS final rule with comment period addressed the initial component of the new Medicare AUC program, specifying applicable AUC. In that rule (80 FR 70886), we established an evidence-based process and transparency requirements for the development of AUC, defined provider-led entities (PLEs) and established the process by which PLEs may become qualified to develop, modify or endorse AUC. The first list of qualified PLEs was posted on the CMS website at the end of June 2016 at which time their AUC libraries became specified applicable AUC for purposes of section 1834(q)(2)(A) of the Act. The CY 2017 PFS final rule addressed the second component of this program, specification of qualified clinical decision support mechanisms (CDSMs). In that rule (81 FR 80170), we defined CDSM, identified the requirements CDSMs must meet for qualification including an opportunity for preliminary qualification for mechanisms still working toward full adherence, and established a process by which CDSMs may become qualified. We also defined applicable payment systems under this program, specified the first list of priority clinical areas and identified exceptions to the requirements that ordering professionals consult specified applicable AUC when ordering applicable imaging services. The first list of qualified CDSMs will be posted on the CMS website in conjunction with this proposed rule.

This rule proposes the start date of the Medicare AUC program for advanced diagnostic imaging services. It is on and after this date that ordering professionals must

consult specified applicable AUC using a qualified CDSM when ordering applicable imaging services and furnishing professionals must report consultation information on the Medicare claim. This rule also proposes to modify the policy related to significant hardship exceptions and requests public feedback on details regarding how AUC consultation information must be included on the Medicare claim. To further this iterative process of implementation, we also discuss briefly the potential for alignment with other Medicare quality programs.

## 1. Background

AUC present information in a manner that links: a specific clinical condition or presentation, one or more services and, an assessment of the appropriateness of the service(s). For purposes of this program AUC is a set or library of individual appropriate use criteria. Each individual criterion is an evidence-based guideline for a particular clinical scenario. Each scenario in turn starts with a patient's presenting symptoms or condition. Evidence-based AUC for imaging can assist clinicians in selecting the imaging study that is most likely to improve health outcomes for patients based on their individual clinical presentation.

AUC need to be integrated as seamlessly as possible into the clinical workflow. CDSMs are the electronic portals through which clinicians access the AUC during the patient workup. While CDSMs can be standalone applications that require direct entry of patient information, they may be more effective when they automatically incorporate information such as specific patient characteristics, laboratory results, and lists of co-morbid diseases from Electronic Health Records (EHRs) and other sources.

Ideally, practitioners would interact directly with the CDSM through their primary user interface, thus minimizing interruption to the clinical workflow.

Consistent with descriptions of clinical decision support by the Agency for Healthcare Research and Quality (AHRQ) (<http://www.ahrq.gov/professionals/prevention-chronic-care/decision/clinical/index.html>), and the Office of the National Coordinator for Health Information Technology (ONC) (<https://www.healthit.gov/policy-researchers-implementers/clinical-decision-support-cds>), within health IT applications, a CDSM is a functionality that provides persons involved in care processes with general and person-specific information, intelligently filtered and organized, at appropriate times, to enhance health and health care.

## 2. Statutory Authority

Section 218(b) of the PAMA added a new section 1834(q) of the Act entitled, “Recognizing Appropriate Use Criteria for Certain Imaging Services,” which directs the Secretary to establish a new program to promote the use of AUC. Section 1834(q)(4) of the Act requires ordering professionals to consult with a qualified CDSM for applicable imaging services furnished in an applicable setting and paid for under an applicable payment system; and for the furnishing professional to include on the Medicare claim information about the ordering professional’s consultation with a qualified CDSM.

## 3. Discussion of Statutory Requirements

There are four major components of the AUC program under section 1834(q) of the Act, and each component has its own implementation date: (1) establishment of AUC by November 15, 2015 (section 1834(q)(2) of the Act); (2) identification of mechanisms

for consultation with AUC by April 1, 2016 (section 1834(q)(3) of the Act); (3) AUC consultation by ordering professionals, and reporting on AUC consultation by furnishing professionals by January 1, 2017 (section 1834(q)(4) of the Act); and (4) annual identification of outlier ordering professionals for services furnished after January 1, 2017 (section 1834(q)(5) of the Act). As we will discuss later in this preamble and in prior PFS rules, we did not identify mechanisms for consultation by April 1, 2016. Therefore, we did not require ordering professionals to consult CDSMs or furnishing professionals to report information on the consultation by the January 1, 2017 date.

a. Establishment of AUC

In the CY 2016 PFS final rule with comment period, we addressed the first component of the Medicare AUC program under section 1834(q)(2) of the Act – the requirements and process for establishment and specification of applicable AUC, along with relevant aspects of the definitions under section 1834(q)(1) of the Act. This included defining the term PLE and finalizing requirements for the rigorous, evidence-based process by which a PLE would develop AUC, upon which qualification is based, as provided in section 1834(q)(2)(B) of the Act and in the CY 2016 PFS final rule with comment period. Using this process, once a PLE is qualified by CMS, the AUC that are developed, modified or endorsed by the qualified PLE are considered to be specified applicable AUC under section 1834(q)(2)(A) of the Act. We defined the term PLE to include national professional medical societies, health systems, hospitals, clinical practices and collaborations of such entities such as the High Value Healthcare Collaborative or the National Comprehensive Cancer Network. Qualified PLEs may collaborate with third parties that they believe add value to their development of AUC,

provided such collaboration is transparent. We expect qualified PLEs to have sufficient infrastructure, resources, and the relevant experience to develop and maintain AUC according to the rigorous, transparent, and evidence-based processes detailed in the CY 2016 PFS final rule with comment period.

In the same rule we established a timeline and process under §414.94(c)(2) for PLEs to apply to become qualified. Consistent with this timeline the first list of qualified PLEs was published at <https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Appropriate-Use-Criteria-Program/PLE.html> (OMB Control Number 0938-1288).

#### b. Mechanism for AUC Consultation

In the CY 2017 PFS final rule, we addressed the second major component of the Medicare AUC program - the specification of qualified CDSMs for use by ordering professionals for consultation with specified applicable AUC under section 1834(q)(3) of the Act, along with relevant aspects of the definitions under section 1834(q)(1) of the Act. This included defining the term CDSM and finalizing functionality requirements of mechanisms, upon which qualification is based, as provided in section 1834(q)(3)(B) of the Act and in the CY 2017 PFS final rule. We included an opportunity for mechanisms still working toward full adherence to these requirements to receive preliminary qualification during the preliminary qualification period that begins June 30, 2017, and ends when the AUC consulting and reporting requirements become effective. The preliminarily qualified CDSMs must meet all requirements by that time. We defined CDSM as an interactive, electronic tool for use by clinicians that communicates AUC information to the user and assists them in making the most appropriate treatment

decision for a patient's specific clinical condition. Tools may be modules within or available through certified EHR technology (as defined in section 1848(o)(4) of the Act) or private sector mechanisms independent from certified EHR technology or established by the Secretary.

In the CY 2017 PFS final rule we established a timeline and process in §414.94(g)(2) for CDSM developers to apply to have their CDSMs qualified. Consistent with this timeline, the first list of qualified CDSMs will be posted on the CMS website <https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Appropriate-Use-Criteria-Program/CDSM.html> in conjunction with this proposed rule (OMB Control Number 0938-1315).

c. AUC Consultation and Reporting

The third major component of the Medicare AUC program is in section 1834(q)(4) of the Act, Consultation with Applicable Appropriate Use Criteria. This section establishes, beginning January 1, 2017, the requirement for an ordering professional to consult with a qualified CDSM when ordering an applicable imaging service that would be furnished in an applicable setting and paid for under an applicable payment system; and for the furnishing professional to include on the Medicare claim information about the ordering professional's consultation with a qualified CDSM. The statute distinguishes between the ordering and furnishing professional, recognizing that the professional who orders an applicable imaging service is usually not the same professional who bills Medicare for that service when furnished. Since a list of qualified CDSMs was not available by January 1, 2017, we did not require ordering professionals to meet the consultation requirement by that date.

Section 1834(q)(4)(C) of the Act provides for certain exceptions to the AUC consultation and reporting requirements including in the case of certain emergency services, inpatient services paid under Medicare Part A, and ordering professionals who obtain an exception due to a significant hardship. In the CY 2017 PFS final rule, we identified the circumstances specific to ordering professionals under which consulting and reporting requirements are not required. These include orders for applicable imaging services: (1) for emergency services when provided to individuals with emergency medical conditions as defined in section 1867(e)(1) of the Act; (2) for an inpatient and for which payment is made under Medicare Part A; and (3) by ordering professionals who are granted a significant hardship exception to the Medicare EHR Incentive Program payment adjustment for that year under 42 CFR 495.102(d)(4), except for those granted such an exception under §495.102(d)(4)(iv)(C). We propose changes to the significant hardship exception later in this preamble.

Section 1834(q)(4)(D) of the Act specifies that the applicable payment systems for the AUC consultation and reporting requirements, and, in the CY 2017 PFS final rule we defined them as: (1) the physician fee schedule established under section 1848(b) of the Act; (2) the prospective payment system for hospital outpatient department services under section 1833(t) of the Act; and (3) the ambulatory surgical center payment system under section 1833(i) of the Act.

#### d. Identification of Outliers

The fourth component of the Medicare AUC program is in section 1834(q)(5) of the Act, Identification of Outlier Ordering Professionals. The identification of outlier ordering professionals under this paragraph facilitates a prior authorization requirement



for outlier professionals beginning January 1, 2020, as specified under section 1834(q)(6) of the Act. Given that we are proposing a program start date of January 1, 2019, we anticipate that implementation of the prior authorization component would be delayed. We expect to discuss details around outlier calculations and prior authorization in the CY 2019 PFS proposed rule. However, we did finalize in the CY 2017 PFS final rule the first list of priority clinical areas to guide identification of outlier ordering professionals as follows:

- Coronary artery disease (suspected or diagnosed).
- Suspected pulmonary embolism.
- Headache (traumatic and non-traumatic).
- Hip pain.
- Low back pain.
- Shoulder pain (to include suspected rotator cuff injury).
- Cancer of the lung (primary or metastatic, suspected or diagnosed).
- Cervical or neck pain.

As established in §414.94(e)(4) of our regulations, priority clinical areas may be used in the identification of outlier ordering professionals. By starting to identify these areas now, we believe ordering professionals will have the opportunity to become familiar with AUC within identified priority clinical areas prior to Medicare claims for those services being part of the input for calculating outlier ordering professionals.

We are not including proposals to expand or modify the list of priority clinical areas in this rule.

#### 4. Proposals for Continuing Implementation

We propose to amend §414.94 of our regulations, “Appropriate Use Criteria for Certain Imaging Services,” to reflect the following proposals.

a. Consultation by Ordering Professional and Reporting by Furnishing Professional

We are proposing that ordering professionals must consult specified applicable AUC through qualified CDSMs for applicable imaging services furnished in an applicable setting, paid for under an applicable payment system and ordered on or after January 1, 2019. This proposed effective date for the consulting and reporting requirements is necessary to allow time for ordering practitioners who are not already aligned with a qualified CDSM to research and evaluate the qualified CDSMs so they may make an informed decision. Although there will be another rulemaking cycle next year before the consulting and reporting requirement is effective as proposed on January 1, 2019, we are establishing this date through rulemaking this year because the agency expects practitioners and other stakeholders to begin preparing themselves to report on that date and, in response to public comment and stakeholder feedback, we want to ensure all impacted parties have sufficient time to prepare to meet the requirements of this program.

After proposing the timeline and process for qualification of CDSMs in the CY 2017 PFS proposed rule (81 FR 46392), we anticipated that furnishing professionals may begin reporting as early as January 1, 2018. However, we received comments that these timelines did not allow enough time to address the needs of different stakeholder groups. Some commenters requested that CMS delay the timeline and process to give practitioners sufficient time to obtain a qualified CDSM. Other commenters cited insufficient time for CDSMs to incorporate requirements between the release of the final

CDSM requirements and January 1, 2018, and requested that CMS fully implement the program at a later date. Additionally, in the CY 2017 PFS final rule (81 FR 80411) we discussed commenters' recommendations that CMS develop and launch an educational campaign, including a Town Hall meeting. Some commenters requesting additional time suggested that, for purposes of both CDSM vendor readiness and practitioner readiness, consulting and reporting requirements should not go into effect for an additional 12-18 months after the initial list of CMS qualified CDSMs is posted.

By proposing the consulting and reporting requirements begin on January 1, 2019 we believe that we are allowing needed time for education and outreach efforts, time for practitioners and stakeholders to prepare, and time for CDSMs to continue current strides in being more user-friendly and less burdensome. We note that the statute required publication of qualified CDSMs by April 1, 2016, and required AUC consultation and reporting by January 1, 2017; therefore, our proposal substantially lags the statutory requirements. As noted above and in previous rulemaking, a delay in the statutory timeline is necessary to maximize the opportunity for public comment and stakeholder engagement, also a statutory requirement, and allows for adequate advance notice to practitioners, beneficiaries, AUC developers, and CDSM developers.

Consistent with section 1834(q)(4)(B) of the Act, we are also proposing that furnishing professionals report the following information on Medicare claims for applicable imaging services, furnished in an applicable setting, paid for under an applicable payment system as defined in §414.94(b), and ordered on or after January 1, 2019: (1) which qualified CDSM was consulted by the ordering professional; (2) whether the service ordered would adhere to specified applicable AUC, would not adhere

to specified applicable AUC, or whether specified applicable AUC were not applicable to the service ordered; and (3) the NPI of the ordering professional (if different from the furnishing professional).

We believe that, unless a statutory exception applies, an AUC consultation must take place for every order for an applicable imaging service furnished in an applicable setting and under an applicable payment system. We further believe that section 1834(q)(4)(B) of the Act accounts for the possibility that AUC may not be available in a particular qualified CDSM to address every applicable imaging service that might be ordered; and thus, the furnishing professional can meet the requirement to report information on the ordering professional's AUC consultation by indicating that AUC is not applicable to the service ordered. We remind readers as required under §414.94(g)(1)(iii) that qualified CDSMs must make available, at a minimum, AUC that reasonably address common and important clinical scenarios within all priority clinical areas. As discussed in the CY 2017 PFS final rule (81 FR 80170), the current list of priority clinical areas represents about 40 percent of advanced diagnostic imaging services paid for by Medicare in 2014. We also remind readers that consistent with section 1834(q)(4)(A) of the Act, ordering professionals must consult AUC for every advanced diagnostic imaging service ordered. While section 218(b) of the PAMA allows qualified CDSMs to return a response of "not applicable" if a qualified CDSM does not contain specified applicable AUC for the service ordered, we expect these situations to be limited in scope and number, and to decrease over time. The "not applicable" responses should decrease as qualified PLEs continue to build out their AUC libraries and qualified CDSMs update their content and potentially collaborate with more qualified PLEs so as

to make available highly comprehensive tools.

Section 1834(q)(4)(B) requires that payment may only be made if the claim for the service includes the specific information discussed in this proposed rule. This information, to the extent feasible, is required across claim types (including both the furnishing professional and facility claims) and across all three applicable payment systems (PFS, hospital outpatient prospective payment system and ambulatory surgical center payment system). In other words, we would expect this information to be included on the practitioner claim that includes the professional component of the imaging service and on the hospital outpatient claim for the technical component of the imaging service. Claims for services for which payment is not made under the three identified payment systems would not be required to include consultation related information.

To implement this requirement we propose to establish a series of HCPCS level 3 codes. These G-codes would describe the specific CDSM that was used by the ordering professional. Ultimately there would be one G-code for every qualified CDSM with the code description including the name of the CDSM. However, because the claims processing system can only recognize new codes quarterly, we may not be able to update the G-code descriptors simultaneously with the announcement of any new qualified CDSMs which is expected to occur in June of each year. To ensure that there is a code available to immediately describe newly qualified CDSMs, we propose to establish a generic G-code that would be used to report that a qualified CDSM was consulted, but would not identify a specific qualified CDSM; clinicians would only be permitted to use this code if a more specific named code did not yet exist for that clinician's CDSM. Furnishing professionals would report this code temporarily until a specific G-code

describing the newly qualified CDSM by name becomes available. We also propose to establish a G-code to identify circumstances where there was no AUC consultation through a qualified CDSM. The description of this code would indicate that a qualified CDSM was not consulted by the ordering professional.

G-codes would be a line-item on both practitioner claims and facility claims. We would expect that one AUC consultation G-code would be reported for every advanced diagnostic imaging service on the claim. If there are two codes billed for advanced imaging services on the claim then we would expect two G-codes. Each G-code would be expected, on the same claim line, to contain at least one new HCPCS modifier. We propose to develop a series of modifiers to provide necessary information as to whether, when a CDSM is used to consult AUC: (1) the imaging service would adhere to the applicable appropriate use criteria; (2) the imaging service would not adhere to such criteria; or (3) such criteria were not applicable to the imaging service ordered. We propose to create additional modifiers to describe situations where an exception applies and a qualified CDSM was not used to consult AUC: (1) the imaging service was ordered for a patient with an emergency medical condition or (2) the ordering professional has a significant hardship exception. Based on this proposal we specifically seek comments on any additional HCPCS modifiers that might be needed to separately identify allowable scenarios for which a qualified CDSM was not consulted by the ordering professional.

The proposed AUC consultation and reporting start date of January 1, 2019 is expected to allow adequate time for us to operationalize the claims-based procedures and systems changes needed to accomplish the processing of Medicare claims with AUC

consultation information.

There are aspects of the AUC program that are novel and complex for the CMS claims processing system and for ordering and furnishing professionals. An AUC consultation by an ordering professional has never before been required by fee-for-service Medicare with such a broad application (all professionals ordering advanced diagnostic tests). Additional considerations for the complex communication of AUC consultation information from the ordering professional to the furnishing professional and facility that must include that information when billing for the service are warranted. Their billing systems will need to translate the AUC consultation information onto Medicare claims in the form of G codes and HCPCS modifiers. These processes are new for many professionals, and there are many areas for potential error. For these reasons an educational and operations testing period is needed. During this period, ordering professionals would consult AUC and furnishing professionals would report AUC consultation information on the claim, but we would continue to pay claims whether or not they correctly include such information. This educational period allows professionals to actively participate in the program while avoiding claims denials during the learning curve. It also gives us an opportunity to make any needed claims processing adjustments before payments are impacted.

We believe it is preferable to begin implementation using a single year educational and operations testing period, rather than possibly further delaying the start-date of the program. We do not expect to continue this educational and operations testing period beyond the first year of the AUC program.

We look forward to receiving public comments on all aspects of our proposal, and

specifically, comments related to whether the program should be delayed beyond the proposed start date of January 1, 2019. Although our proposal is based in part on comments received in prior rulemaking cycles, it is important to receive comments that help us understand the current readiness of stakeholders. In addition, we have proposed that the program begin with an educational and operations testing period and are interested in comments regarding how long, if longer than one year, such a period should be available.

We expect a voluntary reporting period to be available ahead of January 1, 2019 and anticipate such a period will begin July 2018. The timing for this opportunity for voluntary reporting is dependent on the readiness of the Medicare claims system to accept and process claims that include AUC consultation information. When the voluntary period becomes available we will make announcements through our educational channels such as the CMS website and listservs. It is important to note that the proposed educational and operations testing period beginning January 1, 2019, is separate from the anticipated voluntary reporting period that we expect to allow before January 1, 2019. During the voluntary reporting period, AUC consultation and reporting are not required. However, for applicable imaging services ordered on and after January 1, 2019, consulting specified applicable AUC and reporting consultation information on the Medicare claim would be required for all ordering and furnishing professionals, respectively.

b. Alignment with Other Medicare Quality Programs

The CY 2017 Merit-based Incentive Payment System and Alternative Payment Model final rule with comment period (Quality Payment Program final rule) (81 FR



77008) finalized policies to improve physician and other clinician payments by changing the way Medicare incorporates quality measurement into payments and developing new policies to address and incentivize participation in Advanced Alternative Payment Models (APMs). We expect the Quality Payment Program to evolve over multiple years and to continue iterating on these policies. To this end, the AUC program has the potential to provide new opportunities to improve care delivery by supporting and rewarding clinicians as they find new ways to engage patients, families and caregivers as well as improving care coordination and patient health management.

Therefore, we have proposed in the CY 2018 Quality Payment Program proposed rule to develop a direct tie between MIPS and the AUC program (See CY 2018 Quality Payment Program Proposed Rule (82 FR 30010) published in the June 30, 2017 **Federal Register**). In that rule, we proposed to give MIPS credit to ordering professionals for consulting AUC using a qualified CDSM as a high-weight improvement activity for the performance period beginning January 1, 2018 (82 FR 30484). We believe this will incentivize early use of qualified CDSMs to consult AUC by motivated eligible clinicians looking to improve patient care and to better prepare themselves for the AUC program. Although the AUC program would not officially begin until January 1, 2019, we are able to support this proposed improvement activity because the first qualified CDSMs will be announced in conjunction with this proposed rule; therefore, ordering professionals will be able to begin consulting AUC using those tools.

We are also considering how the AUC program could serve to support a quality measure under the MIPS quality performance category and seek feedback from the public regarding feasibility and value of pursuing this idea further.

c. Significant Hardship Exceptions to Consulting and Reporting Requirements

We are proposing to modify §414.94(i)(3) of our regulations to reflect the sunset of the payment adjustments under the Medicare EHR Incentive Program and to substitute an alignment with the advancing care information performance category of MIPS. The categories that we included in the CY 2017 PFS final rule for purposes of the AUC program significant hardship exceptions were the following from §495.102(d)(4):

- Insufficient Internet Connectivity (as specified in §495.102(d)(4)(i)).
- Practicing for less than 2 years (as specified in §495.102(d)(4)(ii)).
- Extreme and Uncontrollable Circumstances (as specified in §495.102(d)(4)(iii)).
- Lack of Control over the Availability of CEHRT (as specified in §495.102(d)(4)(iv)(A)).
- Lack of Face-to-Face Patient Interaction (as specified in §495.102(d)(4)(iv)(B)).

In addition, in the CY 2017 Quality Payment Program final rule, we finalized a policy (81 FR 77240-77243) to reweight the advancing care information performance category to zero in the MIPS final score for the year for MIPS eligible clinicians who meet the criteria in one of the above listed categories of §495.102(d)(4), with the exception of the category for clinicians practicing for less than 2 years. Under section 1848(q)(1)(C)(v) of the Act, eligible clinicians who first enroll in Medicare during the performance period for a year and have not previously submitted claims under Medicare are not considered MIPS eligible clinicians, and thus are excluded from MIPS. We believe it is likely that many clinicians who have been practicing for less than 2 years

would be excluded from MIPS on the basis that they are new Medicare-enrolled MIPS eligible clinicians as defined in §414.1305. Because these clinicians are not MIPS eligible clinicians, they would never meet the criteria for re-weighting of their MIPS advancing care information performance category for the year. Therefore, to implement a hardship exception for purposes of the AUC program that is both operationally consistent and administratively efficient, we propose to remove as a criterion for a significant hardship exception for the AUC program the criterion specified in §495.102(d)(4)(ii) of our regulations for those practicing for less than 2 years. We propose to keep the remaining listed categories including insufficient internet connectivity, extreme and uncontrollable circumstances, lack of control over availability of CEHRT and lack of face to face patient interaction. We note that section 1843(q)(4)(C)(iii) of the Act only allows the ordering professional to seek a significant hardship exception, not the furnishing professional.

As such, we propose to amend the AUC significant hardship exception regulation to specify that ordering professionals who are granted re-weighting of the advancing care information performance category to zero percent of the final score for the year under MIPS per §414.1380(c)(2) due to circumstances that include the criteria listed in §495.102(d)(4)(i), (iii), (iv)(A) and (iv)(B) would be excepted from the AUC consultation requirement during the same year that the re-weighting applies for purposes of the MIPS payment adjustment.

There will be scenarios when a clinician's experience of a significant hardship or extraordinary circumstance does not align with the prospective identification of these ordering professionals with reference to MIPS criteria and processes. However, we

believe the prospective identification process allows us to apply exceptions in real-time for claims submitted for advanced imaging services. There are timing differences between the MIPS and the AUC program (the MIPS payment adjustment year is based on performance in a prior year while the Medicare AUC program requires real-time AUC consultation and claims-based reporting). In addition to the timing, there will be instances when a clinician who is not a MIPS eligible clinician will need to seek a significant hardship exception to the Medicare AUC program. To accommodate these two separate scenarios, we propose to establish a process to identify ordering professionals in need of a significant hardship exception to the Medicare AUC program requirements that is outside the MIPS re-weighting process. For purposes of these scenarios, we propose to use the criteria for clinicians seeking an AUC significant hardship exception described under §495.102(d)(4) to include (i), (iii), (iv)(A) and (iv)(B) of our regulations. We propose these criteria to align with the criteria used under MIPS for re-weighting under the advancing care information performance category, and to provide predictability and consistency to the determination of significant hardship. We further propose that a significant hardship exception from the Medicare AUC program requirements would be granted for no longer than 12 months, and that we could establish an exception for a shorter period where warranted by the circumstances.

Therefore we propose that ordering professionals who have not received a re-weighting to zero for the MIPS advancing care information performance category for the year, but experience one of the circumstances described in §495.102(d)(4) to include (i), (iii), (iv)(A) and (iv)(B), may be granted an AUC significant hardship exception for no longer than one year. We expect to provide further information on this exception process

in future rulemaking.

In addition to the proposals above, we invite the public to comment on additional circumstances for which it may be appropriate for an ordering professional to be granted a significant hardship exception under the AUC program.

## 5. Summary

Section 1834(q) of the Act includes rapid timelines for establishing a Medicare AUC program for advanced diagnostic imaging services. The impact of this program is extensive as it will apply to every physician or other practitioner who orders or furnishes advanced diagnostic imaging services (for example, magnetic resonance imaging (MRI), computer tomography (CT) or positron emission tomography (PET)). This crosses almost every medical specialty and could have a particular impact on primary care physicians since their scope of practice can be quite broad. Stakeholders have expressed concern that program requirements may inadvertently encourage physicians to order imaging services that they do not believe are right for their patients. The goal of evidence-based AUC is to assist clinicians in ordering the most appropriate imaging service for their patients' specific clinical scenarios. However, to ensure we are implementing the program effectively, we are asking for public comment on such potential unintended consequences. Additionally, as we continue to develop the AUC program, we continue to engage a variety of stakeholders interested in participating in the development of AUC. We seek comment about how we can continue to engage interested participants, consistent with statutory requirements at section 1834(q) of the Act, in developing AUC in a transparent and scientifically robust manner. We are

particularly interested in how qualified PLEs develop or modify AUC in collaboration with non-PLE entities and what additional challenges such entities might face.

We continue to believe the best implementation approach is one that is diligent, maximizes the opportunity for public comment and stakeholder engagement, and allows for adequate advance notice to physicians and practitioners, beneficiaries, AUC developers, and CDSM developers. It is for these reasons we propose to continue a stepwise approach, adopted through notice and comment rulemaking. We propose policies to implement the third component of the AUC program - the consulting and reporting requirements and the effective date on which these requirements would begin. Under this proposal, ordering professionals must begin consulting specified applicable AUC through qualified CDSMs for applicable imaging services ordered on and after January 1, 2019, and furnishing professionals must begin reporting AUC consultation information on Medicare claims for advanced diagnostic imaging services for which payment is made under an applicable payment system as defined in §414.94(b) and ordered on or after January 1, 2019.

We also propose modifications to the significant hardship exception to better align these exceptions under the AUC program with those under existing quality programs.

In summary, we are proposing requirements necessary to implement the third component of the AUC program. We invite the public to submit comments on these proposals.

F. Physician Quality Reporting System (PQRS) Criteria for Satisfactory Reporting for Individual EPs and Group Practices for the 2018 PQRS Payment Adjustment

1. Background

Section 1848(a)(8) of the Act provides that for covered professional services furnished by an EP during each of 2015 through 2018, if the EP does not satisfactorily report data on quality measures for covered professional services for the reporting period for the year, the PFS amount for services furnished by such professional during the year (including the PFS amount for purposes of determining a payment based on such amount) shall be equal to the applicable percent of the PFS amount that would otherwise apply to such services. For 2016 through 2018, the applicable percent is 98.0 percent. Thus, individual EPs and group practices who did not satisfactorily report data on quality measures for the CY 2016 reporting period are subject to a downward payment adjustment of 2.0 percent to the PFS payment amount for covered professional services they furnish in 2018.

2. Previously Finalized Satisfactory Reporting Criteria for Individual EPs and Group Practices for the 2018 PQRS Payment Adjustment

We previously finalized the satisfactory reporting criteria for individual EPs and group practices for the CY 2016 reporting period to avoid the 2018 PQRS payment adjustment in the CY 2016 PFS final rule (80 FR 71140 through 71250) at §414.90(j)(8) and (9) and §414.90(k)(5).

Table 18 summarizes the previously finalized satisfactory reporting criteria for individual EPs at §414.90(j)(8) and §414.90(k)(5).

**TABLE 18: Summary of Requirements for the 2018 PQRS Payment Adjustment: Individual Reporting Criteria for the Satisfactory Reporting of Quality Measures Data via Claims, Qualified Registry, and Electronic Health Records (EHRs) and Satisfactory Participation Criteria in Qualified Clinical Data Registries (QCDRs)**

Reporting period	Measure type	Reporting mechanism	Satisfactory reporting/satisfactory participation criteria
12-month (Jan 1–Dec 31, 2016)	Individual Measures	Claims .....	Report at least 9 measures, covering at least 3 of the National Quality Strategy (NQS) domains AND report each measure for at least 50 percent of the EP’s Medicare Part B Fee-for-Service (FFS) patients seen during the reporting period to which the measure applies. Of the measures reported, if the EP sees at least 1 Medicare patient in a face-to-face encounter, the EP will report on at least 1 measure contained in the PQRS cross-cutting measure set. If less than 9 measures apply to the EP, the EP would report on each measure that is applicable), AND report each measure for at least 50 percent of the Medicare Part B FFS patients seen during the reporting period to which the measure applies. Measures with a 0 percent performance rate would not be counted.
12-month (Jan 1–Dec 31, 2016)	Individual Measures	Qualified Registry.	Report at least 9 measures, covering at least 3 of the NQS domains AND report each measure for at least 50 percent of the EP’s Medicare Part B FFS patients seen during the reporting period to which the measure applies. Of the measures reported, if the EP sees at least 1 Medicare patient in a face-to-face encounter, the EP will report on at least 1 measure contained in the PQRS cross-cutting measure set. If less than 9 measures apply to the EP, the EP would report on each measure that is applicable, AND report each measure for at least 50 percent of the Medicare Part B FFS patients seen during the reporting period to which the measure applies. Measures with a 0 percent performance rate would not be counted.
12-month (Jan 1–Dec 31, 2016)	Individual Measures	Direct EHR Product or EHR Data Submission Vendor Product.	Report 9 measures covering at least 3 of the NQS domains. If an EP’s direct EHR product or EHR data submission vendor product does not contain patient data for at least 9 measures covering at least 3 domains, then the EP would be required to report all of the measures for which there is Medicare patient data. An EP would be required to report on at least 1 measure for which there is Medicare patient data.
12-month (Jan 1–Dec 31, 2016)	Measures Groups	Qualified Registry.	Report at least 1 measures group AND report each measures group for at least 20 patients, the majority (11 patients) of which are required to be Medicare Part B FFS patients. Measures groups containing a measure with a 0 percent performance rate will not be counted.
12-month (Jan 1–Dec 31, 2016)	Individual PQRS measures and/or non-PQRS measures reportable via a QCDR	QCDR.	Report at least 9 measures available for reporting under a QCDR covering at least 3 of the NQS domains, AND report each measure for at least 50 percent of the EP’s patients. Of these measures, the EP would report on at least 2 outcome measures, OR, if 2 outcomes measures are not available, report on at least 1 outcome measures and at least 1 of the following types of measures—resource use, patient experience of care, efficiency/appropriate use, or patient safety.

Table 19 summarizes the previously finalized satisfactory reporting criteria for group practices via the group practice reporting option (GPRO) at §414.90(j)(9) and §414.90(k)(5).



**TABLE 19: Summary of Requirements for the 2018 PQRS Payment Adjustment:  
Group Practice Reporting Criteria for Satisfactory Reporting of Quality Measures Data via the GPRO**

Reporting Period	Group Practice Size	Measure Type	Reporting Mechanism	Satisfactory Reporting Criteria
12-month (Jan 1– Dec 31, 2016)	25–99 EPs; 100+ EPs (if Consumer Assessment of Healthcare Providers and Systems (CAHPS) for PQRS does not apply)	Individual GPRO Measures in the Web Interface	Web Interface	Report on all measures included in the web interface; AND populate data fields for the first 248 consecutively ranked and assigned beneficiaries in the order in which they appear in the group’s sample for each module or preventive care measure. If the pool of eligible assigned beneficiaries is less than 248, then the group practice must report on 100 percent of assigned beneficiaries. In other words, we understand that, in some instances, the sampling methodology we provide will not be able to assign at least 248 patients on which a group practice may report, particularly those group practices on the smaller end of the range of 25–99 EPs. If the group practice is assigned less than 248 Medicare beneficiaries, then the group practice must report on 100 percent of its assigned beneficiaries. A group practice must report on at least 1 measure for which there is Medicare patient data.
12-month (Jan 1– Dec 31, 2016)	25–99 EPs that elect CAHPS for PQRS; 100+ EPs (if CAHPS for PQRS applies)	Individual GPRO Measures in the Web Interface + CAHPS for PQRS	Web Interface + CMS-Certified Survey Vendor	The group practice must have all CAHPS for PQRS survey measures reported on its behalf via a CMS-certified survey vendor. In addition, the group practice must report on all measures included in the Web Interface; AND populate data fields for the first 248 consecutively ranked and assigned beneficiaries in the order in which they appear in the group’s sample for each module or preventive care measure. If the pool of eligible assigned beneficiaries is less than 248, then the group practice must report on 100 percent of assigned beneficiaries. A group practice will be required to report on at least 1 measure for which there is Medicare patient data. Please note that, if the CAHPS for PQRS survey is applicable to a group practice who reports quality measures via the Web Interface, the group practice must administer the CAHPS for PQRS survey in addition to reporting the Web Interface measures.
12-month (Jan 1– Dec 31, 2016)	2–99 EPs; 100+ EPs (if CAHPS for PQRS does not apply)	Individual Measures	Qualified Registry	Report at least 9 measures, covering at least 3 of the NQS domains. Of these measures, if a group practice sees at least 1 Medicare patient in a face-to-face encounter, the group practice would report on at least 1 measure in the PQRS cross-cutting measure set. If less than 9 measures covering at least 3 NQS domains apply to the group practice, the group practice would report on each measure that is applicable to the group practice, AND report each measure for at least 50 percent of the group’s Medicare Part B FFS patients seen during the reporting period to which the measure applies. Measures with a 0 percent performance rate would not be counted.
12-month (Jan 1– Dec 31, 2016)	2–99 EPs that elect CAHPS for PQRS; 100+ EPs (if CAHPS for PQRS applies)	Individual Measures + CAHPS for PQRS	Qualified Registry + CMS-Certified Survey Vendor	The group practice must have all CAHPS for PQRS survey measures reported on its behalf via a CMS-certified survey vendor, and report at least 6 additional measures, outside of the CAHPS for PQRS survey, covering at least 2 of the NQS domains using the qualified registry. If less than 6 measures apply to the group practice, the group practice must report on each measure that is applicable to the group practice. Of the additional measures that must be reported in conjunction with reporting the CAHPS for PQRS survey measures, if any EP in the group practice sees at least 1 Medicare patient in a face-to-face encounter, the group practice must report on at least 1 measure in the PQRS cross-cutting measure set.
12-month (Jan 1– Dec 31, 2016)	2–99 EPs; 100+ EPs (if CAHPS for PQRS does not apply)	Individual Measures	Direct EHR Product or EHR Data Submission Vendor Product	Report 9 measures covering at least 3 domains. If the group practice’s direct EHR product or EHR data submission vendor product does not contain patient data for at least 9 measures covering at least 3 domains, then the group practice must report all of the measures for which there is Medicare patient data. A group practice must report on at least 1 measure for which there is Medicare patient data.
12-month	2–99 EPs that	Individual	Direct EHR Product	The group practice must have all CAHPS for PQRS survey measures reported on its behalf via a CMS-certified survey

Reporting Period	Group Practice Size	Measure Type	Reporting Mechanism	Satisfactory Reporting Criteria
(Jan 1– Dec 31, 2016)	elect CAHPS for PQRS; 100+ EPs (if CAHPS for PQRS applies)	Measures + CAHPS for PQRS	or EHR Data Submission Vendor Product + CMS-Certified Survey Vendor	vendor, and report at least 6 additional measures, outside of CAHPS for PQRS, covering at least 2 of the NQS domains using the direct EHR product or EHR data submission vendor product. If less than 6 measures apply to the group practice, the group practice must report all of the measures for which there is Medicare patient data. Of the additional 6 measures that must be reported in conjunction with reporting the CAHPS for PQRS survey measures, a group practice would be required to report on at least 1 measure for which there is Medicare patient data.
12-month (Jan 1–Dec 31, 2016)	2+ EPs	Individual PQRS measures and/or non-PQRS measures reportable via a QCDR	QCDR	Report at least 9 measures available for reporting under a QCDR covering at least 3 of the NQS domains, AND report each measure for at least 50 percent of the group practice’s patients. Of these measures, the group practice would report on at least 2 outcome measures, OR, if 2 outcomes measures are not available, report on at least 1 outcome measures and at least 1 of the following types of measures—resource use, patient experience of care, efficiency/appropriate use, or patient safety.

### 3. Proposed Modifications to the Satisfactory Reporting Criteria for Individual EPs and Group Practices for the 2018 PQRS Payment Adjustment

Since we finalized these requirements, we have heard from stakeholders that EPs have had difficulty with the previously finalized satisfactory reporting criteria for the CY 2016 reporting period, which is the final reporting period for the PQRS. Specifically, we have heard from stakeholders through written communications to CMS that EPs have found the requirements complex, and had difficulty in understanding the requirements to be a satisfactory reporter for PQRS. Stakeholders have also requested that the requirements for the CY 2016 reporting period be aligned with those of the Quality Payment Program, specifically the Merit-based Incentive Payment System (MIPS). In particular, we have heard requests to lower the previously finalized requirement from 9 measures across 3 NQS domains, where applicable, to only 6 measures with no domain requirement associated with these measures. While the PQRS and the MIPS are separate programs, we understand that stakeholders would like to see greater continuity between the final year of the PQRS and the beginning of the MIPS.

The final reporting period for the PQRS was CY 2016. The Quality Payment Program, authorized by the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA), consolidates and replaces three existing programs (the Medicare EHR Incentive Program for EPs, the PQRS, and the Value-Based Payment Modifier (VM)). There are two ways eligible clinicians can participate in this program: (1) through the MIPS; and (2) through Advanced Alternative Payment Models (APMs). The initial performance period for the MIPS began on January 1, 2017. Under MIPS, there are four connected pillars that affect how MIPS eligible clinicians will be paid by Medicare: Quality; Improvement Activities; Advancing Care

Information; and Cost. For more information on the Quality Payment Program, see <https://qpp.cms.gov/>.

While we understand that the data submission period for the CY 2016 reporting period has already ended and that all data that has been submitted to CMS is based on the previously finalized satisfactory reporting criteria for the CY 2016 reporting period, we are revisiting our previously finalized policy because we want individual EPs and groups to be assessed for purposes of the 2018 PQRS payment adjustment based on satisfactory reporting criteria that are simpler, more understandable, and more consistent with the beginning of MIPS. We believe that such criteria will help clinicians more accurately gauge their readiness for the beginning of MIPS and transition into the Quality Payment Program successfully. Additionally, we want to be responsive to the concerns of the clinician community. Therefore, while we are not proposing to collect any additional data for the CY 2016 reporting period, we are proposing to modify the criteria we would apply to the data already submitted for the CY 2016 reporting period to determine whether an individual EP or group practice has satisfactorily reported for purposes of avoiding the 2018 PQRS payment adjustment. Specifically, we are proposing to revise the previously finalized satisfactory reporting criteria for the CY 2016 reporting period to lower the requirement from 9 measures across 3 NQS domains, where applicable, to only 6 measures with no domain or cross-cutting measure requirement. For individual EPs, this would apply to the following reporting mechanisms: claims, qualified registry (except for measures groups), QCDR, direct EHR product and EHR data submissions vendor product. This proposal would not affect the criteria used to determine whether an individual EP or group practice has satisfactorily reported for purposes of avoiding the 2017 PQRS payment adjustment, with the exception of the criteria applicable to individual EPs and group practices reporting using the secondary reporting

period established under §414.90(j)(1)(ii) for the 2017 PQRS payment adjustment (hereinafter referred to as the “ACO Secondary Reporting Period”), as discussed in section III.F.4. of this proposed rule.

Table 20 summarizes our proposed modifications to the previously finalized satisfactory reporting criteria for individual EPs to avoid the 2018 PQRS payment adjustment, based on data previously submitted for the CY 2016 reporting period. We are not proposing to collect any additional data for the CY 2016 reporting period, as the data submission period for the CY 2016 reporting period has already ended. As summarized in Table 20, the NQS domain requirement would no longer apply. No changes are being proposed for the measures groups criteria.

Additionally, we are also proposing that individual EPs and group practices reporting via claims or qualified registry, as applicable, would no longer be required to report a cross-cutting measure and that individual EPs and group practices reporting via QCDR would no longer be required to report an outcome or “high priority” measure (that is, for purposes of PQRS, a resource use, patient experience of care, efficiency/appropriate use, or patient safety measure). We note that what is considered to be a “high-priority” measure in PQRS is different from what is considered a “high-priority” measure in MIPS, and we are not proposing to align this requirement with MIPS for the last year of PQRS as this could cause confusion. While certain MIPS eligible clinicians are required to report at least one outcome or other high-priority measure (see §414.1335(a)(1)(i)), we are also not aligning with that requirement because, while we agree that outcome and high-priority measures are valuable for reporting, we want to revise the satisfactory reporting criteria for the last year of PQRS to be less complex for individual EPs and groups to understand.

Lastly, where we are proposing to lower the requirement to only 6 measures, if less than 6 measures apply to the individual EP or group practice, each measure that is applicable would need to have been reported. We define “applicable” to mean measures relevant to a particular individual EP’s or group practice’s services or care rendered. As previously finalized, individual EPs and group practices would continue to be subject to the measure application validity (MAV) process (80 FR 71140 through 71145). The MAV process seeks to identify clinically similar measures and creates clusters of measures that can be reported if one of the measures in the cluster is reported. We would maintain the requirement that each required measure be reported for at least 50 percent of the individual EP’s or group practice’s patients to which the measure applies.

**TABLE 20: Summary of Proposed Modifications to the Requirements for the 2018 PQRS Payment Adjustment: Individual Reporting Criteria for the Satisfactory Reporting of Quality Measures Data via Claims, Qualified Registry, and EHRs and Satisfactory Participation Criterion in QCDRs**

Reporting period	Measure type	Reporting mechanism	Proposed Satisfactory Reporting Criteria
12-month (Jan 1– Dec 31, 2016)	Individual Measures	Claims	Report at least 6 measures, AND report each measure for at least 50 percent of the EP’s Medicare Part B FFS patients seen during the reporting period to which the measure applies. If less than 6 measures apply to the EP, the EP must report on each measure that is applicable, AND report each measure for at least 50 percent of the Medicare Part B FFS patients seen during the reporting period to which the measure applies. Measures with a 0 percent performance rate will not be counted (unless they are inverse measures where a lower rate reflects better performance).
12-month (Jan 1– Dec 31, 2016)	Individual Measures	Qualified Registry	Report at least 6 measures, AND report each measure for at least 50 percent of the EP’s Medicare Part B FFS patients seen during the reporting period to which the measure applies. If less than 6 measures apply to the EP, the EP must report on each measure that is applicable, AND report each measure for at least 50 percent of the Medicare Part B FFS patients seen during the reporting period to which the measure applies. Measures with a 0 percent performance rate will not be counted (unless they are inverse measures where a lower rate reflects better performance).
12-month (Jan 1– Dec 31, 2016)	Individual Measures	Direct EHR Product or EHR Data Submission Vendor Product	Report at least 6 measures. If an EP’s direct EHR product or EHR data submission vendor product does not contain patient data for at least 6 measures, then the EP must report all of the measures for which there is Medicare patient data. An EP must report on at least 1 measure for which there is Medicare patient data.
12-month (Jan 1– Dec 31, 2016)	Measures Groups	Qualified Registry	No proposed changes.

Reporting period	Measure type	Reporting mechanism	Proposed Satisfactory Reporting Criteria
12-month (Jan 1– Dec 31, 2016)	Individual PQRS measures and/or non-PQRS measures reportable via a QCDR	QCDR	Report at least 6 measures available for reporting under a QCDR AND report each measure for at least 50 percent of the EP's patients seen during the reporting period to which the measure applies. If less than 6 measures apply to the EP, the EP must report on each measure that is applicable, AND report each measure for at least 50 percent of the EP's patients.



Accordingly, we are proposing to revise §414.90(j)(8) and (k)(5) consistent with our proposals above. We believe these proposals will result in fewer individual EPs being subject to the 2018 PQRS payment adjustment, and will impose no additional burden on individual EPs because this data has already been submitted to CMS. We request comment on these proposals.

As discussed above, while we are not proposing to collect any additional data for the CY 2016 reporting period, we are proposing to modify the satisfactory reporting criteria for the CY 2016 reporting period for purposes of the 2018 PQRS payment adjustment. Specifically, we are proposing to lower the requirement from 9 measures across 3 NQS domains, where applicable, to only 6 measures with no domain or cross-cutting measure requirement. For group practices, this would apply to the following reporting mechanisms: qualified registry; QCDR; direct EHR product; and EHR data submissions vendor product. This proposal would not affect the criteria used to determine whether an individual EP or group practice has satisfactorily reported for purposes of avoiding the 2017 PQRS payment adjustment, with the exception of the criteria applicable to individual EPs and group practices reporting using the ACO Secondary Reporting Period, as discussed in section III.F.4. of this proposed rule.

Table 21 summarizes our proposed modifications to the previously finalized satisfactory reporting criteria for group practices to avoid the 2018 PQRS payment adjustment, based on data previously submitted for the CY 2016 reporting period. We are not proposing to collect any additional data for the CY 2016 reporting period, as the data submission period for the CY 2016 reporting period has already ended. As summarized in Table 21, the NQS domain requirement would no longer apply. No changes are being proposed for the Web Interface criteria.

Additionally, as discussed above, we are proposing that individual EPs and group practices reporting via claims and qualified registry, as applicable, would no longer be required

to report a cross-cutting measure and that individual EPs and group practices reporting via QCDR would no longer be required to report an outcome or high priority measure. We note that what is considered to be a “high-priority” measure in PQRS is different from what is considered a “high-priority” measure in MIPS, and are not proposing to align this requirement with MIPS for the last year of PQRS as this could cause confusion. While certain MIPS eligible clinicians are required to report at least one outcome or other high-priority measure (see §414.1335(a)(1)(i)), we are also not aligning with that requirement because, while we agree that outcome and high-priority measures are valuable for reporting, we want to revise the satisfactory reporting criteria for the last year of PQRS to be less complex for individual EPs and groups.

Where we are proposing to lower the requirement to only 6 measures, if less than 6 measures apply to the individual EP or group practice, each measure that is applicable would need to have been reported. We define “applicable” to mean measures relevant to a particular individual EP’s or group practice’s services or care rendered. As previously finalized, individual EPs and group practices would continue to be subject to the MAV process (80 FR 71140 through 71145). The MAV process seeks to identify clinically similar measures and creates clusters of measures that can be reported if one of the measures in the cluster is reported. We would maintain the requirement that each required measure be reported for at least 50 percent of the individual EP’s or group practice’s patients to which the measure applies.

Lastly, for purposes of the 2018 PQRS payment adjustment, §414.90(j)(9)(viii) currently provides that if the CAHPS for PQRS survey is applicable to the practice, group practices comprised of 100 or more eligible professionals that register to participate in the GPRO must administer the CAHPS for PQRS survey, regardless of the GPRO reporting mechanism selected. For the reasons discussed above, we are proposing to revise §414.90(j)(9)(viii) to provide that

such group practices may administer the CAHPS for PQRS survey, regardless of the GPRO reporting mechanism selected, but are not required to do so. This change would be consistent with the data submission criteria for the MIPS quality performance category, under which groups may voluntarily elect to participate in the CAHPS for MIPS survey (see §414.1335(a)(3)(i)). As summarized in Table 21, the previously finalized satisfactory reporting criteria for group practices administering the CAHPS for PQRS survey would continue to apply to group practices that elected to administer the survey.

**TABLE 21: Summary of Proposed Modifications to the Requirements for the 2018 PQRS Payment Adjustment: Group Practice Reporting Criteria for Satisfactory Reporting of Quality Measures Data via the GPRO**

Reporting Period	Group Practice Size <sup>3</sup>	Measure Type	Reporting Mechanism	Proposed Satisfactory Reporting Criteria
12-month (Jan 1– Dec 31, 2016).	25+ EPs.	Individual GPRO Measures in the Web Interface.	Web Interface.....	No proposed changes.
12-month (Jan 1– Dec 31, 2016).	25+ EPs that elect CAHPS for PQRS.	Individual GPRO Measures in the Web Interface + CAHPS for PQRS.	Web Interface + CMS-Certified Survey Vendor.	No proposed changes.
12-month (Jan 1– Dec 31, 2016).	2+ EPs.	Individual Measures.	Qualified Registry ...	Report at least 6 measures AND report each measure for at least 50 percent of the group’s Medicare Part B FFS patients seen during the reporting period to which the measure applies. If less than 6 measures apply to the group, the group practice must report on each measure that is applicable, AND report each measure for at least 50 percent of the Medicare Part B FFS patients seen during the reporting period to which the measure applies. Measures with a 0 percent performance rate will not be counted (unless they are inverse measures where a lower rate reflects better performance).
12-month (Jan 1– Dec 31, 2016)	2+ EPs that elect CAHPS for PQRS	Individual Measures + CAHPS for PQRS	Qualified Registry + CMS-Certified Survey Vendor	The group practice must have all CAHPS for PQRS survey measures reported on its behalf via a CMS-certified survey vendor. In addition, the group practice must report at least 3 additional measures using the qualified registry AND report each measure for at least 50 percent of the group’s Medicare Part B FFS patients seen during the reporting period to which the measure applies. If less than 3 measures apply to the group practice, the group practice must report on each measure that is applicable, AND report each measure for at least 50 percent of the Medicare Part B FFS patients seen during the reporting period to which the measure applies. Measures with a 0 percent performance rate will not be counted (unless they are inverse measures where a lower rate reflects better performance).
12-month (Jan 1– Dec 31, 2016).	2+ EPs	Individual Measures	Direct EHR Product or EHR Data Submission Vendor Product	Report 6 measures. If the group practice’s direct EHR product or EHR data submission vendor product does not contain patient data for at least 6 measures, then the group practice must report all of the measures for which there is Medicare patient data. A group practice must report on at least 1 measure for which there is Medicare patient data.
12-month (Jan 1– Dec 31,	2+ EPs that elect CAHPS for PQRS	Individual Measures +	Direct EHR Product or EHR Data	The group practice must have all CAHPS for PQRS survey measures reported on its behalf via a CMS-certified survey vendor. In addition, the group practice must report at least 3 additional measures using the direct EHR product or EHR data submission vendor product. If less than 3 measures apply to the group practice, the group

<sup>3</sup> Please note that the group practice size descriptions have been revised for greater consistency with our proposal to make the CAHPS for PQRS survey voluntary.

Reporting Period	Group Practice Size <sup>3</sup>	Measure Type	Reporting Mechanism	Proposed Satisfactory Reporting Criteria
2016).		CAHPS for PQRS.	Submission Vendor Product + CMS-Certified Survey Vendor.	practice must report all of the measures for which there is patient data. Of the additional 3 measures that must be reported in conjunction with reporting the CAHPS for PQRS survey measures, a group practice must report on at least 1 measure for which there is Medicare patient data.
12-month (Jan 1–Dec 31, 2016)	2+ EPs	Individual PQRS measures and/or non-PQRS measures reportable via a QCDR	QCDR	Report at least 6 measures available for reporting under a QCDR AND report each measure for at least 50 percent of the group practice’s patients seen during the reporting period to which the measure applies. If less than 6 measures apply to the group practice, the group practice must report on each measure that is applicable, AND report each measure for at least 50 percent of the group practice’s patients.

Accordingly, we are proposing to revise §414.90(j)(9) and (k)(5) consistent with our proposals above. We believe these proposals will result in fewer group practices being subject to the 2018 PQRS payment adjustment, and will impose no additional burden on group practices because this data has already been submitted to CMS. We request comment on these proposals.

#### 4. Accountable Care Organization (ACO) Participants Who Report PQRS Quality Measures Separately During the Secondary Reporting Period

As discussed in the CY 2017 PFS final rule (81 FR 80441 through 80445), individual EPs and group practices who bill under the TIN of an ACO participant may report separately from the ACO, if the ACO failed to report on behalf of such individual EPs or group practices for the applicable reporting period, during the CY 2016 reporting period for purposes of the 2017 and 2018 PQRS payment adjustments, as applicable. Please note that, in accordance with our previously established policies for the ACO Secondary Reporting Period, our proposed modifications to the satisfactory reporting criteria for individual EPs and group practices for the CY 2016 reporting period would apply to such individual EPs and group practices for purposes of the 2017 PQRS payment adjustment. This proposal would not affect the 2017 PQRS payment adjustment for any other individual EP or group practice.

#### 5. Physician Compare Downloadable Database - Addition of Value Modifier (VM) Data

We previously finalized in the CY 2016 PFS final rule (80 FR 71129 through 71130) a decision to publicly report three data points for the 2018 VM based on 2016 data in the Physician Compare downloadable file in late 2017:

- 2018 VM quality tiers for cost and quality, based on the 2016 data, noting if the EP or group is high, low, or average on cost and quality per the VM.

- A notation of the payment adjustment received based on the cost and quality tiers – upward, downward, or neutral – for each EP or group.
- An indication if the EP or group was eligible to but did not report quality measures to CMS for CY 2016 under PQRS.

In light of the proposals to change the 2016 reporting criteria to avoid the 2018 payment adjustment for PQRS (see section III.F. of this proposed rule) and subsequent VM proposed policies to hold all physician groups and solo practitioners who met minimum quality reporting requirements harmless from downward payment adjustments for performance under quality-tiering for the last year of the program (see section III.I. of this proposed rule), and because the proposed policies for PQRS and VM in this rule would change the nature of how the PQRS data will be used under the VM, we are now proposing not to report this data specific to the VM. Given the fact that VM data would be available for posting in the Physician Compare downloadable database for only one year and the VM data may not reflect an EP or group's actual performance or payment adjustment given they could have chosen to report fewer measures, we believe that proceeding with the posting of this data could be confusing for the public.

Additionally, we have created other VM data files intended to promote transparency. For each VM performance year, we will publish a Public Use File (PUF) that contains VM performance results of de-identified practices. Supporting documentation for each PUF that contains the field name, length, type, label, description, and notes for each variable included in the PUF. The Value Modifier program years 2015 and 2016 (performance year 2013 and 2014) are currently available at <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/VMPUF/Value-Modifier-PUF.html>. In addition, three Research Identifiable

Files (RIFs) for Value Modifier program years 2015 and 2016 (performance year 2013 and 2014) are available through the Research Data Assistance Center (ResDAC) and will be made available for each program year. These files include a practice-level, an NPI-practice level, and a beneficiary-level file, as described at: <https://www.resdac.org/news/cms-creates-set-rif-data-files-support-value-based-payment-modifier-program/2017/06>

All other previously finalized policies related to 2016 PQRS data available for public reporting on Physician Compare in late 2017 remain unchanged (80 FR 71116 through 71132). Appreciating this, we believe the best course of action is to not move forward with publicly reporting this VM data for 2016. All data required to be reported by law will remain available for public reporting as previously finalized (80 FR 71116 through 71132). For more information on the public reporting policies previously finalized and proposed for MIPS, we refer readers to the Medicare Program; Merit-Based Incentive Payment System (MIPS) and Alternative Payment Model (APM) Incentive Under the Physician Fee Schedule, and Criteria for Physician-Focused Payment Models (81 FR 77390 through 77399) and Medicare Program; CY 2018 Updates to the Quality Payment Program (82 FR 30163 through 30170), respectively. We request comment on this proposal and specifically, if we were to release this data, how it could be used by the public.



G. Clinical Quality Measurement for Eligible Professionals Participating in the Electronic Health Record (EHR) Incentive Program for 2016

1. Background

Sections 1848(o), 1853(l) and (m), 1886(n), and 1814(l) of the Act provide the statutory basis for the Medicare incentive payments made to eligible professionals (EPs), Medicare Advantage (MA) organizations (for certain qualifying EPs and hospitals), subsection (d) hospitals, and critical access hospitals (CAHs) that demonstrate meaningful use of certified electronic health record (EHR) technology (CEHRT). Sections 1848(a)(7), 1853(l) and (m), 1886(b)(3)(B), and 1814(l) of the Act also establish downward adjustments to Medicare payments, beginning with calendar or fiscal year (FY) 2015, for EPs, MA organizations, subsection (d) hospitals, and CAHs that are not meaningful users of CEHRT for certain associated reporting periods. Sections 1903(a)(3)(F) and 1903(t) of the Act provide the statutory basis for the Medicaid incentive payments made to EPs and eligible hospitals for the adoption, implementation, upgrade, and meaningful use of CEHRT. We have implemented these statutory provisions in prior rulemakings to establish the Medicare and Medicaid EHR Incentive Programs.

Under these statutory provisions and the regulations at 42 CFR 495.4, one of the requirements of being a meaningful EHR user is successfully reporting the clinical quality measures selected by CMS to CMS or the states, as applicable, in the form and manner specified by CMS or the states, as applicable. Section 1848(o)(2)(B)(iii) of the Act requires that in selecting clinical quality measures (CQMs) for EPs to report under the EHR Incentive Program, and in establishing the form and manner of reporting, the Secretary shall seek to avoid redundant or duplicative reporting otherwise required, including reporting under section 1848(k)(2)(C) of

the Act (the Physician Quality Reporting System). As such, we have taken steps to establish alignments among various quality reporting and payment programs that include the submission of CQMs.

## 2. Clinical Quality Measure (CQM) Requirements for Meaningful Use in 2016

Under sections 1848(o)(2)(A)(iii) and 1903(t)(6)(C)(i)(II) of the Act and the definition of “meaningful EHR user” at §495.4, EPs must report on CQMs selected by CMS using CEHRT, as part of being a meaningful EHR user under the Medicare and Medicaid EHR Incentive Programs. In the final rule titled “Medicare and Medicaid Programs; Electronic Health Record Incentive Program—Stage 3 and Modifications to Meaningful Use in 2015 Through 2017,” we finalized the options for CQM submission for EPs in the Medicare EHR Incentive Program in 2016 as follows (80 FR 62888 through 62889):

- EP Options for Medicare EHR Incentive Program Participation (single program Participation—EHR Incentive Program only):

- ++ Option 1: Attest to CQMs through the EHR Registration & Attestation System.

- ++ Option 2: Electronically report CQMs through Physician Quality Reporting System (PQRS) Portal.

- EP Options for Electronic Reporting for Multiple Programs (for example: EHR Incentive Program plus PQRS participation):

- ++ Option 1: Report individual EP’s CQMs through PQRS Portal.

- ++ Option 2: Report group’s CQMs through PQRS Portal.

(NOTE: Under option 2, this may include an EP reporting using the group reporting option, either electronically using QRDA, or via the GPRO Web Interface.)

For the Medicaid EHR Incentive Program, we specified (80 FR 62888) that states would continue to be responsible for determining whether and how electronic reporting of CQMs would occur, or if they wish to allow reporting through attestation. Any changes that states make to their CQM reporting methods must be submitted through the state Medicaid Health IT Plan (SMHP) process for our review and approval prior to being implemented.

We maintained a requirement that EPs report 9 CQMs covering at least 3 NQS domains (80 FR 62888 through 62889). This requirement was established in the final rule titled “Medicare and Medicaid Programs; Electronic Health Record Incentive Program—Stage 2” (77 FR 54058).

We also continued (80 FR 62888 through 62889) our existing policy that under Medicare, healthcare providers in any year of participation for the EHR Incentive Program for 2015 through 2017 may electronically report CQM data using the options previously outlined for electronic reporting either for single program participation in the Medicare EHR Incentive Program, or for participation in multiple programs if the requirements of the aligned quality program are also met.

We noted that an EHR certified for CQMs under the 2014 Edition certification criteria does not need to be recertified each time it is updated to a more recent version of the eCQMs (80 FR 62889).

### 3. CQM Requirements for EPs and Groups under the Medicare EHR Incentive Program in 2016

As we discussed in section III.F. in this proposed rule, since we finalized these requirements, we have heard from stakeholders through written communications that EPs and groups have found the previously finalized reporting criteria for the CY 2016 reporting period to be complex and had difficulty in understanding the requirements to be a satisfactory reporter,

and these same EPs and groups subsequently requested that the CQM reporting requirements for EPs and groups participating in the Medicare EHR Incentive Program in 2016 who chose to report CQMs electronically through the Physician Quality Reporting System (PQRS) Portal be aligned with those of the Quality Payment Program, specifically the Merit-based Incentive Payment System (MIPS).

Therefore, while we are not proposing to collect any additional data for 2016, we are proposing to change the reporting criteria for EPs and groups who chose to electronically report CQMs through the PQRS Portal for purposes of the Medicare EHR Incentive Program. Specifically, we are proposing to change the reporting criteria from 9 CQMs covering at least 3 NQS domains to 6 CQMs with no domain requirement. We are proposing this change so that the reporting criteria for the Medicare EHR Incentive Program would be in alignment with the modified requirement that we are proposing for the final PQRS reporting period (2016) in section III.F. of this proposed rule, as well as the transition year of the Quality Payment Program. We are proposing that an EP or group who satisfies the proposed reporting criteria may qualify for the 2016 incentive payment under section 1848(o) of the Act and may avoid the downward payment adjustment in 2017 and/or 2018 under section 1848(a)(7)(A) of the Act, depending on the EP or group's applicable EHR reporting period for the payment adjustment year. This proposed change would help maintain alignment with PQRS per the requirement under section 1848(o)(2)(B)(iii) of the Act for the Secretary to seek to avoid redundant or duplicative reporting otherwise required, including reporting under section 1848(k)(2)(C) of the Act (the PQRS). We are not proposing to change the previously finalized requirements for CQM reporting in 2016 for eligible hospitals and CAHs; or the previously finalized requirements for EPs who chose to report CQMs through attestation in 2016 for the Medicare EHR Incentive Program (80

FR 62888). Our reasoning for not proposing to change the eligible hospital or CAH requirements for CQM reporting is because the changes proposed for PQRS in section III.F. of this proposed rule and the policies established for the transition year of the Quality Payment Program would only affect clinicians and groups, and therefore, there is no reason to propose changes to the established policy for eligible hospitals or CAHs. We are not proposing to change the requirements for EPs who reported CQMs through attestation because those who attested were successful, therefore we believe there is no need to change the requirement. Additionally, the Registration and Attestation portal is scheduled to sunset as of October 1, 2017 before this final rule is published.

Lastly, we are also not proposing to change the previously finalized requirements for 2016 for EPs participating in the Medicaid EHR Incentive Program. We have already proposed in “Medicare Program; Hospital Inpatient Prospective Payment Systems for Acute Care Hospitals and the Long-Term Care Hospital Prospective Payment System and Proposed Policy Changes and Fiscal Year 2018 Rates; Quality Reporting Requirements for Specific Providers; Medicare and Medicaid Electronic Health Record (EHR) Incentive Program Requirements for Eligible Hospitals, Critical Access Hospitals, and Eligible Professionals; Provider-Based Status of Indian Health Service and Tribal Facilities and Organizations; Costs Reporting and Provider Requirements; Agreement Termination Notices” that, for 2017, Medicaid EPs would be required to report on any six CQMs that are relevant to the EP’s scope of practice (82 FR 20135). In proposing that change, we indicated that it is our intention to align CQM requirements for Medicaid EPs with requirements under the Medicare quality improvement programs, to the extent practicable. However, we believe that due to the timing of when any changes we might propose for 2016 through this rulemaking would take effect (if finalized), the benefits of

proposing to extend the policy proposed for Medicare EPs for 2016 to Medicaid EPs for 2016 would not be realized, and the burden on states to implement such a policy would be significant. There is no negative payment adjustment for not participating in the Medicaid EHR Incentive Program, so it is likely that applying the proposed policy for Medicare EPs to Medicaid EPs for 2016 would benefit Medicaid EPs only if they are able to submit new data to states for a Medicaid EHR incentive payment for 2016. Because we anticipate that most states will have completed processing and paying 2016 Medicaid EHR incentive payments by the time such a proposal (if finalized) would take effect, we believe that applying this change to the Medicaid EHR Incentive Program for 2016 would significantly burden states. We seek comment on our assessment of the difficulty states might face implementing this policy for 2016 for Medicaid EPs, and on the number of Medicaid EPs who might benefit if we instead decided to apply this policy in the Medicaid EHR Incentive Program for 2016, to the extent that doing so would be legally permissible.

#### H. Medicare Shared Savings Program

Under section 1899 of the Act, we established the Medicare Shared Savings Program (Shared Savings Program) to facilitate coordination and cooperation among health care providers to improve the quality of care for Medicare Fee-For-Service (FFS) beneficiaries and reduce the rate of growth in expenditures under Medicare Parts A and B. Eligible groups of providers and suppliers, including physicians, hospitals, and other health care providers, may participate in the Shared Savings Program by forming or participating in an Accountable Care Organization (ACO). The final rule establishing the Shared Savings Program appeared in the November 2, 2011 **Federal Register** (Medicare Program; Medicare Shared Savings Program: Accountable Care Organizations; Final Rule (76 FR 67802) (hereinafter referred to as the “November 2011 final rule”). A subsequent major update to the program rules appeared in the June 9, 2015 **Federal Register** (Medicare Program; Medicare Shared Savings Program: Accountable Care Organizations; Final Rule (80 FR 32692) (hereinafter referred to as the “June 2015 final rule”). A final rule addressing changes related to the program’s financial benchmark methodology appeared in the June 10, 2016 **Federal Register** (Medicare Program; Medicare Shared Savings Program; Accountable Care Organizations – Revised Benchmark Rebasing Methodology, Facilitating Transition to Performance-Based Risk, and Administrative Finality of Financial Calculations (81 FR 37950) (hereinafter referred to as the “June 2016 final rule”). We have also made use of the annual calendar year (CY) Physician Fee Schedule (PFS) rules to address quality reporting and certain other issues. In addition, in the CY 2017 Quality Payment Program final rule (81 FR 77255 through 77256), we finalized policies related to quality performance category scoring for Merit-Based Incentive Payment System (MIPS) eligible clinicians that participate in the Shared Savings Program. In that final rule, we adopted an APM scoring standard that

reduces burden for eligible clinicians that participate in Shared Savings Program ACOs by using the same quality data reported by the ACO using the the CMS web interface for purposes of the Shared Savings Program to score the MIPS quality performance category for these eligible clinicians.

In this CY 2018 PFS proposed rule, we propose further refinements to the Shared Savings Program rules. This rule includes two proposed modifications to the Shared Savings Program beneficiary assignment methodology: (1) revisions to the assignment methodology under 42 CFR part 425, subpart E to reflect the requirement under section 17007 of the 21<sup>st</sup> Century Cures Act (Pub. L. 114-255, December 13, 2016), that for performance years beginning on or after January 1, 2019, the Secretary determine an appropriate method to assign Medicare FFS beneficiaries to an ACO based on their utilization of services furnished by rural health clinics (RHCs) or federally qualified health centers (FQHCs), and (2) addition of new chronic care management and BHI service codes to our definition of primary care services. In addition, we propose to revise the methodology used in our quality validation audits and the manner in which the results of these audits may be used to adjust an ACO's sharing rate. We also propose to reserve the discretion to redesignate a measure reported through the CMS web interface as pay-for-reporting when substantive changes are made to the measure under the Quality Payment Program.

We also address proposals intended to reduce application burden for stakeholders by reducing certain documentation submission requirements included in the initial Shared Savings Program application and the application for use of the skilled nursing facility (SNF) 3-Day Rule Waiver. We also propose to establish specific procedures to address situations where a Taxpayer Identification Number (TIN) that is an ACO participant in more than one ACO begins to submit



claims for services used in the beneficiary assignment process and becomes out of compliance with the “exclusivity” requirement in §425.306(b)(2). Finally, we propose that, for performance year 2018 and subsequent years, we would only include individually beneficiary identifiable payments made under a demonstration, pilot or time limited program that are final and not subject to further reconciliation in financial calculations related to establishing and updating benchmarks and determining performance year expenditures under the Shared Savings Program.

#### 1. Modifications to the Shared Savings Program Beneficiary Assignment Methodology

##### a. Assignment of Beneficiaries to ACOs That Include RHCs and/or FQHCs

###### (1) Background

###### (a) General Shared Savings Program Assignment Methodology

As originally enacted in the Affordable Care Act, section 1899(c) of the Act requires us to assign FFS beneficiaries to an ACO participating in the Shared Savings Program based on the beneficiary’s utilization of primary care services rendered by physicians participating in the ACO. Medicare FFS beneficiaries do not enroll in the Shared Savings Program or with a particular ACO, and they retain the right to seek Medicare-covered services from any Medicare-enrolled provider or supplier of their choosing. Furthermore, no exclusions or restrictions based on health conditions or similar factors are applied in the assignment of Medicare FFS beneficiaries. Thus, a beneficiary’s choice to receive primary care services during a prior 12 month period (the “assignment window”) furnished by physicians and certain nonphysician practitioners that are ACO professionals in the ACO determines the beneficiary’s assignment to an ACO under the Shared Savings Program.

The regulations governing the assignment methodology under the Shared Savings Program are in part 425, subpart E. Consistent with the statutory requirement to base assignment

on the utilization of primary care services furnished by physicians who are ACO professionals, a beneficiary is eligible for assignment to an ACO under §425.402 if the beneficiary had at least one primary care service during the applicable assignment window furnished by a physician who is an ACO professional in the ACO and who is a primary care physician as defined under §425.20 or has one of the primary specialty designations specified in §425.402(c). This initial process for determining whether a beneficiary is eligible for assignment is referred to as the assignment “pre-step”. Under the first step of the assignment process, a beneficiary who is eligible for assignment to the ACO will be assigned to the ACO if the allowed charges for primary care services furnished to the beneficiary during the assignment window by all primary care physicians who are ACO professionals and non-physician ACO professionals in the ACO are greater than the allowed charges for such services provided during the assignment window by primary care physicians, nurse practitioners, physician assistants, and clinical nurse specialists who are ACO professionals in another ACO or not affiliated with any ACO and are identified by a Medicare-enrolled billing TIN. The second step of the assignment process considers the remainder of beneficiaries who have received at least one primary care service during the assignment window from an ACO physician who is a primary care physician as defined under §425.20 or who has one of the primary specialty designations specified in §425.402(c), but have received no primary care services during the assignment window from a primary care physician, nurse practitioner, physician assistant, or clinical nurse specialist either inside or outside the ACO. These beneficiaries are assigned to the ACO if the allowed charges for primary care services furnished during the assignment window by physicians who are ACO professionals in the ACO with one of the specialty designations specified in §425.402(c) are greater than the allowed charges for primary care services furnished during the assignment window by physicians

with such specialty designations who are ACO professionals in another ACO or who are not affiliated with any ACO and are identified by a Medicare-enrolled billing TIN. Thus, the assignment methodology simultaneously maintains the statutory requirement to focus on physician primary care services in beneficiary assignment, while recognizing the necessary and appropriate role of specialists and non-physician practitioners in providing primary care services, such as in areas with primary care physician shortages.

(b) Retrospective vs Prospective Assignment

As discussed in detail in the November 2011 final rule we finalized a claims-based hybrid approach (called preliminary prospective assignment with retrospective reconciliation) for assigning beneficiaries to an ACO (76 FR 67851 through 67870), which is currently applicable to ACOs participating under Track 1 or Track 2 of the Shared Savings Program. Under this approach, beneficiaries are preliminarily assigned to an ACO at the beginning of a performance year and quarterly thereafter during the performance year, but the final beneficiary assignment is determined after each performance year based on where beneficiaries chose to receive a plurality of their primary care services during the performance year. We adopted this policy because we believe that the methodology balances beneficiary freedom to choose healthcare providers under FFS Medicare during the performance year with the ACO's desire to know in advance about beneficiaries who have chosen to receive such services from practitioners participating in the ACO in the past and who are likely to continue to choose to receive such services during the performance year. Knowing in advance which beneficiaries are likely to receive a plurality of their primary care from ACO practitioners during the performance year gives ACOs greater opportunities to proactively impact the quality and cost of care for beneficiaries who may be assigned to the ACO at the end of the performance year.

In the June 2015 final rule, and in response to stakeholders' suggestions, we implemented an option for ACOs to participate in a new two-sided performance-based risk track, Track 3 (80 FR 32771 through 32781). Under Track 3, beneficiaries are prospectively assigned to the ACO at the beginning of the performance year using the same two-step methodology described previously, based on where the beneficiaries have chosen to receive a plurality of their primary care services during a 12-month assignment window offset from the calendar year that reflects the most recent 12 months for which data are available prior to the start of the performance year. The ACO is held accountable for beneficiaries who are prospectively assigned to it for the performance year. Under limited circumstances, a beneficiary may be excluded from the prospective assignment list during or after the performance year. For example, a beneficiary will be excluded from the prospective assignment list if the beneficiary enrolls in Medicare Advantage during the performance year or no longer lives in the United States or U.S. territories and possessions, based on the most recent available data regarding the beneficiary's residence at the end of the performance year. A beneficiary is not excluded from the ACO's prospective assignment list during the performance year or at the time of reconciliation for most other reasons, such as if the beneficiary chose to receive most or all of his or her primary care during the performance year from providers and suppliers outside the ACO. Additionally, no beneficiaries are added to the ACO's prospective assignment list during the performance year or at the time of reconciliation even if they chose to receive a plurality of their primary care during the performance year from ACO professionals participating in the ACO and were not previously identified on the prospective assignment list. Offering this alternative approach to beneficiary assignment responds to stakeholders who expressed a desire for a prospective assignment approach. These stakeholders believe prospective assignment will provide more certainty about

the beneficiaries for whom the ACO will be held accountable during the performance year, thus enabling ACOs to redesign their patient care processes to more efficiently and effectively improve care for specific FFS beneficiaries rather than for all FFS beneficiaries. We note, however, that such certainty is limited because prospectively assigned beneficiaries who meet the exclusion criteria specified in §425.401(b) during the performance year will not be assigned to the ACO at the end of the year; further, as noted, beneficiaries remain free under FFS Medicare to choose the healthcare providers from whom they receive services.

Finally, in the CY 2017 Physician Fee Schedule final rule (81 FR 80501 through 80510), we further enhanced the claims-based beneficiary assignment methodology by finalizing a policy to incorporate data gathered directly from beneficiaries who designate a “main doctor” they believe is responsible for coordinating their overall care. Beginning in performance year 2017, beneficiaries may designate a provider or supplier as responsible for coordinating their overall care using MyMedicare.gov, a secure, online, patient portal. Notwithstanding the assignment methodology in §425.402(b), beneficiaries who designate an ACO professional whose services are used in assignment as responsible for their overall care will be prospectively assigned to the ACO in which that ACO professional participates, provided the beneficiary meets the eligibility criteria established at §425.401(a) and has had at least one primary care service during the assignment window with an ACO professional in the ACO who is a primary care physician or a physician with one of the primary specialty designations included in §425.402(c). Such beneficiaries will be added prospectively to the ACO’s list of assigned beneficiaries for the subsequent performance year.

(c) Special Assignment Conditions for RHCs and FQHCs

RHCs and FQHCs are facilities that furnish services that are typically furnished in an outpatient clinic setting. Prior to October 1, 2014, FQHCs were paid an all-inclusive rate (AIR) per visit for qualified primary and preventive health services furnished to Medicare beneficiaries. On October 1, 2014, FQHCs began to transition to a new FQHC prospective payment system (PPS). FQHCs were required to use HCPCS coding on all their claims starting on January 1, 2011, to inform the development of the PPS and for limited other purposes, and are now required to use HCPCS coding for payment purposes under the FQHC PPS.

RHCs are paid an AIR per visit for qualified primary and preventive health services furnished to Medicare beneficiaries. Prior to April 1, 2016, RHCs were required to report HCPCS codes for a few services, such as certain preventive services eligible for a waiver of the deductible and/or coinsurance, services subject to frequency limits, and services eligible for payments in addition to the AIR. Effective April 1, 2016, all RHCs are required to report the appropriate HCPCS code for each service furnished during the visit, along with the appropriate revenue code (For additional background, please see the CMS website at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/FQHCPPS/Downloads/RHC-Reporting-FAQs.pdf>).

As we noted in the November 2011 final rule, RHC and FQHC claims contain very limited information concerning the individual practitioner, or even the type of health professional (for example, physician, PA, or NP) who provided the service because this information is not necessary to determine payment rates for services in RHCs and FQHCs (76 FR 67858 through 67861). Therefore, unlike physician fee schedule claims, there is no direct way for us to determine if a claim was for a service furnished by a physician at the RHC or FQHC.

In spite of the difference in claims billing, based on detailed comments from some RHC and FQHC representatives, in the November 2011 final rule, we established a process that allows primary care services furnished in RHCs and FQHCs to be considered in the assignment process for any ACO that includes an RHC or FQHC as an ACO participant. This process is set forth in §425.404. We assign beneficiaries to ACOs that include RHCs or FQHCs as ACO participants in a manner generally consistent with how we assign beneficiaries to other ACOs based on primary care services performed by certain physicians and non-physician practitioners who are ACO professionals in the ACO, as described previously. However, to address the requirement under section 1899(c) of the Act that beneficiaries be assigned to an ACO based on their use of primary care services furnished by physicians, we require ACOs that include RHCs or FQHCs to identify, through an attestation, the physicians that directly provide patient primary care services in their ACO participant RHCs or FQHCs (see §§425.204(c)(5)(iii) and 425.404(a)). We use the combination of the RHC or FQHC ACO participant TIN (and another unique identifier, such as a CCN, where appropriate) and the NPIs of the RHC or FQHC physicians provided to us through the attestation process to identify those beneficiaries who received a primary care service from a physician in the RHC or FQHC and who are therefore eligible to be assigned to the ACO as provided under §425.402(b)(1), which we refer to as the assignment “pre-step”. Then, we assign those beneficiaries to the ACO, using the step-wise assignment methodology under §425.402(b), if they received the plurality of their primary care services, as determined based on allowed charges for the HCPCS codes and revenue center codes included in the definition of primary care services at §425.20, from ACO professionals in the ACO.

The special procedures that we have established for using RHC and FQHC services in the assignment methodology are discussed in detail in the June 2015 final rule (80 FR 32755 through

32756). RHC and FQHC services are billed on an institutional claim form and require special handling to incorporate them into the beneficiary assignment process. For RHCs and FQHCs that are ACO participants, we treat an RHC or FQHC service reported on an institutional claim as a primary care service performed by a primary care physician if the claim includes a HCPCS or revenue center code that is included in the definition of a primary care service at §425.20 and the service was furnished by a physician who was identified as directly providing primary care services on the attestation provided under §425.404(a). All such physicians are considered primary care physicians for purposes of the assignment methodology and no specialty code is required for these claims. If the claim is for a primary care service furnished by someone other than a physician listed on the attestation, we treat the service as a primary care service furnished by a non-physician ACO professional. As a result, all primary care services furnished by an ACO professional in an RHC or FQHC to a beneficiary eligible for assignment to the ACO are considered in step 1 of the assignment methodology. Finally, for RHCs and FQHCs that are not ACO participants, we assume a primary care physician performed all primary care services so that all primary care services furnished by non-ACO RHCs/FQHCs are considered in step 1 of the assignment methodology. We believe this approach helps to ensure that we do not disrupt established relationships between beneficiaries and their caregivers in non-ACO participant RHCs and FQHCs by inappropriately assigning beneficiaries to ACOs that are not primarily responsible for coordinating their overall care.

We developed and implemented these regulatory and operational policies to facilitate full participation of rural providers, including RHCs and FQHCs, in the Shared Savings Program, within the statutory requirements for the program. In general, stakeholders have been appreciative of our policies to include rural providers and suppliers in the Shared Savings



Program. However, some stakeholders have expressed concerns that the special conditions required for us to consider RHC and FQHC institutional claims in beneficiary assignment are burdensome and discourage ACOs from including RHCs and FQHCs as ACO participants in the Shared Savings Program. Stakeholders have commented that the requirement for ACOs that include an RHC or FQHC as an ACO participant to provide an attestation identifying ACO professionals who are physicians who directly furnish primary care services at the RHC or FQHC is particularly burdensome. In addition, due to the operational complexities of collecting identifying information about ACO participants, screening them for program integrity and other potential issues, and incorporating claims data for approved ACO participants into beneficiary assignment and financial calculations, we have implemented a policy that limits the addition of entities to the ACO participant list, absent unusual circumstances, to an annual basis. The limitation also applies to changes to the attestation to identify additional physicians who directly furnish primary care services at an ACO participant RHC or FQHC. In contrast, when a new ACO professional begins billing for primary care services under the TIN of an ACO participant that is not an RHC or FQHC, those services will be considered for purposes of assignment in the current performance year. As a result, there are a number of unique burdens and anomalies in the way in which RHC and FQHC institutional claims are used for purposes of assignment under the Shared Savings Program. First, as noted by stakeholders, the required attestation process for submitting physician identifiers requires more effort to ensure the accuracy of the ACO participant list (including the attestation that includes the physician identifiers) than the level of effort required for ACOs that do not include RHCs and FQHCs. Second, we have recognized that the required attestation process for submitting physician identifiers is also prone to error because some RHCs and FQHCs (particularly rural FQHCs) have multiple locations with

potentially hundreds of NPIs to report which, in turn, increases the likelihood that ACOs that include RHCs or FQHCs as ACO participants will make inadvertent clerical errors, such as transposing digits, in submitting the required information. Errors that are not identified and corrected by the specified deadline for additions to the ACO participant list may result in fewer claims being considered for purposes of assignment under the Shared Savings Program than would otherwise occur.

## (2) Proposals

Section 17007 of the 21st Century Cures Act, amended section 1899(c) of the Act (42 U.S.C. 1395jjj(c)) to require the Secretary to assign beneficiaries to ACOs participating in the Shared Savings Program based not only on their utilization of primary care services furnished by physicians but also on their utilization of services furnished by RHCs and FQHCs, effective for performance years beginning on or after January 1, 2019. The statute provides the Secretary with broad discretion to determine how to incorporate services provided by RHCs and FQHCs into the Shared Savings Program beneficiary assignment methodology.

We believe that the 21st Century Cures Act provides the Secretary with broad discretion to revise the assignment methodology to address the concerns expressed by certain stakeholders regarding the burdens placed on ACOs that include RHCs and FQHCs as ACO participants, as described above. Section 17007 of the 21st Century Cures Act provides that for performance years beginning on or after January 1, 2019, Medicare services furnished in an FQHC or RHC should be considered in beneficiary assignment for the Shared Savings Program, as may be determined by the Secretary. Accordingly, in implementing section 17007 of the 21st Century Cures Act, we believe it would be appropriate to reduce operational burdens for ACOs that include RHCs or FQHCs as ACO participants and bring greater consistency to the operational

method of using claims to assign beneficiaries to ACOs. In order to promote participation of RHCs and FQHCs under the Shared Savings Program, we propose to remove the burdensome attestation requirement and instead treat a service reported on an RHC or FQHC institutional claim as a primary care service furnished by a primary care physician. Consistent with the 21st Century Cures Act, under this proposal: (1) the requirement for an attestation identifying physicians who directly provide primary care services in each RHC or FQHC that is an ACO participant and/or ACO provider/supplier in the ACO would be removed; (2) all RHC and FQHC claims would be used to establish beneficiary eligibility to be assigned to the ACO (pre-step); and (3) all RHC and FQHC claims would be included in step 1. We would note that in considering all services billed under the TIN of the ACO participant RHC or FQHC, we would include services that do not meet the definition of primary care services, and such services would not be limited to those provided by a primary care physician, as defined under program rules. This means that under the proposal, a beneficiary could be furnished services in an RHC and FQHC only by a nurse practitioner, physician assistant, clinical nurse specialist, or any other practitioner in an RHC and FQHC and still be eligible for assignment to the ACO.

More specifically, we are proposing the following changes to our regulations: (1) remove §425.204(c)(5)(iii) in its entirety; (2) revise §425.404; and (3) make conforming changes to the definition of primary care physician found at §425.20. Under our proposal, for performance year 2019 and subsequent performance years, ACOs with ACO participants that are RHCs and FQHCs would no longer be required to submit NPIs or other identifying information for physicians who directly provide primary care services in the ACO participant RHCs and FQHCs as indicated in §425.204(c)(5)(iii)(A) and §425.404(a). Therefore we propose to remove §425.204(c)(5)(iii) in its entirety. Additionally, we propose revisions to §425.402 and §425.404

to reflect that for performance year 2019 and subsequent performance years, we would assign beneficiaries to ACOs based on services furnished in RHCs or FQHCs consistent with the general assignment methodology in §425.402, by treating a service reported on an RHC or FQHC institutional claim in the same way as a primary care service performed by a primary care physician. We also propose to remove revenue center codes from the definition of primary care services (§425.20) for performance year 2019 and subsequent performance years because all RHC and FQHC services will be used for purposes of assignment for benchmark and performance years; therefore, we believe it is appropriate to modify our definition of primary care services for performance year 2019 and subsequent years to no longer include revenue center codes. Additionally, we note that the requirement for an attestation under §425.404 is also referenced in the definition of primary care physician at §425.20; accordingly, we propose to make a conforming revision to that definition to remove the reference to the attestation requirement for performance year 2019 and subsequent years.

Consistent with how we have implemented other changes to the assignment methodology (see, for example, 80 FR 32757 through 32758), we propose to adjust all ACO benchmarks at the start of the first performance year in which the new assignment rules are applied so that the ACO benchmarks reflect the use of the same assignment rules as will apply in the performance year. Also consistent with how we have implemented previous changes to the Shared Savings Program assignment methodology, we would use the new methodology each time assignment is determined for purposes of performance year 2019, including using the new methodology in late CY 2018 to determine the eligibility of ACOs wishing to enter into or renew a participation agreement beginning January 1, 2019. Under the Shared Savings Program, ACOs must have and maintain at least 5,000 assigned beneficiaries.

We believe this proposal would reduce administrative burden for ACOs that include RHCs or FQHCs as ACO participants and support our policy goal of assigning beneficiaries to the entity that is primarily responsible for the beneficiary's overall care. That is, including all services furnished by RHCs or FQHCs to establish beneficiary eligibility to be assigned to an ACO (pre-step) and in the stepwise assignment methodology should help to ensure that a beneficiary is assigned to an ACO when the ACO participants in that ACO are providing the plurality of care for that beneficiary and thus the ACO should be accountable for the patient's overall care.

We welcome comments on our proposal to: (1) remove §425.204(c)(5)(iii) and modify §425.402 and §425.404, for performance year 2019 and subsequent performance years, to eliminate the requirement for ACOs that include an RHC or FQHC as an ACO participant to provide an attestation identifying physicians who directly provide primary care services in each RHC or FQHC that is an ACO participant and/or ACO provider/supplier in the ACO, and make conforming changes to the definition of primary care physician at §425.20; and (2) for performance year 2019 and subsequent performance years, to: (a) use all claims submitted by RHCs and FQHCs in the "pre-step" of the assignment methodology under §425.402 to determine whether a beneficiary is eligible for assignment to an ACO participating in the Shared Savings Program, (b) treat a service reported on an RHC or FQHC claim as if it were a primary care service performed by a primary care physician, and (c) remove revenue center codes from the definition of primary care services.

We recognize the unique needs and challenges of rural and underserved communities and the important role played by providers and suppliers serving these communities in assuring access to primary health care. RHCs, FQHCs, and other providers furnishing care in rural and

underserved communities play an important role in the nation's health care delivery system by serving as safety net providers of primary care and other health care services, and we believe these proposed changes will enhance their ability to participate in the Shared Savings Program. We also invite suggestions on how we might further support participation of RHCs and FQHCs in the Shared Savings Program.

#### b. Revisions to the Definition of Primary Care Services

##### (1) Background

Section 1899(c) of the Act requires the Secretary to assign beneficiaries to an ACO "based on their utilization of primary care services" provided by a physician. However, the statute does not specify which kinds of services may be considered primary care services for this purpose, nor the amount of those services that would be an appropriate basis for making assignments. In this section of this proposed rule, we summarize how we currently identify the appropriate primary care services on which we base assignment. In addition, we propose a revision to our current policies for defining primary care services for purposes of beneficiary assignment, consistent with our statement in the November 2011 final rule (76 FR 67853), that we intended to monitor this issue and would consider making changes to the definition of primary care services to add or delete HCPCS codes used to identify primary care services, if there were sufficient evidence that revisions were warranted.

We currently define primary care services for purposes of the Shared Savings Program in §425.20 as the set of services identified by the following HCPCS/CPT codes: 99201 through 99215, 99304 through 99318 (excluding claims including the POS 31 modifier), 99319 through 99340, 99341 through 99350, 99495, 99496, 99490, the Welcome to Medicare visit (G0402), and the annual wellness visits (G0438 and G0439). In addition, we have established a cross-

walk for these codes to certain revenue center codes used by FQHCs (for services furnished prior to January 1, 2011) and RHCs so that their services can be included in the beneficiary assignment process. Lastly, we include G0463 for services furnished in electing teaching amendment (ETA) hospitals.

In the November 2011 final rule (76 FR 67853), we established the initial list of codes that we considered to constitute primary care services for several reasons. First, we believed the listed codes represented a reasonable approximation of the kinds of services that are described by the statutory language which refers to assignment of “Medicare fee-for-service beneficiaries to an ACO based on their utilization of primary care services” furnished by physicians. In addition, we selected this list to be largely consistent with the definition of primary care services in section 5501 of the Affordable Care Act. That section establishes the Primary Care Incentive Payment Program to expand access to primary care services, and thus its definition of primary care services provides a compelling precedent for adopting a similar list of codes for purposes of the beneficiary assignment process under the Shared Savings Program. We slightly expanded the list of codes found in section 5501 of the Affordable Care Act to include the Welcome to Medicare visit (HCPCS code G0402) and the annual wellness visits (HCPCS codes G0438 and G0439) as primary care services for purposes of the Shared Savings Program. These codes clearly represent primary care services frequently received by Medicare beneficiaries, and in the absence of the special G codes the services provided during these visits would be described by one or more of the regular office visit codes that are included in the list under Section 5501 of the Affordable Care Act.

In the June 2015 final rule (80 FR 32746 through 32748), we expanded the definition of primary care services to include two transitional care management (TCM) codes (CPT codes

99495 and 99496), and one chronic care management (CCM) code, (CPT 99490). As discussed in the final rule, the TCM codes were established to pay a patient's physician or practitioner to coordinate the patient's care in the 30 days following a hospital or skilled nursing facility (SNF) stay. Including these codes in the definition of primary care services reflects our belief that the work of community physicians and practitioners in managing a patient's care following discharge from a hospital or nursing facility to ensure better continuity of care for these patients and help reduce avoidable readmissions is a key aspect of primary care.

In the CY 2017 PFS Final Rule, we finalized a separate payment for three additional CCM service codes, CPT codes 99487 and 99489 (see 81 FR 80251), and an additional add-on code G0506 (see 81 FR 80245), to support care management for the most complex and time-consuming cases of beneficiaries with multiple chronic conditions. These codes are used to report complex CCM services furnished to patients with multiple (two or more) chronic conditions. CCM services generally include regular development and revision of a plan of care, communication with other treating health professionals, and medication management. We explained in the CY 2017 PFS final rule that we believe the addition of the complex CCM codes will retain elements of the CCM service that are characteristic of the changes in medical practice toward advanced primary care, while eliminating redundancy, simplifying provision of the services, and improving access to the services. Additional explanation of required elements for billing CCM services can be found in the CY 2017 PFS Final Rule (81 FR 80243 through 80251).

Finally, in the 2017 PFS final rule (81 FR 80230 through 80243), we finalized a policy to make separate payments to physicians and non-physician practitioners for behavioral health integration (BHI) services they furnish to beneficiaries over a calendar month service period



using four new Medicare Part B billing codes. Three of these BHI codes (G0502, G0503, G0504) are used to bill for monthly services furnished using the Psychiatric Collaborative Care Model (CoCM), an approach to BHI shown to improve outcomes in multiple studies. CoCM is a model of BHI that enhances “usual” primary care by adding two key services: care management support for patients receiving behavioral health treatment; and regular psychiatric inter-specialty consultation to the primary care team, particularly regarding patients whose conditions are not improving. The fourth BHI service code (G0507) is used to bill monthly services furnished using BHI models of care other than CoCM that similarly include “core” service elements such as systematic assessment and monitoring, care plan revision for patients whose condition is not improving adequately, and a continuous relationship with a designated care team member. The BHI service codes may be billed by the treating practitioner. Physicians billing for these services would typically be primary care physicians, but may be of another specialty such as cardiology or oncology. Non-physician practitioners (PAs, NPs, CNSs, or CNMs), may also bill for these services.

## (2) Proposals

As discussed above, we previously finalized the inclusion of CCM code 99490 in the definition of primary care services for the Shared Savings Program. For the same reason that we included CCM code 99490, we believe that it would be also be appropriate to include the complex CCM service codes 99487, 99489, and G0506 in the definition of primary care services and to utilize these codes in the beneficiary assignment methodology under the Shared Savings Program beginning in 2018 for performance year 2019 and subsequent years. These three additional CCM codes reflect the changes in medical practice toward advanced primary care and differ from each other only in the amount of clinical staff service time provided; the complexity

of medical decision-making as defined in the Evaluation and Management guidelines (determined by the problems addressed by the reporting practitioner during the month); and the nature of care planning that was performed (establishment or substantial revision of the care plan for complex CCM versus establishment, implementation, revision, or monitoring of the care plan for non-complex CCM).

In addition, we believe that it would be also be appropriate to include the four BHI codes G0502, G0503, G0504 and G0507 in the definition of primary care services and to utilize these codes in the beneficiary assignment methodology under the Shared Savings Program beginning in 2018 for performance year 2019 and subsequent years. These BHI codes reflect important enhancements in primary care to support improvement and integration of care provided for patients receiving behavioral health treatment. As discussed above, the BHI service codes may be billed by the treating practitioner (a physician and/or non-physician practitioner (PA, NP, CNS, CNM)). Physicians billing for these services would typically be primary care physicians, but may be of another specialty such as cardiology or oncology. (See fact sheet available on our website at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/Downloads/Behavioral-Health-Integration-Fact-Sheet.pdf>.)

Therefore, we propose to revise the definition of primary care services currently located in §425.20 to include three additional CCM service codes 99487, 99489, and G0506, and four BHI service codes G0502, G0503, G0504 and G0507, beginning in 2018 for performance year 2019 and subsequent performance years and to include these codes when performing beneficiary assignment under §425.402. In addition, we propose to move the list of service codes currently listed in the definition in §425.20 to §425.400(c). We believe §425.400, which specifies general requirements related to the assignment methodology and currently contains a cross-reference at

§425.400(c) to the definition of primary care services under §425.20, is the more appropriate place to specify the particular primary care codes that will be considered in the assignment methodology. We also propose to reorganize the list of service codes, grouping HCPCS codes, G codes, and revenue center codes together, respectively, by relevant performance year(s). We seek comments on this proposal. In addition, we seek comments as to whether there are any additional existing HCPCS/CPT codes, that we should consider adding to the definition of primary care services in future rulemaking for purposes of assignment of beneficiaries to ACOs under the Shared Savings Program.

We also propose to remove paragraph (3) from the definition of primary care services. Paragraph (3) indicates that we will include additional codes designated by us as primary care services, including new HCPCS/CPT and revenue center codes and any subsequently modified or replacement codes for the HCPCS/CPT and revenue center codes identified in the definition. We finalized this policy in the June 2015 final rule (80 FR 32746), explaining that it was intended to promote flexibility for the Shared Savings Program and allow us to respond more quickly to HCPCS/CPT coding changes made in the annual PFS rulemaking process. We now believe this paragraph which directs CMS to respond to HCPCS/CPT coding changes through rulemaking is unnecessary because we always have the flexibility to propose, through the annual PFS rulemaking (or other rulemaking for the Shared Savings Program), to make changes to the definition of primary care services to reflect HCPCS/CPT coding changes made elsewhere in the same PFS rulemaking or in a previous PFS final rule. We therefore believe it would be reasonable to remove this paragraph rather than move it to subpart E under part 425 along with the other paragraphs making up the definition of primary care services.

## 2. ACO Quality Reporting

a. Changes to the Quality Measure Set Used in Establishing the Quality Performance Standard

(1) Background

Section 1899(b)(3)(A) of the Act requires the Secretary to determine appropriate measures to assess the quality of care furnished by ACOs, such as measures of clinical processes and outcomes; patient and, wherever practicable, caregiver experience of care; and utilization, such as rates of hospital admission for ambulatory sensitive conditions. Section 1899(b)(3)(B) of the Act requires ACOs to submit data in a form and manner specified by the Secretary on measures that the Secretary determines necessary for ACOs to report to evaluate the quality of care furnished by ACOs. Section 1899(b)(3)(C) of the Act states that the Secretary shall establish quality performance standards to assess the quality of care furnished by ACOs and seek to improve the quality of care furnished by ACOs over time by specifying higher standards, new measures, or both. We designate the quality performance standard that will apply for each performance year. The quality performance standard is the overall standard the ACO must meet in order to be eligible for shared savings.

In the November 2011 final rule (76 FR 67973), we initially established a quality performance standard consisting of 33 measures across 4 domains (see §425.502(d)), including patient experience of care, care coordination/patient safety, preventive health, and at-risk population and a methodology for scoring the measures submitted by ACOs (see §425.502(e)). Quality measures are submitted by the ACO through the CMS web interface, calculated by us from administrative and claims data, and collected via a patient experience of care survey based on the Clinician and Group Consumer Assessment of Healthcare Providers and Systems (CG-CAHPS) survey. To qualify for shared savings (see §§425.604(c), 425.606(c), and 425.610(c)), an ACO must meet or exceed its minimum savings rate, meet the minimum quality performance

standards established under §425.502, and otherwise maintain its eligibility to participate in the Shared Savings Program. For example, under the regulation at §425.604(d), an ACO participating in the Shared Savings Program under Track 1 that meets all the requirements for receiving shared savings payments will receive a shared savings payment of 50 percent of all savings under the updated benchmark (up to the performance payment limit).

Since the November 2011 Shared Savings Program final rule, we have continued to review the quality measures used for the Shared Savings Program to ensure that they are up to date with current clinical practice and are aligned with the CMS web interface reporting for PQRS, and most recently, with reporting requirements under the Quality Payment Program . Through the annual rulemaking for the PFS we have reviewed and updated the quality measures reported by ACOs through the CMS web interface, including adding new measures and retiring measures that were redundant or no longer met the goals for group reporting, and ensuring that the ACO CMS web interface reported measures align with the measures reported through the CMS web interface by group practices in other CMS initiatives such as PQRS and the Quality Payment Program. The quality measure set currently includes 31 quality measures (see Tables 42 and 43 at 81 FR 80488 and 80489). To avoid confusion and duplication of rulemaking, and reduce provider burden, we also finalized a policy in the 2017 PFS final rule that future changes to the CMS web interface measure will be made through rulemaking for the Quality Payment Program and will be applicable to ACO quality reporting under the Shared Savings Program (81 FR 80499 and 80500). Under the APM scoring standard finalized in the CY 2017 Quality Payment Program final rule (81 FR 77255 through 77256), measures reported by Shared Savings Program ACOs through the CMS web interface will also be used to determine the Merit-Based

Incentive Payment System (MIPS) quality performance category score for eligible clinicians participating in a Shared Savings Program ACO in 2017.

When scoring ACO quality performance in the Shared Savings Program, we designate a performance benchmark and minimum attainment level for each measure. Performance below the minimum attainment level for a measure will receive zero points for that measure and performance equal to or greater than the minimum attainment level for the measure will receive points on a sliding scale based on the level of performance. We update the quality performance benchmarks every 2 years. For the first performance year of an ACO's first agreement period, we define the quality performance standard at the level of complete and accurate reporting for all quality measures. During subsequent performance years of the ACO's first agreement period, the quality performance standard is phased in such that the ACO must continue to report all measures but the ACO will be assessed on performance based on the quality performance benchmark and minimum attainment level for certain measures that are designated a pay for performance. The quality performance standard that applies to an ACO's final year in its first agreement period also applies for each performance year of an ACO's subsequent agreement period. A newly introduced measure is set at the level of complete and accurate reporting for the first 2 reporting periods the measure is required. For subsequent reporting periods, the quality performance standard for the measure will be assessed according to the phase-in schedule for the measure. Pay for reporting measures are worth 2 points each for complete and accurate reporting, whereas pay for performance measures are worth 0-2 points based on ACO performance compared to the established benchmark. The EHR measure (ACO-11), however, is double-weighted and ACOs can earn up to 4 points based on their performance on this measure.

Additionally, as discussed in the CY 2016 PFS final rule with comment period (see 80 FR 71269), occasionally issues arise with measures that cause us to reevaluate whether it is appropriate to hold an ACO accountable for performance on a measure. For instance, in the CY 2015 PFS final rule with comment period we retired measures that were no longer consistent with updated clinical guidelines for cholesterol targets, but we were unable to finalize retirement of the measures for the 2014 reporting year due to the timing of the guideline updates and rulemaking cycle. Because these measures did not align with updated clinical guidance, in February 2015, we issued an update to the guidance document on the Medicare Shared Savings Program Quality Measure Benchmarks for the 2014 Reporting Year that maintained these measures, including the Diabetes Composite measure, as pay for reporting for the 2014 reporting year. In order to address such issues in the future, we finalized a policy in the CY 2016 PFS final rule with comment period (80 FR 71269) under which we reserve the right to maintain a measure as pay for reporting or revert a pay for performance measure to pay for reporting when the measure owner determines the measure no longer aligns with clinical practice or continued application of the measure may result in patient harm (see §425.502(a)(5)).

## (2) Proposals

As previously noted in the background section, we finalized a policy that future changes to the CMS web interface measures will be adopted through rulemaking for the Quality Payment Program and will be applicable to ACO quality reporting under the Shared Savings Program (81 FR 80501). We also note that, as discussed in the CY 2017 Quality Payment Program final rule with comment period (81 FR 77136), section 1848(q)(2)(D)(i)(II) of the Act requires the Secretary to update the final list of quality measures from the previous year (and publish an updated list in the Federal Register) annually. Updates may include the removal of quality

measures the addition of new quality measures, and the exclusion of existing quality measures that the Secretary determines have gone through substantive changes. In the CY 2017 Quality Payment Program final rule with comment period, we indicated that in the future we would use rulemaking for the MIPS program to address substantive changes to measures (81 FR 77143). On June 20, 2017, HHS issued a proposed rule that includes a number of proposals to revise certain policies under the Quality Payment Program for CY 2018, including a proposal to make substantive changes to several measures reported through the CMS web interface. For example, substantive changes are proposed for the way ACO-17 Tobacco Use: Screening and Cessation Intervention measure rate is calculated via the CMS web interface (see Table E, 82 FR 30469). This measure was originally developed as a two-part measure: the first part of the measure assessed whether a patient had been screened for tobacco use within the past 24 months; the second part of the measure assessed whether those who had been screened and identified as tobacco users in the first part of the measure also received tobacco cessation intervention (either counseling and/or pharmacotherapy). To date, the two parts of the measure have been combined into a single performance rate. We have identified two notable limitations with this approach, including (1) the performance rate does not show the difference in performance with respect to how well clinicians adhere to performing tobacco use screenings and how well clinicians follow the guidelines to provide tobacco cessation interventions, and (2) the measure is topped out, meaning it continuously shows a high performance rate. The changes to the measure proposed in the CY 2018 Quality Payment Program proposed rule would not modify the sampling methodology or the data reported into the CMS web interface. The proposed changes would simply revise the measure specifications to measure the percent of tobacco users that received cessation counseling; instead of measuring a combined performance rate for beneficiaries that



were screened for tobacco use and for the subset of beneficiaries that are tobacco users that received tobacco cessation counseling.

Substantive changes to other CMS web interface measures are also proposed. A substantive change is proposed to the Influenza Immunization measure (ACO-14), however, the changes apply only to the Registry and EHR data submission methods and not the CMS web interface reporting method (82 FR 30472). Finally, a substantive change is proposed for the Body Mass Index Screening and Follow-Up Plan (ACO-16); specifically, the frequency of documenting BMI will change from 6 to 12 months (82 FR 30471).

Consistent with how we have addressed previous changes to measures, we reviewed the proposed substantive changes to the CMS web interface measures proposed in the CY 2018 Quality Payment Program proposed rule to assess whether the changes, if finalized, would warrant a change in how the measures are used to assess ACO performance under the Shared Savings Program. As part of this review, we considered whether the proposed substantive changes might raise sampling issues or require that we recalculate the measure benchmarks for purposes of the Shared Savings Program. Based on our preliminary review of the Quality Payment Program proposals, we believe the proposed “substantive” changes to the CMS web interface measures would not require that we revert these measures to pay for reporting for the 2018 performance year. The Quality Payment Program proposals do not appear to modify the current structure and reporting of the measures for which substantive changes are proposed; rather, in the case of the Tobacco Use: Screening and Cessation Intervention measure, the proposed change would only modify the way the data are manipulated and calculated after the data are submitted. Similarly, we do not believe that the proposed substantive change to the BMI measure to change the frequency of reporting would impact an ACO’s ability to perform well

compared to the established benchmark for this measure. Finally, the substantive change to the Influenza Immunization measure does not apply to the CMS web interface reporting method. Therefore, we believe that we will have the data necessary from past submission periods to calculate appropriate benchmarks that could be used to assess ACO performance for the CMS web interface measures under consideration for performance year 2018 and subsequent years. Additionally, the recalculation of the benchmark coincides with the biannual timing of the benchmark updates. Therefore, if the proposed changes to the measures are finalized under the Quality Payment Program, we do not believe it would be necessary or appropriate, to revert the measures to pay for reporting under the Shared Savings Program. Instead, we believe it would be appropriate under the Shared Savings Program to: (1) update the measure specifications through subregulatory guidance in order to continue to align the measures with the measure specifications used under the Quality Payment Program and Million Hearts initiative, and (2) retain the current phase-in schedule for the measures rather than redesignating any of the measures as pay for reporting.

Because the particular substantive changes that are proposed in the CY 2018 Quality Payment Program proposed rule do not appear to change the information that must be collected for these measures (which makes it possible for us to use data submitted previously to determine prior performance under the new measure rate, and therefore calculate an appropriate prospective quality benchmark), we do not believe any changes to the measures' phase-in schedules are necessary. However, the statutory directive under the Quality Payment Program to address substantive changes to measures in rulemaking and the proposals in the CY 2018 Quality Payment Program proposed rule to address substantive changes to certain web interface measures have caused us to evaluate what recourse we might have in the future under the Shared

Savings Program rules to modify a measure's phase-in in instances where a substantive change to the measure makes it inappropriate to hold ACOs accountable for performance on a measure that has been substantively modified. We anticipate that there could be future substantive changes to the CMS web interface measures made under the Quality Payment Program that would give us reason to redesignate a measure as pay-for-reporting under the Shared Savings Program. Currently, although the Shared Savings Program rules afford flexibility to redesignate a measure as pay for reporting when the measure owner determines the measure no longer aligns with clinical practice or causes patient harm, there is no discretion to modify how we assess CMS web interface measures in the event substantive changes are made to those measures under the Quality Payment Program that make it inappropriate to hold ACOs accountable for performance on the measure. Given the timing of the Quality Payment Program proposals in relationship to the timing for when the quality performance benchmarks must be established under the Shared Savings Program, it may in some cases be necessary to have flexibility to designate a pay for performance measure as pay for reporting just before or following the start of a performance year outside of the formal rulemaking process, consistent with the way in which we have redesignated measures in the past when measure owners have made changes after the start of a performance year. Accordingly, we believe it would be appropriate to modify the Shared Savings Program regulations to provide additional flexibility to address substantive changes to CMS web interface measures that are made under the Quality Payment Program and to continue to facilitate alignment of measures with the Quality Payment Program and other CMS initiatives.

We are therefore proposing to modify §425.502(a)(5) to include the right for CMS to redesignate a measure as pay-for-reporting when a substantive change to a CMS web interface

measure is made under the Quality Payment Program. This proposed revision would supplement CMS's existing discretion to redesignate a measure as pay-for-reporting when the measure owner determines the measure no longer aligns with clinical practice or causes patient harm. Specifically, we are proposing to revise the regulation at §425.502(a)(5) to reserve CMS's right to redesignate CMS web interface measures that have undergone a substantive change as determined under the Quality Payment Program to pay-for-reporting status. Such measures would not necessarily be automatically redesignated as pay for reporting when a substantive change occurs (for example, as indicated previously, we do not believe the currently proposed substantive changes present an impediment to holding ACOs accountable for performance on these measures in performance year 2018 and subsequent years); however, in the future, substantive changes made to CMS web interface measures under the Quality Payment Program (such as when the substantive change to a measure results in an issue with sampling, calculating performance, or the calculating the quality benchmark) may make it inappropriate to hold an ACO accountable for performance on the measure for the time needed for CMS to obtain the information necessary to calculate a quality benchmark for the substantively changed measure in advance of a performance year and/or until ACOs gain experience reporting the measure, as substantively changed. Although we expect to conduct at least a preliminary assessment of any substantive changes to the CMS web interface measures as part of the annual PFS rulemaking in order to determine whether any change to the phase in schedule for a measure is warranted, because we cannot always anticipate the types of substantive changes that may be finalized under the Quality Payment Program or the effect of those changes on our ability to calculate performance on the measure, this proposal would provide us with additional flexibility to redesignate existing measures undergoing a substantive change as pay-for-reporting on a

measure by measure basis. We believe this additional flexibility would enable us to more appropriately assess ACO quality performance, by ensuring that ACOs are not held accountable for performance on a measure when substantive changes to that measure affect our ability to assess performance on that measure appropriately. Otherwise, ACOs could be inappropriately held accountable for performance on such measures until such time as we could undertake rulemaking to modify the phase-in schedule for the measure. As with redesignations that occur when the measure owner determines the measure no longer aligns with clinical practice or causes patient harm, redesignations that occur due to substantive changes to a measure would be communicated to ACOs as soon as possible through operational documents and other typical methods we use to communicate with ACOs. We invite comments on this proposal.

#### b. Further Refining the Process Used to Validate ACO Quality Data Reporting

##### (1). Background

In the November 2011 final rule, we finalized a proposal to retain the right to validate the quality measure data ACOs enter into the web interface (76 FR 67893 through 67894). We believe that the data validation process implicitly incentivizes ACOs to keep organized and up-to-date medical records and is necessary to protect against gaming. This validation process, referred to as the Quality Measures Validation audit, was based on the process used in Phase I of the Physician Group Practice (PGP) demonstration. The policy was finalized at §425.500(e) and involved a process under which we selected a subset of web interface measures and a random sample of 30 confirmed and completely reported beneficiaries for each measure in the subset. The ACO was required to provide medical records to support the data reported in the web interface for those beneficiaries. A measure-specific audit performance rate was then calculated using a multi-phased audit process. If at the conclusion of the third phase there was a

discrepancy greater than 10 percent between the quality data reported and the medical records provided during the audit, the ACO was not given credit for meeting the quality target for any measure(s) for which the mismatch rate existed.

In the CY 2017 PFS final rule (81 FR 80489 through 80492), we revisited the quality validation audit process and finalized several significant changes as a result of our experience in conducting audits and in an effort to increase the statistical rigor of the audit methodology while streamlining audit operations. We expressed our intent to align the quality measures validation audit used in the Shared Savings Program more closely with other CMS quality program audits, including those performed in the Physician Quality Reporting Program and the Hospital Inpatient and Outpatient Quality Reporting programs. We therefore finalized four improvements to our audit process that addressed the number of records to be reviewed per measure, the number of audit phases, the calculation of an audit match rate and the consequences if the audit match rate falls below 90 percent. Specifically, we finalized a policy under which we will audit enough medical records to achieve a 90 percent confidence interval; conduct the audit in a single phase; and calculate an overall audit performance rate. If at the conclusion of the audit process the overall match rate between the quality data reported and the medical records provided by the ACO is less than 90 percent, absent unusual circumstances, we will adjust the ACO's overall quality score proportional to the ACO's audit performance. The audit-adjusted quality score is calculated by multiplying the ACO's overall quality score by the ACO's overall audit match rate. For example, if an ACO's quality score is 75 percent and the ACO's audit match rate is 80 percent, the ACO's audit-adjusted quality score would be 60 percent. The audit-adjusted quality score is the quality score that will be used to determine the percentage of any earned savings that the ACO may share or the percentage of any losses for which the ACO is accountable. We note

that under the revised audit methodology, our intent was to continue to audit a subset of ACOs, which we would identify by looking for data anomalies such as high skip rates, although we have flexibility to randomly select ACOs or specific measures for audit as we have done in the past.

We also finalized a new requirement at §425.500(e)(3) that an ACO that has an audit match rate of less than 90 percent may be required to submit a corrective action plan (CAP) under §425.216 for our approval. In the CAP, the ACO would be required to explain the reasons for the low audit match rate and how it plans to improve the accuracy of its quality reporting in the future. In addition, we noted that we maintain the right, as described in §425.500(f), to terminate or impose other sanctions on any ACO that does not report quality data accurately, completely, or timely. We indicated that we would begin applying these policies to the quality validation audits beginning in 2017 with the quality validation audits of quality reporting for the 2016 performance year.

## (2). Proposals

Since publication of the CY 2017 PFS final rule, we have gained additional experience with the quality validation audits, and have performed additional analyses related to these audits. Our analysis of the 2016 quality measure validation audit results for Shared Savings Program ACOs indicates that the average match rate of ACOs audited in calendar year 2016 was 72 percent and the median performance was 80 percent. Typically, during the audit, we review medical record documentation and work with ACOs to better understand the mismatch between what was reported and what was documented and have determined through our analyses that ACOs continue to experience challenges in understanding certain aspects of the measure specifications, coordinating collection of information across many different providers and practices, and satisfying the requirements for supporting documentation. Many of these errors

are not indicative of poor quality of care but rather reflect minor errors in process or in understanding measure requirements. For instance, we have identified errors by individuals abstracting data from the medical record. In one case, a medical record abstractor incorrectly misinterpreted the less than symbol (<) in the quality measure specifications for the ACO-31 Heart Failure: Beta Blocker Therapy for Left Ventricular Systolic Dysfunction and ACO-33 Angiotensin-Converting Enzyme (ACE) Inhibitor or Angiotensin Receptor Blocker (ARB) Therapy, and therefore, abstracted the data incorrectly for reporting.

Under our newly finalized single-phase approach to quality validation audits, minor errors are more likely to affect the final audit results and impact the calculation of shared savings or shared losses when the overall match rate is below 90 percent. Additionally, we note that the match rate threshold under the Hospital Inpatient Quality Reporting (HIQR) Program is 75 percent. The HIQR validates data submitted by hospitals, which are entities that generally have more experience with quality reporting, greater health record accessibility and integration, and a longer history of validation of quality data submitted to CMS.

In light of our analyses of the 2016 quality measure validation audit results, we believe it is appropriate to consider making additional modifications to our quality validation audit process. First, we are concerned that the 90 percent match rate adopted in CY 2017 PFS final rule may be too high and could inappropriately penalize ACOs that make quality data reporting errors that are unrelated to care quality. In the early years of phasing in this new audit methodology, we believe that the match rate should instead be based on actual ACO experience in order to focus on holding ACOs accountable for clinically related mismatches in reporting quality measures as they continue to gain experience with how to measure, report and improve quality under the program. We believe that basing the audit match rate threshold on actual



validation audit results would strike an appropriate balance between ensuring the accuracy of ACO quality reporting while not unduly penalizing ACOs for minor quality reporting errors that are not necessarily indicative of poor quality care. Accordingly, we believe it would be appropriate to set the audit match rate threshold based on the median match rate (80 percent) for ACOs audited in calendar year 2016 rather than an alternative approach such as the mean match rate because the median match rate would be less affected by data outliers. Therefore, we are proposing to revise §425.500(e)(2) to indicate that if an ACO has a match rate below 80 percent, absent unusual circumstances, we would adjust the ACO's overall quality score proportional to the ACO's audit performance.

Second, we propose to amend the method by which we adjust an ACO's overall quality score to reflect the ACO's audit performance. Specifically, we propose to revise the methodology described in the 2017 PFS final rule (81 FR 80490) under which the audit-adjusted quality score is calculated by multiplying the ACO's overall quality score by the ACO's audit match rate. Instead, we propose that for each percentage point difference between the ACO's match rate and the match rate considered passing the audit, the ACO's overall quality score would be adjusted downward by 1 percent. That is, if we finalize the proposal to establish an 80 percent match rate as the threshold for passing the quality validation audit, and the ACO's match rate is 75 percent, then under this proposal we would adjust the ACO's overall quality score downward by 5 percent. To illustrate, assuming a match rate threshold of 80 percent, an ACO with an overall quality score of 90 percent would have an audit-adjusted quality score of 85.50 percent, that is,  $(90 - [.05 \times 90]) = 85.50$ .

Finally, we propose a conforming change to §425.500(e)(3) to reflect the 80 percent threshold such that if at the conclusion of the audit process CMS determines there is an audit match rate of less than 80 percent, the ACO may be required to submit a CAP.

We believe that over time, as ACOs become more experienced with quality reporting requirements, improve their quality reporting processes and become better clinically integrated, quality validation audit results that show a significant mismatch between the information reported and the underlying medical records will more consistently reflect meaningful, clinically related quality reporting errors for which ACOs should be held accountable. In addition, because the audit process involves the exchange of information regarding medical record review and communication between ACOs and us, the audit process, itself, provides additional education on the quality measures and quality reporting. Accordingly, we will periodically review the audit match threshold and seek to increase the match rate over time. We may also consider requiring a higher match rate for ACOs that have been in the program longer. Therefore, we anticipate that we will continue to closely monitor quality validation audit results and the reasons for mismatches and, over time, seek to increase the audit match rate threshold.

Although at this time we are proposing the change the audit match rate threshold to 80 percent, we also seek comment on an alternative approach we considered to address the quality validation audit match rate and the resulting impact on an ACO's overall quality score.

Consistent with the approach used under the HIQR program, we considered revising §425.500(e)(2) to provide that we would adjust the ACO's overall quality score if an ACO has a match rate below 75 percent. We did not propose this approach because the results of the Quality Measures Validation Audits conducted on Shared Savings Program ACOs in calendar year 2016

yielded a median match rate of 80 percent, suggesting that a match rate of 75 percent would be too low.

We invite comment on the proposed refinements to the process used to validate ACO quality data reporting and to adjust an ACO's overall quality score to reflect the ACO's audit performance, and on the alternative that was considered, but not proposed.

### 3. Reducing Shared Savings Program Application Burden

#### a. SNF 3-Day Rule Waiver Application Requirement that ACOs Report their Financial Relationships

##### (1) Background

The Medicare SNF benefit is for beneficiaries who require a short-term intensive stay in a SNF, requiring skilled nursing or skilled rehabilitation care, or both. Under section 1861(i) of the Act, beneficiaries must have a prior inpatient hospital stay of no fewer than 3 consecutive days in order to be eligible for Medicare coverage of inpatient SNF care. In the June 2015 final rule (80 FR 32804 through 32806, 32808), we provided ACOs participating in Track 3 with additional flexibility to attempt to increase quality and decrease costs by allowing these ACOs to apply for a waiver of the SNF 3-day rule to permit their prospectively assigned beneficiaries to receive coverage for inpatient SNF care without a prior 3-day inpatient hospital stay when they are admitted to a "SNF affiliate," that is, a SNF with which the ACO has executed a SNF affiliate agreement, and certain additional eligibility criteria are met (see §425.612(a)(1)).

Waivers are effective upon our notification to the ACO of approval for the waiver or the start date of the ACO's participation agreement, whichever is later (see §425.612(c)). We stated in the June 2015 final rule that the SNF 3-day rule waiver would be effective for services furnished on or after January 1, 2017. Program requirements for this waiver are codified at §425.612.

These requirements are primarily based on criteria previously developed under the Pioneer ACO Model. Specifically, under §425.612(a)(1), we waive the requirement in section 1861(i) of the Act for a 3-day inpatient hospital stay prior to a Medicare covered post-hospital extended care service for eligible beneficiaries prospectively assigned to ACOs participating in Track 3 (and as provided in §425.612(a)(1)(iv) for certain other beneficiaries), who receive otherwise covered post-hospital extended care services furnished by an eligible SNF that has entered into a written agreement to partner with the ACO for purposes of this waiver. All other provisions of the statute and regulations regarding Medicare Part A post-hospital extended care services continue to apply.

We believe that clarity regarding whether SNF services furnished to a particular beneficiary are eligible for payment under the SNF 3-day rule waiver is important to help ensure compliance with the conditions of the waiver and also improve our ability to monitor waivers for misuse. Therefore, in the June 2015 final rule, we limited the waiver to ACOs in Track 3 because under the prospective assignment methodology used in Track 3, beneficiaries are assigned in advance to the ACO for the entire performance year (unless they meet any of the exclusion criteria under §425.401(b)), so it will be clearer to a Track 3 ACO and its SNF affiliates whether the waiver applies to SNF services furnished to a particular beneficiary than it would be to an ACO in Track 1 or 2, where beneficiaries are assigned using a preliminary prospective assignment methodology with retrospective reconciliation (80 FR 32804). An ACO's use of the SNF 3-day rule waiver will be associated with a distinct and easily identifiable event, specifically, admission of a prospectively assigned beneficiary to a previously identified SNF affiliate without prior inpatient hospitalization or after an inpatient hospitalization of fewer than 3 days.

Based on our experiences under the Pioneer ACO Model, and in response to comments, we established certain requirements under §425.612 that ACOs, ACO providers/suppliers, SNF affiliates, and beneficiaries must meet for SNF services to be covered under the SNF 3-day rule waiver under the Shared Savings Program. All ACOs electing to participate in Track 3 are offered the opportunity to apply for a waiver of the SNF 3-day rule for their prospectively assigned beneficiaries at the time of their initial application to participate in Track 3 of the program and annually thereafter while participating in Track 3. The program rules for a waiver of the SNF 3-day rule are under §425.612 and are discussed in detail in the 2015 final rule (80 FR 32804 through 32806).

To qualify to use the SNF 3-day rule waiver, ACOs must submit a SNF 3-Day Rule Waiver application that includes supplemental information sufficient to demonstrate that the ACO has the capacity to identify and manage beneficiaries who would be either directly admitted to a SNF or admitted to a SNF after an inpatient hospitalization of fewer than 3 days. Required application materials include but are not limited to the following:

- Narratives describing how the ACO plans to implement the waiver. Narratives must include a communication plan between the ACO and its SNF affiliates, a care management plan for beneficiaries admitted to a SNF affiliate, a beneficiary evaluation and admission plan approved by the ACO medical director and the health care professional responsible for the ACO's quality improvement and assurance processes, and a description of any financial relationships between the ACO, SNF, and acute care hospitals.
- A list of SNFs with which the ACO will partner along with executed written SNF affiliate agreements between the ACO and each listed SNF. The agreements must include elements determined by CMS including but not limited to the following:

++ Agreement to comply with the requirements and conditions of the Shared Savings Program.

++ The effective dates of the SNF affiliate agreement.

++ Agreement to implement and comply with the ACO's beneficiary evaluation and admission plan and care management plan.

++ Agreement to validate the eligibility of a beneficiary to receive covered SNF services in accordance with the waiver prior to admission.

++ Remedial processes and penalties that will apply for non-compliance.

- Documentation demonstrating that each SNF included on the submitted list of SNF affiliates has an overall rating of 3 or higher under the CMS 5-star Quality Rating System as reported on CMS's Nursing Home Compare website.

In addition, §425.612(b)(3) provides that we will evaluate the information submitted with the ACO's application for the SNF 3-day rule waiver and any supplemental information submitted in response to a CMS request for information to determine whether the ACO's waiver request satisfies the requirements of §425.612(a)(1). The effective date and termination date of the waiver are determined in accordance with §425.612(c). Section 425.612(d) provides for monitoring of the use of the waiver and termination of the waiver, and includes a requirement that ACOs that have been approved for the SNF 3-day rule waiver post their approval to use the waiver as part of public reporting under §425.308. If our monitoring of an ACO's use of the waiver reveals misuse of the waiver, we may revoke the ACO's approval to use the waiver. Additionally, we may revoke an ACO's approval to use a waiver if the ACO does not successfully meet the quality performance standard or we identify another program integrity issue affecting the ACO's use of the waiver.

To be eligible to receive covered services under the SNF 3-day rule waiver, a beneficiary must be prospectively assigned to the ACO for the performance year in which he or she is admitted to the SNF affiliate, may not reside in a SNF or other long-term care setting, must be medically stable and have an identified skilled nursing or rehabilitation need that cannot be provided as an outpatient, and must meet the other requirements set forth in §425.612(a)(1)(ii).

We noted in the 2015 final rule that we would continue to evaluate the waiver of the SNF 3-day rule including further lessons learned from Innovation Center models in which a waiver of the SNF 3-day rule is being tested (80 FR 32806). We indicated that in the event we determined that changes were necessary, we would propose these changes through future rulemaking. Subsequently, based on initial experiences with the SNF 3-day rule waiver under the Pioneer ACO Model and Next Generation ACO Model, we proposed and finalized additional SNF 3-day rule waiver beneficiary protections under §425.612(a)(1)(iv) and (v). (See the CY 2017 PFS final rule (81 FR 80510 through 80515)).

We began accepting SNF 3-Day Rule Waiver applications in the summer of 2016 and approved 26 Track 3 ACOs to begin using the SNF 3-day rule waiver under the Shared Savings Program effective January 1, 2017.

## (2) Proposal

As discussed in this proposed rule, the SNF 3-day rule waiver requirements are primarily based on criteria previously developed under the Pioneer ACO Model. As a result of our recent experience implementing the waiver in the Next Generation ACO Model and the Shared Savings Program, we believe that the rules governing use of the SNF 3-day rule waiver are generally reasonable. However, based on our initial experiences in reviewing SNF 3-Day Rule Waiver applications, we believe there are two requirements, in particular, that impose an unnecessary

burden on applicants, without a sufficient benefit to the administration of the Shared Savings Program to justify the burden.

First, the requirement under §425.612(a)(1)(i)(A)(4) that ACOs submit, as part of their application for the SNF 3-day rule waiver, a narrative describing any financial relationships that exist between the ACO, SNF affiliates, and acute care hospitals is burdensome for ACOs and CMS. As explained in the 2015 final rule (81 FR 32806), the SNF 3-day rule waiver only provides for coverage of SNF services that meet all applicable requirements except the requirement for a prior 3-day inpatient stay. The waiver does not protect financial or other arrangements between or among ACOs, ACO participants, ACOs providers/suppliers, or other individuals or entities providing services to Medicare beneficiaries from liability under the fraud and abuse laws or any other applicable laws (§425.612(e)(1)). The Shared Savings Program regulations do not prohibit ACOs or SNFs from having financial arrangements with acute care hospitals, nor do they require such arrangements. Therefore, we have found that the narratives are not useful to us for purposes of determining whether to approve a waiver request. Based on our experience with the implementation of SNF 3-day rule waivers, we are proposing to remove the requirement at §425.612(a)(1)(i)(A)(4) under which ACOs applying for the SNF 3-day rule waiver must submit a narrative describing any financial relationships between the ACO, SNF affiliate, and acute care hospitals. Removing this requirement would not only reduce burden for ACOs applying for the waiver but would also enable us to devote our application review resources to a rigorous review of other, more relevant application elements. Focusing our resources on the review of the information that is most directly relevant to determining an ACO's capacity to manage beneficiaries who are admitted to a SNF without a prior 3-day inpatient hospital stay, along with ongoing oversight and program compliance monitoring of the



use of the waiver by approved ACOs (as described in section III.G.3.a.(1) of this proposed rule), would also allow us to more efficiently use our resources to ensure that the SNF 3-day rule waiver is being used appropriately and to address any potential concerns about use of the waiver. Although we do not believe it is necessary for ACOs to submit separate narratives describing their financial relationships for purposes of the SNF 3-day rule waiver, we note that under the Shared Savings Program rules, ACOs, ACO participants, ACO providers/suppliers, and other individuals or entities performing functions or services related to ACO activities, including SNF affiliates, must maintain and give us access to certain documents and information related to items including financial arrangements related to ACO activities (§425.314(b)(1)). We continue to retain broad discretion under §425.316 to audit ACOs, ACO participants, and ACO providers/suppliers for compliance with program rules, and the program rules also make it clear that waivers under §425.612 do not protect financial or other arrangements between or among ACOs, ACO participants, ACO providers/suppliers, or other individuals or entities providing services to Medicare beneficiaries from liability under the fraud and abuse laws or any other applicable laws (§425.612(e)).

Second, we believe that the requirement under §425.612(a)(1)(i)(C) that ACOs submit documentation demonstrating that each SNF included on their list of SNF affiliates has an overall rating of 3 or higher under the CMS 5-star Quality Rating System is unnecessarily burdensome. In order to meet this requirement, ACOs typically submit a screen shot from the CMS Nursing Home Compare website or other Nursing Home Compare information that reflects the star rating for each listed SNF. The submission of this documentation by the ACO does not add value to our review and approval of SNFs included on the ACO's SNF affiliate list. Instead, we obtain the information directly from our website during the application review process. In

this way, we insure that the most current information is used during the application review process. We also periodically monitor this information after an ACO has been approved to use the waiver because SNF affiliates are required to maintain an overall rating of 3 stars or higher, under §425.612(a)(1)(iii)(A). Because we are able to obtain the required information directly from the CMS Nursing Home Compare website, the additional documentation submitted by the ACO as part of its application does not add value to our ability to review and approve SNF affiliates. Accordingly, we are proposing to eliminate this documentation submission requirement by removing §425.612(a)(1)(i)(C). We note that we are not proposing to remove or modify the requirement in §425.612(a)(1)(iii)(A) that SNF affiliates must have and maintain an overall rating of 3 or higher under the CMS 5-star Quality Rating System in order to remain eligible to partner with the ACO for purposes of the SNF 3-day rule waiver. The requirement for SNF affiliates to have and maintain a 3-star or higher rating is retained. Furthermore, as part of the application process, we intend to continue to verify that the ACO has met all requirements related to the SNF 3-day rule waiver, but we believe that the burdensome and duplicative submission of CMS 5-star Quality Rating System documentation is not necessary to ensure compliance with the requirement that the ACO's SNF affiliates have a star rating of 3 or more.

We welcome comments on our proposal to remove §425.612(a)(1)(i)(A)(4) which requires SNF 3-Day Rule Waiver applicants to submit a narrative describing any financial relationships that exist between the ACO, SNF affiliate, and acute care hospitals. We further welcome comments on our proposal to remove §425.612(a)(1)(i)(C) which requires waiver applicants to submit documentation demonstrating that each SNF affiliate on their SNF affiliate list has an overall rating of 3 or higher under the CMS 5-star Quality Rating System. We also welcome other suggestions on how we might further decrease the burden for ACOs requesting

approval to use the SNF 3-day rule waiver, without compromising our ability to ensure that ACOs and their SNF affiliates have the capacity to identify and manage beneficiaries receiving covered SNF services pursuant to the waiver. We may consider any such suggestions in future rulemaking.

b. Modifications to the Shared Savings Program Initial Application

(1) Background

In order to participate in the Shared Savings Program, organizations must meet certain eligibility requirements, including the statutory requirement to define processes to promote evidence-based medicine and patient engagement, report on quality and cost measures, and coordinate care. Additionally, the ACO must demonstrate it meets patient-centeredness criteria specified by the Secretary, such as the use of patient and caregiver assessments or the use of individualized care plans. We discussed and finalized details for ACO eligibility criteria, including the four required processes and patient-centeredness criteria, in the November 2011 final rule (76 FR 67826 and 67827) and made updates to them in the June 2015 final rule (80 FR 32722 through 32725).

Section 425.204(c)(1) articulates the supporting documents and materials an ACO must submit to demonstrate that the ACO satisfies the eligibility requirements to participate in the Shared Savings Program.

To obtain a determination regarding whether an ACO meets the requirements to participate in the Shared Savings Program, a prospective ACO must submit a complete application in the form and manner required by us by the deadline established by us (§425.202(a)(1)). The content of the application is outlined at §425.204. Section 425.204(c) states that as part of the application, and upon request thereafter, an ACO must submit to us

certain supporting documentation to demonstrate that the ACO satisfies the requirements of the Shared Savings Program. Supporting documentation in this section includes:

- Documents (for example, ACO participant agreements, agreements with ACO providers/suppliers, employment contracts, and operating policies) sufficient to describe the ACO participants' and ACO providers'/suppliers' rights and obligations in and representation by the ACO, and how the opportunity to receive shared savings or other financial arrangements will encourage ACO participants and ACO providers/suppliers to adhere to the quality assurance and improvement program and evidence-based clinical guidelines.

- A description, or documents sufficient to describe, how the ACO will implement the required processes and patient-centeredness criteria under §425.112, including descriptions of the remedial processes and penalties (including the potential for expulsion) that will apply if an ACO participant or an ACO provider/supplier fails to comply with and implement these processes.

- Materials documenting the ACO's organization and management structure, including an organizational chart, a list of committees (including names of committee members) and their structures, and job descriptions for senior administrative and clinical leaders.

- Evidence that the ACO's governing body is an identifiable body, represents a mechanism for shared governance for ACO participants, is composed of representatives of its ACO participants; and is at least 75 percent controlled by its ACO participants.

- Evidence that the governing body includes a Medicare beneficiary representative(s) served by the ACO who does not have a conflict of interest with the ACO, and who has no immediate family member with a conflict of interest with the ACO.

- A copy of the ACO's compliance plan or documentation describing the plan that will be put in place at the time the participation agreement with CMS becomes effective.

Additionally, §425.204(d) states that as part of the application to participate in the Shared Savings Program, an ACO must describe the following:

- ++ How it plans to use shared savings payments, including the criteria it plans to employ for distributing shared savings among its ACO participants and ACO providers/suppliers.

- ++ How the proposed plan will achieve the specific goals of the Shared Savings Program.

- ++ How the proposed plan will achieve the general aims of better care for individuals, better health for populations, and lower growth in expenditures.

Section 425.204(c)(1)(ii) includes a reference to the required processes and patient centeredness criteria under §425.112. Of note, §425.112(b)(4)(ii) requires that, as part of its application, an ACO must submit a description of its individualized care program, along with a sample individual care plan, that explains how the ACO's program is used to promote improved outcomes for, at a minimum, its high risk and multiple chronic condition patients (§425.112(b)(4)(ii)(A)). The ACO must also, as part of its application, describe additional target populations that would benefit from individualized care plans (§425.112(b)(4)(ii)(B)) and describe how it will encourage and promote the use of enabling technologies for improving care coordination for beneficiaries (§425.112(b)(4)(ii)(C)). Finally, as part of its application, the ACO must describe how it intends to partner with long-term and post-acute care providers, both inside and outside the ACO, to improve care coordination for its assigned beneficiaries (§425.112(b)(4)(ii)(D)).

Once an applicant has submitted the information required under §425.204, we evaluate it to determine whether the applicant satisfies the Shared Savings Program requirements. We notify ACO applicants during the application review process when information is missing or when supplemental documentation or other information is necessary to make a determination on the ACO's application and provide opportunities for the ACO to submit the requested additional information for review. At the end of the application review process, we approve or deny the application and notify the ACO of our determination.

## (2) Proposals

In conducting Shared Savings Program application reviews, we have found that many of the document submission requirements in §425.204(c)(1) substantially increase application and review burden without lending significant value to our review of an organization's application to confirm that the ACO meets the eligibility requirements for participation in the Shared Savings Program. We believe it would meet program needs and reduce applicant burden if we were to revise §425.204(c)(1) to remove the requirement to submit supporting documents or narratives and instead provide that we may request these materials if additional information is needed in order to fully assess the ACO's application before making a decision to approve or deny the application.

To illustrate, as discussed in this proposed rule, we require under §425.204(c)(1)(ii), as part of the application process, that the ACO submit documentation addressing the required processes and patient centeredness criteria under §425.112. This requirement is addressed in the Medicare Shared Savings Program Initial Application (see application on the CMS website at <https://www.cms.gov/medicare/medicare-fee-for-service-payment/sharedsavingsprogram/application.html>) through the requirement that an applicant ACO

submit narratives describing how it will define, establish, implement, evaluate, and periodically update each process. In these narratives, the ACO must also describe certain additional details regarding the required processes:

- Process to promote evidence-based medicine. The ACO must describe how it will:

- ++ Encourage the use of protocols grounded in evidence-based medicine in the case of diagnoses with significant potential for the ACO to achieve quality improvements, while taking into account the circumstances of individual beneficiaries; and

- ++ Use the internal assessments of this process to continuously improve the ACO's care practices.

- Process to promote beneficiary engagement. The ACO must describe how it will:

- ++ Evaluate the health needs of its assigned beneficiary population (including consideration of diversity in its patient population) and develop a plan to address the needs of its population;

- ++ Communicate clinical knowledge/evidence-based medicine to beneficiaries in a way they can understand;

- ++ Engage beneficiaries in shared decision-making in ways that consider beneficiaries' unique needs, preferences, values and priorities;

- ++ Establish written standards for beneficiary access and communication as well as a process for beneficiaries to access their medical records; and

- ++ Use the internal assessments of this process to continuously improve the ACO's care practices.

- Process to internally report quality and cost metrics. The ACO must describe how:

- ++ The ACO will use these results to improve care and service over time; and

++ The ACO will use the internal assessments of this process to continuously improve the ACO's care practices.

- Process to promote coordination of care. The ACO must describe:

++ The ACO's methods and processes to coordinate care throughout an episode of care and during care transitions, such as discharge from a hospital or transfer of care from a primary care physician to a specialist (both inside and outside the ACO).

++ The ACO's individualized care program, along with a sample individual care plan, and explain how the ACO uses this program to promote improved outcomes for, at a minimum, high-risk and multiple chronic-condition patients.

++ How individual care plans take into account the community resources available to beneficiaries.

++ Additional target populations that would benefit from individualized care plans.

++ How the ACO will use the internal assessments of this process to continuously improve the ACO's care practices.

++ How the ACO will encourage and promote use of enabling technologies for improving care coordination for beneficiaries.

++ How the ACO intends to partner with long-term and post-acute care providers, both inside and outside of the ACO, to improve care coordination for their assigned beneficiaries.

As a result of our experience in reviewing these narratives, we have determined that while they can be helpful to verify that the ACO has established the required processes and defined patient-centeredness criteria prior to its entry into the Shared Savings Program, the specific details of the processes the ACO has established are not particularly important or relevant for purposes of assessing whether the ACO is eligible to participate in the program. In



fact, ACOs have indicated that their initial plans for the processes required under §425.112 as articulated in their program application often change as a result of obtaining additional information about their ACO participants' and ACO providers/suppliers' processes and gaining additional experience during implementation of the processes. We believe such improvements to ACO processes based on program experience are reasonable to expect and should be encouraged. First, under §425.112(b), ACOs are required to evaluate and periodically update each process and as they do so, initially implemented processes will necessarily change to accommodate lessons learned. Moreover, once the ACO begins to request claims information and other CMS data and to incorporate this information into its operations, the ACO may discover that certain assumptions it made at the time of application should be adjusted to maximally improve the quality of care or cost efficiencies for the ACO's assigned population. In rare instances, particularly in the early days of the program before stakeholders fully understood the implications of program participation, we found review of such narratives useful to understand the level of an ACO's readiness for participation in the Shared Savings Program. However, such narratives have not been particularly useful in determining if the ACO meets the requirements for participation in the Shared Savings Program. In a vast majority of cases, we now believe it is sufficient that the ACO certify at the time of application that it has defined the required processes and patient centeredness criteria consistent with the requirements specified in section §425.112. Therefore, we believe it would reduce burden for ACOs, without compromising our ability to determine whether an ACO meets the criteria for participation in the Shared Savings Program, to require that the ACO certify that it meets the requirements in §425.112, and only submit a narrative or other documentation describing how the ACO will implement the required processes and patient-centeredness criteria upon our request. Further, we do not anticipate that this change

would have a significant effect on beneficiaries receiving services from ACO providers/suppliers because as noted earlier, we anticipate that ACOs would update each process as they gain experience and, as they do so, initially implemented processes that might have been reflected in the narrative or other supporting documentation submitted with their application would necessarily change to accommodate lessons learned.

Similarly, as part of the application process, the Shared Savings Program regulations require the ACO to submit materials documenting the ACO's organization and management structure, including an organizational chart, a list of committees (including names of committee members) and their structures, and job descriptions for senior administrative and clinical leaders (§425.204(c)(1)(iii)). While we have found the organizational chart useful for purposes of our review and approval of an ACO's application, and we anticipate continuing to request this chart from many applicants, we have found that further detail including lists of committees and job descriptions for senior administrative and clinical leaders have not added particular value to our review and approval of applications. Moreover, the receipt of such materials as part of the ACO's application has not significantly impacted our ability to determine whether the ACO meets the requirements regarding leadership and management in §425.108. We believe, on balance, that our need for such detailed information from all applicants is outweighed by our desire to reduce application burden. In particular circumstances where additional information would aid our review, we believe our need for such detailed information can be reasonably met by requiring applicants to submit such materials upon our request. As a result, we believe it would be less burdensome for us to require ACO applicants to certify that, for example, they meet the leadership and management requirements found at §425.108 rather than requiring all

ACO applicants to submit detailed materials (such as job descriptions) or narratives about the ACO's committees and leadership.

While we do not anticipate having to routinely request such materials to supplement our review and approval of ACO applications to participate in the Shared Savings Program, we believe it is important to retain the discretion to do so in limited cases where such detail could be useful. Therefore, we propose to make revisions to our application requirements as discussed in this section. We would note that in cases where an ACO is requested to submit additional material for review in conjunction with its application, and we find that the material is inconsistent with program requirements, then we may deny the ACO's application. Similarly, if we discover the inconsistency after the ACO has already been approved to participate in the program, the ACO may be subject to the pre-termination actions set forth in §425.216, termination under §425.218, or both.

Additionally, we do not believe it is necessary for ACO applicants to submit narratives describing how they would distribute shared savings payments or how the proposed plan would achieve the specific goals of the Shared Savings Program and the general aims of better care for individuals, better health for populations, and lower growth in expenditures, as required by §425.204(d). Based on our experience, such narratives have not been useful in determining if the ACO meets requirements for participation in the program or whether an ACO's application should be approved. We believe it would be more useful to us and less burdensome for ACOs if we were instead to require that, an ACO, as part of its application to participate in the Shared Savings Program, certify that it has a method and plan to receive shared savings payments and to distribute those payments to its ACO participants and ACO providers/suppliers, as required by the statute. We note, however, that we continue to believe it is useful to stakeholders to know

how various ACOs have chosen to use or distribute the shared savings they earn. Therefore, in the interest of transparency, we will continue to require ACOs to publicly report information on their dedicated web pages about their shared savings and shared losses, including information about the total proportion of shared savings invested in infrastructure, redesigned care processes, and other resources to support the three-part aim goals of better health for populations, better care for individuals, and lower growth in expenditures, including the proportion distributed among ACO participants, as required under §425.308(b)(4).

In light of our experience with the review of the documentation submitted as part of the ACO's initial application, we are proposing several modifications to our requirements for document submission. Under this proposal, we would retain all requirements related to ACO eligibility criteria and public reporting, as currently specified under the Shared Savings Program regulations. However, in order to reduce application burden without compromising our ability to evaluate applications effectively for compliance with Shared Savings Program requirements, we propose to modify certain sections of our regulations that require ACOs to submit supporting materials and documentation at the time of application. Instead of requiring submission of certain materials, narratives, or supporting documentation, as discussed in this section, we propose to require ACOs to certify that they meet the applicable eligibility and documentation requirements as specified under our program rules. At the same time, while we are interested in reducing burden, we recognize that there have been instances when the review of supporting documentation and/or narratives has been helpful in making a determination about an ACO's eligibility for participation in the program. Therefore, although we are proposing to eliminate the general requirement that ACOs submit certain documentation as part of their initial application to participate in the Shared Savings Program, we propose to retain the right to request

the submission of supporting materials and documentation in cases when such additional information would be useful in making a determination regarding the ACO's application. We believe that this proposed modification to the regulations governing ACO applications would introduce additional flexibility that would reduce the level of burden inherent in the Shared Savings Program application process while also ensuring we are still able to appropriately evaluate an ACO's eligibility for program participation.

Accordingly, in order to reduce application burden while retaining flexibility to obtain additional documentation when necessary to determine ACO eligibility and compliance with program rules, we propose to remove the requirements in §§425.204(c)(1) and (d), 425.112(a)(3)(i) and (ii), and 425.112(b)(4)(ii) for the submission of certain specified documents and narratives as part of an ACO's application to participate in the Shared Savings Program. Specifically, we propose to revise paragraph §425.204(c)(1) to require an ACO, as part of its application, to certify that it satisfies the Shared Savings Program requirements and to submit, upon CMS request, supporting materials (including narratives) and documentation demonstrating that the ACO satisfies program requirements indicated in proposed revised §425.204(c). Additionally, we propose to revise §425.204(d) to indicate that the ACO must certify, as part of its application to participate in the Shared Savings Program, that it has a mechanism and plan to receive and use payments for shared savings, including criteria for distributing shared savings among its ACO participants and ACO providers/suppliers. We also propose to make a conforming change to remove paragraphs (d)(1) through (3) of §425.204, which relate to the submission of narratives related to the ACO's use of shared savings payments. This proposal does not include a requirement that the ACO submit information regarding its mechanism and plan for receiving and using shared savings upon request. We do not intend to request this

information as part of the application process because in our experience, how an ACO intends to use or distribute shared savings has not been a relevant consideration during any application cycle to determine whether the ACO has met the eligibility requirements to participate in the Shared Savings Program. However, we note that we continue to believe that information on how an ACO uses and distributes its shared savings is useful for the public, and therefore ACOs will continue to be required to publicly report this information under §425.308(b)(4)(ii).

We also propose similar changes to the requirements in §425.112(a)(3)(i), (a)(3)(ii), and (b)(4)(ii) to remove reference to the submission of narratives to explain or describe how the ACO will implement the required elements of the ACO's care processes and patient-centeredness criteria. ACOs must still implement these care processes and adopt a focus on patient-centeredness, however, they will no longer need to submit descriptions of how they will satisfy these requirements as part of their initial application. We note, however, that ACOs may still be required to submit upon request a description or documentation sufficient to describe how the ACO will implement the required processes and patient-centeredness criteria found at §425.112 because under the proposed revisions to §425.204(c)(1)(ii), CMS would retain the discretion to request such documentation from the ACO at any time.

In summary, we believe these modifications to the application requirements will significantly reduce the burden of applying to participate in the Shared Savings Program without reducing our ability to ensure that applicants meet the established eligibility requirements. Rather than requiring every applicant to submit detailed supporting documents or narratives for all of these requirements, we would instead request supporting documents or narratives only if additional information is needed in order to fully assess an ACO's application before making a decision to approve or deny the application. Further, we do not anticipate that the proposed

modifications to our application requirements would have any effect on beneficiaries receiving care from providers and suppliers participating in the Shared Savings Program, nor do we believe that the proposed changes would affect our program integrity efforts, because we would retain discretion to request such information (and more targeted and appropriate information) as needed. We seek comment on these proposals and on additional ways to reduce burden in the application process.

#### 4. Addressing Compliance with ACO Participant TIN Exclusivity Requirement

##### a. Background

Under the Shared Savings Program, ACO participant TINs are not required to be exclusive to one Shared Savings Program ACO unless the TIN submits claims for primary care services used to determine the ACO's assigned population (§425.306(b)). The purpose behind this requirement is to ensure that we are able to assign a unique set of beneficiaries to each ACO participating in the Shared Savings Program. Therefore, as part of the Shared Savings Program application process and upon an ACO's request to add an ACO participant TIN, we check the TIN against all other Shared Savings Program ACO participant lists. If the TIN appears on the ACO participant list one or more other ACOs, the TIN is considered to be "overlapping." We then determine whether the overlap is permissible under our program rules. If the overlap is not permissible (because the TIN has a history of billing for primary care services used in our assignment methodology) then we require the ACO that is seeking to add the TIN to its ACO participant list to rectify the overlap by the deadline we have established for making changes to the next performance year's ACO participant list. If the overlap is permissible (because the TIN does not have a history of billing for primary care services used in our assignment methodology) then the ACO participant TIN can be approved to be an ACO participant in more than one ACO

for the performance year. Each time we run the assignment algorithm during the course of the performance year, we monitor overlaps to ensure that the overlaps continue to be in compliance with §425.306(b).

In a few instances, as a result of our monitoring, we have discovered that ACO participant TINs that had been approved to participate in multiple ACOs subsequently began billing for primary care services used in assignment during a benchmark or performance year. For example, for performance year 2016, we identified four TINs that were initially permitted to overlap and participate in more than one ACO because they had not previously billed Medicare for primary care services used in our assignment methodology. At some point during the performance year, however, the TINs began billing Medicare for primary care services that are used to assign beneficiaries to the ACO (including claims for services furnished during the performance year, but submitted during the three-month claims runout for the performance year). This can occur, for example, if a single specialty practice made up of physician specialty types not used in assignment (for example, a practice of ophthalmologists) hires a nurse practitioner who then begins billing Medicare under the billing TIN of the ACO participant for primary care services as defined under the Shared Savings Program rules. Thus, the ACO participant TIN would be used to bill Medicare for primary care services furnished by a practitioner used in our assignment methodology (the nurse practitioner) and would therefore trigger our requirement under §425.306(b)(2) that the ACO participant TIN be exclusive to a single Shared Savings Program ACO. Although our program rules permit us to take compliance action against ACOs for violations of Shared Savings Program requirements, they do not specifically address what compliance actions we would impose on ACOs in instances where an ACO participant falls out of compliance with §425.306(b)(2) during a benchmark or performance year or when non-



compliance with §425.306(b)(2) is discovered during the 3-month claims runout for a benchmark or performance year. Moreover, the program rules do not address what modifications to our assignment methodology could be made to account for this overlap. In the case of the four overlapping TINs discovered during the 2016 performance year, we notified the respective ACOs of the overlap and the ACO participant TINs were required to terminate their participation in the ACO of their choice. As a result, each ACO from which the TINs terminated was required to recertify its ACO participant list for the 2016 performance year. Depending on the timing of recertification, such changes to an ACO participant list may also require us to recalculate performance year beneficiary assignment and financial benchmarks. For example, if a TIN, that was previously allowed to appear on more than one ACO participant list, hires a nurse practitioner who begins billing primary care claims in the month of December for the ACO's third benchmark year, we would discover the now impermissible overlap when we begin creating the historical benchmark reports after the 3-month claims runout. We would contact the ACOs involved, each ACO would contact the TIN and ask the TIN to select the ACO it wishes to remain aligned with. The ACO not selected would be asked to remove the TIN from its ACO Participant List and recertify the list. As a result of the recertification of the list, the ACO's assigned population would need to be redetermined and calculation of its benchmark would be delayed. We are therefore concerned about the uncertainty the current process (which includes recertification of ACO participant lists, recalculation of assignment, and resulting delay of calculations for the benchmark or performance year) could introduce for ACOs that may have little influence over or knowledge of ACO participant TIN billing practices.

We believe it is important for ACOs, ACO participants, and ACO providers/suppliers to have updated and accurate information regarding their participation status in the Shared Savings

Program. For example, participation in a Shared Savings Program ACO has implications for ACO providers/suppliers under the new Quality Payment Program (see 81 FR 80496 through 80501). The Quality Payment Program replaces a patchwork system of Medicare programs with a flexible system that allows eligible clinicians to choose from two paths that link payments to quality: The Merit-Based Incentive Payment System (MIPS) and participation in Advanced Alternative Payment Models (APMs). The Quality Payment Program, through MIPS and the APM incentive, will impact eligible clinicians' payments beginning in payment year 2019 based on 2017 reporting.

Under the CY 2017 Quality Payment Program final rule with comment period, eligible clinicians participating in Advanced APMs (including Tracks 2 and 3 under the Shared Savings Program) may become Qualifying APM Participants and receive a 5 percent APM Incentive Payment if they have a sufficient percentage of payments for Part B covered professional services, or a sufficient percentage of Medicare patients that are attributable to services furnished through an Advanced APM for a year. In addition to earning a 5 percent APM Incentive Payment, Qualifying APM Participants are not subject to the MIPS reporting requirements and payment adjustment for the year. As a result, revisions to ACO participant lists that occur mid-year or following the end of a benchmark or performance year could have widespread implications not only for the ACO but also for its ACO providers/suppliers under the Quality Payment Program.

#### b. Proposals

As participation in the Shared Savings Program grows and more ACOs and ACO participants join the program, we believe the overlap situation described previously is likely to become more common. We also believe that changes to our program rules regarding the claims that will be considered in assigning FFS beneficiaries to an ACO (specifically, the policy

finalized in the June 2015 final rule to exclude services furnished by several physician specialty types from the assignment methodology) may result in a greater number of permissible ACO participant TIN overlaps (see 80 FR 32753 and 32754). As a result, we anticipate there could also be an increased number of cases where ACO participant TINs with initially permissible overlaps could become out of compliance with the requirement at §425.306(b)(2) that an ACO participant TIN be exclusive to a single Shared Savings Program ACO if the TIN bills for primary care services that are used to assign beneficiaries to the ACO. This could occur, for example, if a group practice that initially includes only physician specialty types whose services are excluded from the assignment methodology were to subsequently employ a non-physician practitioner who bills for primary care services. We believe these types of practice arrangements are becoming increasingly common.

We therefore believe it is necessary to streamline our approach to handling such situations in order to reduce the burden and uncertainty for ACOs when changes in ACO participant billing practices result in an ACO participant falling out of compliance with the exclusivity requirement at §425.306(b)(2). Rather than the current policy under which an ACO may be required to remove an overlapping ACO participant and recertify its ACO participant list for the performance year (thus necessitating redetermination of beneficiary assignment and delays in or revisions to benchmark or performance year calculations), we believe it would be less disruptive for ACOs if we were to permit overlapping TINs that begin billing for services used in assignment during a benchmark or performance year (including claims for services furnished during the benchmark or performance year, but submitted during the 3-month claims runoff) to remain on the ACO participant lists for all affected ACOs for the remainder of the performance year in which we determine that an overlap exists. For example, assume that, based

on an analysis of claims for services furnished in performance year 2018, we were to identify an impermissibly overlapping TIN in January 2019 after the ACO participant lists for performance year 2019 had already been certified. Under this proposal, the TIN would be able to remain on the ACO participant lists of all affected ACOs for the 2018 performance year as well as the remainder of performance year 2019. In order to ensure that the TIN overlap does not inadvertently result in assignment of the same beneficiaries to multiple ACOs, we would simply exclude any claims for services furnished by the overlapping TIN from the assignment methodology when conducting final beneficiary assignment for any benchmark or performance year in which the TIN bills Medicare for services used in our assignment methodology. The affected ACOs would be required to resolve the overlap prior to recertification of their ACO participant lists for the subsequent performance year. If the overlap remains unresolved when the ACOs certify their ACO participant lists for the next performance year, we would remove the TIN from the ACO participant lists of all ACOs seeking to include the TIN, in accordance with our current policy for resolving overlaps. For example, in the hypothetical case above, if the overlap were to remain unresolved when the ACOs certify their ACO participant lists for performance year 2020, we would remove the TIN from the ACO participant lists for all ACOs seeking to include the TIN as an ACO participant for performance year 2020.

We therefore propose to modify our program rules in §425.306 and subpart E of part 425 to address this issue. We propose to modify §425.306(b) to indicate that if, during a benchmark or performance year (including the 3-month claims run out period for such benchmark or performance year), an ACO participant that participates in more than one ACO begins billing for services that would be used in assignment, we would not consider any services billed through

that TIN during the relevant performance year when performing beneficiary assignment for the applicable benchmark or performance year. As part of this proposed modification, we would also eliminate the references to “primary care” when describing the services used to determine the ACO’s assigned beneficiary population in order to conform with our proposal to implement section 17007 of the 21<sup>st</sup> Century Cures Act under which we would consider all services furnished in FQHCs and RHCs in the assignment methodology as primary care services starting in the 2019 performance year. In addition, the ACOs in which the overlapping TIN is an ACO participant may be subject to compliance action (as provided under §425.216) or termination under §425.218. Compliance actions may include requiring each ACO that includes the TIN as an ACO participant to submit a corrective action plan explaining how the ACO plans to work with the overlapping ACO participant to resolve the overlap for the next performance year. If the overlap remains unresolved by the date specified by us in our request for a corrective action plan, we would remove the overlapping ACO participant TIN from the ACO participant list of each ACO for the subsequent performance year.

We also propose to revise our general assignment methodology at §425.400(a)(1) to add new paragraph (a)(1)(iii) to indicate that when we determine final assignment after the end of each benchmark or performance year, we will exclude claims for services furnished during the benchmark or performance year by an ACO participant that participates in more than one ACO. We believe that this policy will ensure a uniquely assigned beneficiary population for each ACO and prevent the same beneficiaries from being included in determining benchmark or performance year expenditures for more than one ACO.

We believe that implementing this proposed process would improve ACO and ACO participant understanding of our policies and requirements regarding ACO participant overlaps

while also reducing burden for ACOs that currently must recertify ACO participant lists and may be subject to retrospective modifications or delays in assignment and other dependent benchmark or performance year calculations. We also note that this policy allows us to preserve the flexibility that is currently extended to ACO participants that do not bill for services used in assignment, while recognizing the possibility for mid-year changes in care and billing practices by these ACO participants. Additionally, ACO participant TINs and the eligible clinicians that bill through those TINs would be provided greater certainty regarding whether they qualify as participating in an APM or Advanced APM for a performance year. Under this proposed policy, an ACO participant would know for the entire performance year with certainty that it is participating in a particular APM entity.

#### 5. Treatment of Individually Beneficiary Identifiable Payments Made Under a Demonstration, Pilot, or Time Limited Program

##### a. Background

Under section 1899(d) of Act, ACOs participating in the Shared Savings Program are accountable for the total Parts A and B costs for the Medicare fee-for-service beneficiaries assigned to the ACO. Therefore, we include all payments made from the Medicare Trust Fund for Parts A and B services furnished to assigned Medicare FFS beneficiaries, including individually beneficiary identifiable non-claims based payments made under a demonstration, pilot or time limited program, when computing average per capita Medicare expenditures for an ACO during both the benchmark period and performance years. We believe it is appropriate to take into account non-claims based payments from a demonstration, pilot, or time limited program in Medicare Shared Savings Program financial calculations to ensure that the final shared savings payments that are made to ACOs are accurate and reflect all Parts A and B

expenditures for the ACO's assigned beneficiaries. We also review individually beneficiary identifiable payments made under a demonstration, pilot, or time-limited program as part of our efforts to ensure there is no duplication of payments for beneficiaries that may be assigned to both the Shared Savings Program and other Innovation Center models. This general policy of considering individually beneficiary identifiable non-claims based payments made under a demonstration, pilot or time limited program was initially established in the 2011 final rule implementing the Shared Savings Program (76 FR 67915) for:

- Establishing, adjusting, and updating the benchmark for an ACO's first agreement period under §425.602(a)(1)(ii),
- Calculation of savings under the one-sided model (Track 1) at §425.604(a)(6)(ii), and
- Calculation of shared savings and losses under Track 2 at §425.606(a)(6)(ii).

This policy has also been included in subsequent program modifications to the program for:

- Resetting, adjusting, and updating the benchmark for a subsequent agreement period under §§425.603(c)(1)(ii) and 425.603(e)(2)(ii), and
- Calculation of shared savings and losses under Track 3 at §425.610(a)(6)(ii).

More specifically, in addition to Medicare Parts A and B claims, we include non-claims based individually beneficiary identifiable payments when performing financial calculations for the Shared Savings Program, including setting the preliminary and final benchmarks, updating the financial benchmark at the time of reconciliation and calculating performance year expenditures. We internally track non-claims based beneficiary identifiable payments (that is, payments made outside the Medicare fee-for-service claims system) through a separate CMS system that receives and stores these non-claims based payments made from the Medicare Trust

Funds under a demonstration, pilot or time limited program. The non-claims based payments are loaded into the separate system at various points in time, depending on the terms of payment under each specific demonstration, pilot or time limited program. The amounts that are reflected in this separate system include interim payment amounts that are subject to final reconciliation and may not reflect the actual final payments to the provider or site. For example, the Bundled Payments for Care Improvement (BPCI) initiative is comprised of four broadly defined models of care, which link payments for the multiple services beneficiaries receive during an episode of care. (See the CMS website at <https://innovation.cms.gov/initiatives/bundled-payments/> ).

Under the retrospective BPCI payment models, Medicare continues to make fee-for-service (FFS) payments for the Part A and Part B services furnished to a beneficiary during an episode; but, the total Part A and Part B expenditures for the episode are later reconciled against a bundled payment amount (the target price) determined by CMS. A payment or recoupment amount is determined by comparing the aggregate expenditures to the target price. Interim payment and recoupment amounts are calculated quarterly but it is only after the BPCI claims run out period that the final reconciliation can be performed and the final expenditure amount is known. In contrast, under certain other demonstrations, pilots, or time limited programs only final non-claims based payment data are loaded into the system. For example, under the Community-based Care Transitions Program (CCTP), the participating community-based organizations were paid an all-inclusive rate per eligible discharge. This final non-claims based payment was then loaded into the system and was not subject to subsequent reconciliations.

To date, when we perform ACO benchmarking and financial calculations under the Shared Savings Program, we have included (in addition to all Medicare Parts A and B claims) all non-claims based beneficiary identifiable payments for the applicable benchmark or performance



year that are included in the separate CMS system, including any payments made during the benchmark or performance year's 3-months claims run-out period. This means that to date we have included some interim payments made under a demonstration, pilot or time limited program that will undergo subsequent reconciliation to determine the final payment amount in the calculation of historical benchmarks and performance year expenditures. However, because the various demonstrations, pilots or time limited programs may have different operational schedules to the Shared Savings Program, it is not possible for us to include all interim and final beneficiary identifiable payments made under these initiatives in benchmarking and financial reconciliation calculations for the Shared Savings Program; and, as a result, these calculations have excluded some interim and final non-claims based beneficiary identifiable payments made under certain demonstrations, pilots or time limited programs. For example, because of the timing and availability of BPCI non-claims based payment amounts, to date we have included only up to two quarters of interim payment data for BPCI in ACO benchmarking and financial reconciliation calculations for the Shared Savings Program and no final payment amounts.

To date, non-claims based individually beneficiary identifiable payments represent a relatively minor proportion of an ACO's total Part A and B beneficiary expenditure amounts as determined under the Shared Savings Program (mean of 0.09 percent overall impact of ACO non-claims based payments on total per capita expenditures and a mean of 137 person-years in an ACO's assigned beneficiary population with a non-claims based payment during the year; minimum -0.72 percent, 0 person-years; maximum 1.24 percent, 1,865 person-years). For the demonstrations, pilots or time limited programs that include interim and final reconciliations, the impact of including the non-claims based payments could be positive or negative for an ACO for a given performance year. Additionally, a preliminary analysis suggests that interim payments

made under select demonstrations, pilots or time-limited program fluctuate on a quarterly basis. An examination of trends in total per capita non-claims based payments in 2016 quarterly program reports across 416 Track 1 and 2 ACOs found a mean decline of 14 percent from Quarter 1 to Quarter 2, followed by a mean increase of 144 percent from Quarter 2 to Quarter 3, and a mean increase of 742 percent from Quarter 3 to Quarter 4. Quarterly trends for individual ACOs also tended to fluctuate. Per capita amounts in this analysis were based on those ACOs with at least one non-claims based payment in each quarterly report period. Almost half of the ACOs in the analysis (201 out of 416) had at least one quarter in 2016 with a net negative per capita payment across all beneficiaries with at least one non-claims based payment and at least one quarter with a net positive per capita payment. A review of non-claims based payments incorporated in PY 2017 preliminary historical benchmarks also found similar swings between negative and positive amounts, with roughly one third of ACOs receiving a benchmark (156 of 480) having at least one benchmark year with a net negative per capita payment across all beneficiaries with at least one non-claims based payment and at least one benchmark year with a net positive per capita payment.

These fluctuations in the non-claims based payments for certain initiatives like BPCI have generated stakeholder concern. Further, stakeholders note that the impact of including interim payments in financial calculations may become greater in the future, given the increasingly widespread interest in participation in alternative payment models and the growing number of such models being tested through the CMS Innovation Center. Stakeholders have therefore suggested that we should revise our policies to clarify that only final non-claims based payments made within the 3 months claims run out period under a demonstration, pilot or time

limited program will be included in the calculation of an ACO's benchmark and performance year expenditures.

b. Proposals

Our preliminary analysis, as discussed in the background section, suggests that interim non-claims based payments (that is, payments that are subject to reconciliation at a later date) made under a demonstration, pilot, or time limited program can fluctuate significantly from quarter to quarter and may not reflect the actual final reconciled payment amount. Thus, we agree with the stakeholders who have suggested that only final non-claims based payments made under a demonstration, pilot or time limited program should be included in financial calculations related to benchmarks and performance year expenditures under the Shared Savings Program. We believe this would be a reasonable approach to determining Parts A and B expenditures for assigned beneficiaries for both benchmark and performance years given the uncertain impact on ACOs' financial calculations of including interim payments that will be subsequently revised to reflect the final reconciled payment amounts. We also agree that use of interim payments made under a demonstration, pilot or time limited program could have an increasingly large effect on ACO benchmarks and performance year expenditure calculations in the future given widespread stakeholder interest in participating in alternative payment models and CMS interest in testing and expanding additional payment models that may lead to higher quality and more coordinated care at a lower cost to Medicare.

Therefore, we are proposing to revise the applicable regulations to make clear that we would include only final individually beneficiary identifiable payments made under a demonstration, pilot or time limited program in financial calculations related to establishing and updating benchmarks and determining performance year expenditures under the Shared Savings

Program. We propose that this policy would be applied to calculations that are necessary to determine ACO performance for the 2018 performance year and subsequent performance years. For ACOs that are in the middle of an agreement period when this revised policy takes effect, we would adjust the benchmarks for these ACOs at the start of the 2018 performance year and each subsequent performance year so that the benchmark for the ACO reflects the use of the same payment information that would apply in expenditure calculations for the performance year. More specifically, we propose to modify our regulations at §§425.602(a)(1)(ii), 425.603(c)(1)(ii), and 425.603(e)(2)(ii) to add new provisions to indicate that, (1) when establishing benchmarks for agreement periods before 2018, we will include all individually beneficiary identifiable payments, including interim payments, made under a demonstration, pilot, or time limited program, (2) for agreement periods beginning in 2018 and subsequent years, we would only include individually beneficiary identifiable payments made under a demonstration, pilot or time limited program that are final and not subject to further reconciliation, and (3) For the 2018 performance year and subsequent performance years in agreement periods beginning in 2015, 2016 and 2017, the benchmark would be adjusted to reflect only individually beneficiary identifiable final payments made under a demonstration, pilot or time limited program. Additionally, we propose to add new §§425.604(a)(6)(ii)(A), 425.606(a)(6)(ii)(A) and 425.610(a)(6)(ii)(A) indicating that when calculating expenditures for performance years before 2018, we will include all individually beneficiary identifiable payments, including interim payments, made under a demonstration, pilot, or time limited program. We also propose to add new §§425.604(a)(6)(ii)(B), 425.606(a)(6)(ii)(B) and 425.610(a)(6)(ii)(B) indicating that when calculating expenditures for performance year 2018 and subsequent performance years, we would only include individually beneficiary identifiable

payments made under a demonstration, pilot or time limited program that are final and not subject to further reconciliation. To be consistent with our treatment of claims-based payments, such final payments would have to be available in the separate CMS system by the end of the 3-month claims run out period.

We invite comments on this proposal.

## I. Value-Based Payment Modifier and Physician Feedback Program

### 1. Overview

Section 1848(p) of the Act requires the establishment of a value-based payment modifier (VM) that applies to specific physicians and groups of physicians the Secretary determines appropriate starting January 1, 2015, and to all physicians and groups of physicians by January 1, 2017. On or after January 1, 2017, section 1848(p)(7) of the Act provides the Secretary discretion to apply the VM to eligible professionals (EPs) as defined in section 1848(k)(3)(B) of the Act. Section 1848(p)(4)(C) of the Act requires the VM to be budget neutral. The VM and Physician Feedback programs continue our initiative to recognize and reward clinicians based on the quality and cost of care provided to their patients, increase the transparency of health care quality information and to assist clinicians and beneficiaries in improving medical decision-making and health care delivery. As stated in the CY 2016 PFS final rule with comment period (80 FR 71277), the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) (Pub. L. 114-10) was enacted on April 16, 2015. Under section 1848(p)(4)(B)(iii) of the Act, as amended by section 101(b)(3) of MACRA, the VM shall not be applied to payments for items and services furnished on or after January 1, 2019. Section 1848(q) of the Act, as added by section 101(c) of MACRA, establishes the Merit-based Incentive Payment System (MIPS) that shall apply to payments for items and services furnished on or after January 1, 2019.

### 2. Overview of Existing Policies for the VM

In the CY 2013 PFS final rule with comment period, we discussed the goals of the VM and also established that specific principles should govern the implementation of the VM (77 FR 69307). We refer readers to that rule for a detailed discussion. In the CY 2013 PFS final rule with comment period (77 FR 69310), we finalized policies to phase-in the VM by applying

it beginning January 1, 2015, to Medicare PFS payments to physicians in groups of 100 or more EPs. A summary of the existing policies that we finalized for the CY 2015 VM can be found in the CY 2014 PFS proposed rule (78 FR 43486 through 43488). Subsequently, in the CY 2014 PFS final rule with comment period (78 FR 74765 through 74787), we finalized policies to continue the phase-in of the VM by applying it starting January 1, 2016, to payments under the Medicare PFS for physicians in groups of 10 or more EPs. Then, in the CY 2015 PFS final rule with comment period (79 FR 67931 through 67966), we finalized policies to complete the phase-in of the VM by applying it starting January 1, 2017, to payments under the Medicare PFS for physicians in groups of 2 or more EPs and to physician solo practitioners. In the CY 2016 PFS final rule with comment period (80 FR 71277 through 71279), we finalized that in the CY 2018 payment adjustment period, the VM will apply to non-physician EPs who are physician assistants (PAs), nurse practitioners (NPs), clinical nurse specialists (CNSs), and certified registered nurse anesthetists (CRNAs) in groups with 2 or more EPs and to PAs, NPs, CNSs, and CRNAs who are solo practitioners.

In the CY 2016 PFS final rule with comment period (80 FR 71288 to 71291), we finalized that we would apply the following adjustments to payments, for items and services furnished under the Medicare PFS in CY 2018, to physicians, PAs, NPs, CNSs, and CRNAs in groups with 10 or more EPs and at least one physician:

- Negative 4 percent (-4.0 percent) for those that fall into Category 2, meaning that they did not meet the criteria to avoid the 2018 PQRS payment adjustment.
- Negative 4 percent (-4.0 percent) under the quality-tiering methodology for those classified as low quality/high cost and negative 2 percent (-2.0 percent) for those classified as either low quality/average cost or average quality/high cost.

- An upward adjustment of four times an adjustment factor (+4.0x) under the quality-tiering methodology for those classified as high quality/low cost and two times an adjustment factor (+2.0x) for those classified as either average quality/low cost or high quality/average cost.

We finalized that we would apply the following adjustments to payments, for items and services furnished under the Medicare PFS in CY 2018, to physician solo practitioners and physicians, PAs, NPs, CNSs, and CRNAs in groups with 2 to 9 EPs and at least one physician:

- Negative 2 percent (-2.0 percent) to those that fall into Category 2, meaning that they did not meet the criteria to avoid the 2018 PQRS payment adjustment.

- Negative 2 percent (-2.0 percent) under the quality tiering methodology for those classified as low quality/high cost and negative 1 percent (-1.0 percent) for those classified as either low quality/average cost or average quality/high cost.

- An upward adjustment of two times an adjustment factor (+2.0x) under the quality-tiering methodology for those classified as high quality/low cost and one times an adjustment factor (+1.0x), for those classified as either average quality/low cost or high quality/average cost.

We finalized that we would apply the following adjustments to payments, for items and services furnished under the Medicare PFS in CY 2018, to non-physician solo practitioners who are PAs, NPs, CNSs, and CRNAs and to PAs, NPs, CNSs, and CRNAs in groups comprised solely of non-physician EPs:

- Negative 2 percent (-2.0 percent) for those who fall in Category 2, meaning that they did not meet the criteria to avoid the 2018 PQRS payment adjustment.

- No downward adjustments under the quality-tiering methodology in CY 2018.



- An upward adjustment of two times an adjustment factor (+2x) under the quality-tiering methodology, for those classified as high quality/low cost and one times an adjustment factor (+1.0x) for those classified as either average quality/low cost or high quality/average cost.

In the CY 2017 PFS final rule with comment period (81 FR 80520-80524), we finalized the following, with regard to Medicare Shared Savings Program ACO participant TINs whose ACO did not successfully report quality data on behalf of its EPs for purposes of PQRS as required by the Shared Savings Program under §425.504 for the CY 2017 and CY 2018 PQRS payment adjustments:

- For the CY 2017 VM payment adjustment period, we will use the data reported to the PQRS by the EPs under the ACO participant TIN (as a group or as individuals) outside of the ACO during the secondary PQRS reporting period in 2016 to determine whether the TIN would fall in Category 1 or Category 2 under the VM.

- We will apply the two-category approach finalized for the CY 2017 VM based on participation in the PQRS by groups and solo practitioners to determine whether groups and solo practitioners that participate in a Shared Savings Program ACO, but report to the PQRS outside of the ACO, would fall in Category 1 or Category 2 under the VM.

- We will assess the individual EP or group's 2016 data submitted outside the ACO and during the secondary PQRS reporting period against the reporting requirements for the CY 2018 PQRS payment adjustment. Therefore, groups that meet the criteria to avoid the PQRS payment adjustment for CY 2018 as a group or by having at least 50 percent of the group's EPs meet the criteria to avoid the PQRS payment adjustment for CY 2018 as individuals, based on data submitted outside the ACO and during the secondary PQRS reporting period in 2016, will be included in Category 1 for the CY 2017 VM. In addition, solo practitioners that meet the criteria

to avoid the PQRS payment adjustment for CY 2018 as individuals, based on data submitted outside the ACO and during the secondary PQRS reporting period in 2016, will be included in Category 1 for the CY 2017 VM. For these groups and solo practitioners in Category 1, we will classify their quality composite as “average quality,” and as established in the CY 2015 PFS final rule with comment period (79 FR 67943), we will classify their cost composite as “average cost.” Category 2 will include those groups and solo practitioners subject to the CY 2017 VM that participate in a Shared Savings Program ACO and do not fall within Category 1. We note that we would need to update the group or solo practitioner’s status so that they will stop receiving an automatic downward adjustment under the VM for items and services furnished in CY 2017 and reprocess all claims that were previously paid.

For the CY 2018 payment adjustment period, if groups that participate in a Shared Savings Program ACO in 2016 report quality data to the PQRS outside of the ACO and meet the criteria to avoid PQRS payment adjustment for CY 2018 as a group or by having at least 50 percent of the group’s EPs meet the criteria to avoid the PQRS payment adjustment for CY 2018 as individuals by reporting quality data to PQRS outside of the ACO, then they will be included in Category 1 for the CY 2018 VM. If solo practitioners that participate in a Shared Savings Program ACO in 2016 report quality data to the PQRS outside of the ACO and meet the criteria to avoid the PQRS payment adjustment for CY 2018 as individuals, then they will also be included in Category 1. We will classify their quality composite for the VM for the CY 2018 payment adjustment period as “average quality.” As finalized in the CY 2015 PFS final rule with comment period (79 FR 67943), the cost composite for groups and solo practitioners that participate in a Shared Savings Program ACO is classified as “average cost.”

### 3. Provisions of this Proposed Rule

As a general summary, we are proposing the following modifications to the VM policies for the CY 2018 payment adjustment period:

- Reduce the automatic downward adjustment for groups and solo practitioners in Category 2 (those who do not meet the criteria to avoid the 2018 PQRS payment adjustment as individual solo practitioners, as a group practice, or groups that have at least 50 percent of the group's EPs meet the criteria as individuals) to negative 2 percent (-2.0 percent) for groups with 10 or more EPs and at least one physician, and negative 1 percent (-1.0 percent) for groups with between 2 to 9 EPs, physician solo practitioners, and for groups and solo practitioners that consist only of non-physician EPs.

- Hold all groups and solo practitioners who are in Category 1 (those who meet the criteria to avoid the 2018 PQRS payment adjustment as individual solo practitioners, as a group practice, or groups that have at least 50 percent of the group's EPs meet the criteria as individuals) harmless from downward payment adjustments under quality tiering for the last year of the program.

- To provide a smoother transition to the MIPS and to align incentives across all groups and solo practitioners, reduce the maximum upward adjustment under the quality-tiering methodology to two times an adjustment factor (+2.0x) for groups with 10 or more EPs. This is the same maximum upward adjustment under the quality-tiering methodology that we finalized and will maintain for groups with between 2 to 9 EPs, physician solo practitioners, and for groups and solo practitioners that consist only of non-physician EPs.

a. Approach to Setting the VM Adjustment Based on PQRS Participation

Section 1848(p)(4)(B)(iii)(II) of the Act requires the Secretary to apply the VM to items and services furnished under the PFS beginning not later than January 1, 2017, for all

physicians and groups of physicians. Therefore, as mentioned in this proposed rule, in the CY 2016 PFS final rule with comment period (80 FR 71277 through 71279), we established that for the CY 2018 payment adjustment period, the VM will apply to non-physician EPs who are PAs, NPs, CNSs, and CRNAs in groups with 2 or more EPs and to PAs, NPs, CNSs, and CRNAs who are solo practitioners.

In the CY 2016 PFS final rule with comment period (80 FR 71280), we adopted a two-category approach for the CY 2018 VM based on participation in the PQRS by groups and solo practitioners. For the purposes of the CY 2018 VM, Category 1 includes the following groups and solo practitioners:

(1) Groups that meet the criteria to avoid the CY 2018 PQRS payment adjustment as a group practice participating in the PQRS GPRO;

(2) Groups that have at least 50 percent of the group's EPs meet the criteria to avoid the PQRS payment adjustment for CY 2018 as individuals;

(3) Solo practitioners that meet the criteria to avoid the CY 2018 PQRS payment adjustment as individuals; and

(4) Groups and solo practitioners that meet the criteria to avoid the CY 2018 PQRS payment adjustment through participation in a Shared Savings Program ACO, if the ACO in which they participate successfully reports quality data as required by the Shared Savings Program.

Category 2 includes those groups and solo practitioners that are subject to the CY 2018 VM payment adjustment and do not fall within Category 1. Groups in Category 1 have been eligible to receive upward, neutral, or downward adjustments under our quality tiering

methodology, and groups and solo practitioners in Category 2 receive an automatic downward adjustment under the VM.

As noted in this proposed rule, under section 1848(p)(4)(B)(iii) of the Act, as amended by section 101(b)(3) of MACRA, the VM shall not be applied to payments for items and services furnished on or after January 1, 2019. Section 1848(q) of the Act, as added by section 101(c) of MACRA, establishes the MIPS that shall apply to payments for items and services furnished on or after January 1, 2019. In the interest of program alignment and providing a smooth transition between the VM and MIPS, as well as aligning with the proposed changes to the policies for satisfactory reporting under the final year of PQRS, modifications to the CY 2018 VM payment adjustments are proposed and described in section III.F. of this proposed rule. We are not proposing any change to our existing policy that TINs that avoid the downward payment adjustment under PQRS (either as a group practice participating in the PQRS GPRO or through the individual participation of at least 50 percent of the group's EPs, or as a solo practitioner) will be considered Category 1 under the VM. These TINs therefore will avoid an automatic downward adjustment under the VM.

#### b. Payment Adjustment Amount

In this section, we are proposing modifications to the VM policies for the CY 2018 payment adjustment period. As discussed in greater detail below, we are proposing these modifications based on our general policy goals of better alignment and ensuring a smooth transition from the final year of the VM (2018) to the first year of MIPS (2019) as well as continuing to align the VM with the policies established for the PQRS.

To maintain stability in the payment adjustment amounts applicable under the VM as we transition to the MIPS in 2019, we maintained generally the same VM payment adjustment

amounts from the CY 2017 payment adjustment period to the CY 2018 payment adjustment period (80 FR 71288 through 71291). Under our existing policy (80 FR 71290), the estimated funds derived from the application of the downward adjustments to groups and solo practitioners in Category 1 and Category 2 are available to all groups and solo practitioners eligible for upward adjustments under the VM. The upward payment adjustment factor (the “x” factor) is determined after the performance period has ended based on the aggregate amount of downward payment adjustments. Despite our efforts to ensure a smooth transition from the VM to the MIPS, the 2017 VM adjustment factor has resulted in payment adjustments for some groups and solo practitioners that are significantly higher than the maximum upward adjustment under the MIPS, which will apply to payments starting in 2019, after the sunset of the VM in 2018. The magnitude of the 2017 VM adjustment factor is due in large part to the number of physician practices failing to satisfy the criteria to avoid the PQRS payment adjustment (Category 2). Furthermore, we believe it is likely that many physician practices that fail to meet these criteria and as a result are in Category 2 and are subject to automatic downward adjustments under the 2018 VM will be excluded from MIPS in 2019, due to the low-volume threshold. For example, as noted in the 2015 PQRS Experience Report, CMS found that, based on historical data, the participation rate for practices falling below the low volume threshold “low volume” (< \$30k charges OR <100 beneficiaries) would be approximately 60 percent. Based on historical data, the participation rate among practices falling above the low volume threshold (>= \$30k charges AND >=100 beneficiaries) would be approximately 80 percent.

The 2017 VM adjustment factor is 15.48 percent, which is similar to the 2016 VM adjustment factor of 15.92 percent. We would expect, absent any policy change, that the 2018 VM adjustment factor would be similar or higher. The 2018 VM adjustment factor could

potentially be higher than the 2017 VM adjustment factor, because non-physician EPs who will be subject to the 2018 VM may be less familiar with quality reporting and may fail to meet the criteria to avoid the CY 2018 PQRS payment adjustment, which would result in a greater number of groups and solo practitioners in Category 2. In addition, groups with 2-9 EPs and solo practitioner physicians will no longer be held harmless from downward adjustments under the quality-tiering methodology in the CY 2018 payment adjustment period.

In section III.F. of this proposed rule, we are proposing to change certain policies for the 2018 PQRS payment adjustment. We discuss the implications of these proposed changes for PQRS with regard to the VM in greater detail below.

- Quality-Tiering for groups and solo practitioners in Category 1: As noted in section III.F. of this proposed rule, we are proposing to change the reporting criteria for the 2018 PQRS payment adjustment. We are proposing to lower the number of measures required and to eliminate the requirement for reporting across a number of domains. We recognize that some groups and solo practitioners may have reported differently under PQRS if the PQRS reporting criteria had been established prior to the reporting period. For example, it is possible that groups and solo practitioners may have selected fewer or different PQRS measures to report or may have chosen to report through a different PQRS reporting mechanism, which could have resulted in a higher quality composite score under the VM. Based on these implications for the VM, we are proposing to hold all groups and solo practitioners in Category 1 harmless from downward adjustments under the quality-tiering methodology in the CY 2018 payment adjustment period. This proposal would apply to groups and solo practitioners who would have otherwise received downward adjustments based on their quality composite score and/or cost composite score. A group or solo practitioner that is classified as “high cost” based on their cost composite score

potentially could have reported differently under the PQRS and received a quality composite score that would be classified as “high quality,” if the PQRS reporting criteria proposed in section III.F. of this proposed rule had been established prior to the reporting period. A high quality/high cost classification would have resulted in a neutral adjustment under the VM in 2018.

In contrast to the existing policy for 2018 where only non-physician solo practitioners and groups comprised solely of non-physician EPs would be held harmless from downward adjustments under quality-tiering, this proposed policy would mean that all groups and solo practitioners that meet the criteria to avoid the 2018 PQRS payment adjustment would receive either a neutral or upward adjustment based on performance.

We also propose to reduce the maximum upward adjustment under the quality-tiering methodology in CY 2018 from four times an adjustment factor (+4.0x) to two times an adjustment factor (+2.0x) for those classified as high quality/low cost and from two times an adjustment factor (+2.0x) to one times an adjustment factor (+1.0x), for those classified as either average quality/low cost or high quality/average cost. This proposal would align the upward adjustments for groups with ten or more eligible professionals with the existing policy for smaller groups and solo practitioners, as well as groups comprised solely of non-physician EPs (80 FR 71290). We are proposing this change based on our concern that the 2018 VM adjustment factor (the “x” factor used to determine upward adjustments) could potentially be higher than the 2017 VM adjustment factor, as discussed above. Lowering the maximum upward adjustment in 2018 would mitigate the effect of a high adjustment factor and ensure a smoother transition from the VM adjustment in 2018 to the MIPS adjustment in 2019. We welcome public comment on this proposal.



We are not proposing any change to the existing policy (80 FR 71291) that groups and solo practitioners that are eligible for upward adjustments under the quality-tiering methodology and have average beneficiary risk score that is in the top 25 percent of all beneficiary risk scores will earn an additional upward adjustment of one times an adjustment factor (+1x). We are also not proposing any change to the existing policy (81 FR 80520 through 80524) (a) for the CY 2017 payment adjustment period for groups and solo practitioners that would be in Category 1 as a result of meeting the proposed reduced PQRS reporting criteria (see section III.F. of this proposed rule) outside of their Shared Savings Program ACO during the secondary PQRS reporting period in 2016 or (b) for the CY 2018 payment adjustment period for groups and solo practitioners that would be Category 1 as a result of reporting outside of their Shared Savings Program ACO because their ACO failed to successfully report on their behalf to avoid the PQRS payment adjustment. As stated previously, under the existing policy, these groups and solo practitioners in Category 1 would be classified as “average quality” and “average cost” for purposes of the CY 2017 VM.

Tables 22 through 24 illustrate how the proposed policies differ from the existing policies for each group size and composition.

**TABLE 22: Current and Proposed CY 2018 VM Amounts Under the Quality-Tiering Approach for Physicians, NPs, PAs, CNSs, & CRNAs in Groups of Physicians with 10+ EPs**

<b>Cost/Quality</b> <i>VM Payment Adjustment</i>	<b>Low Quality</b>		<b>Average Quality</b>		<b>High Quality</b>	
	Current	Proposed	Current	Proposed	Current	Proposed
<b>Low Cost</b>	+0.0%	+0.0%	+2.0x*	+1.0x*	+4.0x*	+2.0x*
<b>Average Cost</b>	-2.0%	+0.0%	+0.0%	+0.0%	+2.0x*	+1.0x*
<b>High Cost</b>	-4.0%	+0.0%	-2.0%	+0.0%	+0.0%	+0.0%

\* Under existing policy, these groups are eligible for an additional +1.0x if their average beneficiary risk score is in the top 25 percent of all beneficiary risk scores, where ‘x’ represents the upward payment adjustment factor.

**TABLE 23: Current and Proposed CY 2018 VM Amounts Under the Quality-Tiering Approach for Physicians, PAs, NPs, CNSs, & CRNAs in Groups of Physicians with 2-9 EPs and Physician Solo Practitioners**

<b>Cost/Quality</b> <i>VM Payment Adjustment</i>	<b>Low Quality</b>		<b>Average Quality</b>		<b>High Quality</b>	
	Current	Proposed	Current	Proposed	Current	Proposed
<b>Low Cost</b>	+0.0%	+0.0%	+1.0x*	+1.0x*	+2.0x*	+2.0x*
<b>Average Cost</b>	-1.0%	+0.0%	+0.0%	+0.0%	+1.0x*	+1.0x*
<b>High Cost</b>	-2.0%	+0.0%	-1.0%	+0.0%	+0.0%	+0.0%

\* Under existing policy, these groups and solo practitioners are eligible for an additional +1.0x if their average beneficiary risk score is in the top 25 percent of all beneficiary risk scores, where ‘x’ represents the upward payment adjustment factor.

**TABLE 24: Current and Proposed CY 2018 VM Amounts Under the Quality-Tiering Approach for PAs, NPs, CNSs, & CRNAs who are Solo Practitioners or in Groups Consisting of Non-Physician EPs only**

<b>Cost/Quality</b> <i>VM Payment Adjustment</i>	<b>Low Quality</b>		<b>Average Quality</b>		<b>High Quality</b>	
	Current	Proposed	Current	Proposed	Current	Proposed
<b>Low Cost</b>	+0.0%	+0.0%	+1.0x*	+1.0x*	+2.0x*	+2.0x*
<b>Average Cost</b>	+0.0%	+0.0%	+0.0%	+0.0%	+1.0x*	+1.0x*
<b>High Cost</b>	+0.0%	+0.0%	+0.0%	+0.0%	+0.0%	+0.0%

\* Under existing policy, these groups and solo practitioners are eligible for an additional +1.0x if their average beneficiary risk score is in the top 25 percent of all beneficiary risk scores, where ‘x’ represents the upward payment adjustment factor.

Table 25 displays the proposed 2018 VM adjustments under the quality-tiering methodology, for groups and solo practitioners in Category 1. Under the proposed policies,

groups of any size and composition would be subject to the same upward adjustments under quality tiering and would be held harmless from any downward adjustments based on performance.

**TABLE 25: Proposed CY 2018 VM Amounts Under the Quality-Tiering Approach for Physicians, PAs, NPs, CNSs, and CRNAs Who Are Solo Practitioners and Those in Groups of Any Size**

<b>Cost/quality</b>	<b>Low quality</b>	<b>Average quality</b>	<b>High quality</b>
<b>Low cost</b>	+0.0%	+1.0x*	+2.0x*
<b>Average cost</b>	+0.0%	+0.0%	+1.0x*
<b>High cost</b>	+0.0%	+0.0%	+0.0%

\* Under existing policy, these groups and solo practitioners are eligible for an additional +1.0x if their average beneficiary risk score is in the top 25 percent of all beneficiary risk scores, where ‘x’ represents the upward payment adjustment factor.

- Automatic Downward Adjustments for groups and solo practitioners in Category 2.

Under existing policy, the total maximum downward adjustment in 2018 under the PQRS and VM programs combined is negative 6 percent (-6.0 percent), while the maximum downward adjustment under MIPS in 2019 is negative 4 percent (-4.0 percent). In order to ensure a smoother transition to the downward payment adjustments under MIPS, we are proposing to reduce the amount of the automatic downward adjustments applied to payments for TINs categorized as Category 2 (those that do not avoid the PQRS payment adjustment as individual solo practitioners, as a group practice, or as a group that has at least 50 percent of the group’s EPs meet the criteria to avoid the payment adjustment as individuals).

For physicians, PAs, NPs, CNSs, and CRNAs in groups with 10 or more EPs and at least one physician, we propose to reduce the automatic downward VM adjustment from negative 4 percent (-4.0 percent) to negative 2 percent (-2.0 percent) for those that fall in Category 2,

meaning they did not meet the criteria to avoid the 2018 PQRS payment adjustment. We welcome public comment on this proposal.

For physician, PA, NP, CNS, and CRNA solo practitioners; physicians, PAs, NPs, CNSs, and CRNAs in groups with 2 to 9 EPs; and for PAs, NPs, CNSs, and CRNAs who are in groups comprised solely of non-physician EPs, we propose to reduce the automatic downward VM adjustment from negative 2 percent (-2.0 percent) to negative 1 percent (-1.0 percent) for those that fall in Category 2. We welcome public comment on this proposal.

Section 1848(p) of the Act does not specify the amount of payment that should be subject to the adjustment for the VM; however, section 1848(p)(4)(C) of the Act requires the VM be implemented in a budget neutral manner. In the past, under the VM, we have achieved budget neutrality by increasing payments for some groups and solo practitioners based on high performance and decreasing them for others based on low performance or failing to meet the criteria to avoid the PQRS payment adjustment as a group or as individuals. Under the proposals discussed above for the CY 2018 payment adjustment period, we would not decrease payments to groups and solo practitioners based on performance under the quality-tiering methodology, provided that they are classified as Category 1 under the VM (meaning that they meet the criteria to avoid the CY 2018 PQRS payment adjustment as individual solo practitioners, as a group practice, or as a group that has at least 50 percent of the group's EPs meet the criteria). We would continue to decrease payments to groups and solo practitioners in Category 2 (meaning that they did not meet the criteria to avoid the CY 2018 PQRS payment adjustment as individual solo practitioners, as a group practice, or as a group that has at least 50 percent of the group's EPs meet the criteria). Regardless of the proposals discussed above for the CY 2018 payment adjustment period, the aggregate expected amount of Medicare spending in any given year for

physician and non-physician EP services paid under the Medicare PFS will not change as a result of the application of the VM. As discussed above, because the VM must be implemented in a budget neutral manner, the amount available for upward adjustments for high performers would decrease under our proposals. In other words, groups and solo practitioners that performed well on cost and quality would receive a smaller increase in payment. For this reason, we seek comment on whether we have appropriately balanced the interests of high and low-performing groups and solo practitioners through this proposed change to the policy.

We propose to make conforming revisions to §§414.1270, and 414.1275(c)(4) and (d)(3) to reflect the proposals described in this section. We seek public comment on these proposed changes to the regulation text.

## J. MACRA Patient Relationship Categories and Codes

### 1. Development of Patient Relationship Categories and Codes to Improve Identification of Physician-Patient Relationship

#### a. Overview

The Quality Payment Program (QPP) aims to improve health outcomes, promote smarter spending, minimize burden of participation, and provide fairness and transparency in operations. These aims are centered on improving beneficiary outcomes and engaging patients through patient-centered policies, and enhancing clinician experience through flexible and transparent program design and interactions with easy-to-use program tools.

The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) (Pub. L. 114-10) was enacted on April 16, 2015. Section 101(f) of MACRA amended section 1848 of the Act to create a new subsection (r) entitled Collaborating with the Physician, Practitioner, and Other Stakeholder Communities to Improve Resource Use Measurement. Section 1848(r)(2) of the Act requires the development of care episode and patient condition groups, and classification codes for such groups. To facilitate the attribution of patients and episodes to one or more clinicians, section 1848(r)(3) of the Act requires the development of patient relationship categories and codes that define and distinguish the relationship and responsibility of a physician or applicable practitioner with a patient at the time of furnishing an item or service. The categories shall include different relationships of the clinician to the patient and reflect various types of responsibility for and frequency of furnishing care. Pursuant to section 1848(r)(3)(C) of the Act, we posted a draft list of patient relationship categories in April 2016 and solicited public

comment on the categories and the policy principles that were used in developing them.<sup>4</sup> In December 2016, we solicited additional comment on potential modifications to these categories based on comments received previously, as well as a method to operationalize the coding of these categories on the Medicare claim.<sup>5</sup>

## 2. Operational List of Patient Relationship Categories

Based on the public comments received and consultation with stakeholders and experts regarding the draft list of patient relationship categories posted in April 2016 and the list of modified patient relationship categories posted in December 2016, we posted the operational list of patient relationship categories on May 17, 2017, pursuant to section 1848(r)(3)(E) of the Act, which is available at <https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Value-Based-Programs/MACRA-MIPS-and-APMs/CMS-Patient-Relationship-Categories-and-Codes.pdf>. The patient relationship categories on the operational list are the following:

- Continuous/Broad Services.
- Continuous/Focused Services.
- Episodic/Broad services.
- Episodic/Focused Services.
- Only as Ordered by Another Clinician.

## 3. Subsequent Revisions

Section 1848(r)(3)(F) of the Act requires that after the posting of the operational list of patient relationship categories and codes, not later than November 1<sup>st</sup> of each year (beginning

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<sup>4</sup> <https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Value-Based-Programs/MACRA-MIPS-and-APMs/Patient-Relationship-Categories-and-Codes.pdf> (assessed 04/26/2017).

<sup>5</sup> <https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Value-Based-Programs/MACRA-MIPS-and-APMs/Patient-Relationship-Categories-and-Codes-Posting-FINAL.pdf>.

with 2018), the Secretary shall, through rulemaking, make revisions to the operational list of patient relationship categories and codes as the Secretary determines appropriate. The revisions may be based on experience, new information and input from stakeholders. In preparation for potential subsequent revisions by November 1, 2018, we seek comment on the operational list of patient relationship categories available at <https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/Value-Based-Programs/MACRA-MIPS-and-APMs/CMS-Patient-Relationship-Categories-and-Codes.pdf>.

#### 4. Reporting of Patient Relationship Codes Using Modifiers

Section 1848(r)(4) of the Act requires that claims submitted for items and services furnished by a physician or applicable practitioner on or after January 1, 2018, shall, as determined appropriate by the Secretary, include the applicable codes established for care episode groups, patient condition groups, and patient relationship categories under sections 1848(r)(2) and (3) of the Act, as well as the NPI of the ordering physician or applicable practitioner (if different from the billing physician or applicable practitioner). Applicable practitioners are defined in section 1848(r)(9)(B) of the Act as a physician assistant, nurse practitioner, and clinical nurse specialist (as such terms are defined in section 1861(aa)(5)), and a certified registered nurse anesthetist (as defined in section 1861(bb)(2)), and beginning January 1, 2019, such other eligible professionals (as defined in subsection (k)(3)(B)) as specified by the Secretary.

We have been planning for the use of procedure code modifiers for the reporting of patient relationships codes on Medicare claims. In December 2016, as described above, when we solicited comments on the potential modifications to the patient relationship categories, we also sought comment on the use of Level II Healthcare Common Procedure Coding System



(HCPCS) Modifiers for the patient relationship codes. Public comments indicated that Current Procedural Terminology (CPT) Modifiers would be the best way to operationalize the reporting of patient relationship codes.<sup>6</sup>

We worked with the American Medical Association's (AMA) CPT Editorial Panel, which is responsible for maintaining the CPT code set. We submitted an application for the CPT modifiers for reporting of the patient relationship codes. The CPT Editorial Panel, at their June 2017 meeting determined that AMA would not include the modifiers in the CPT code set, pending future finalization of the modifiers by CMS, whereby CMS publishes the modifiers as Level II HCPCS Modifiers. Therefore, we are proposing the Level II HCPCS Modifiers in Table 26 as the patient relationship codes, which we would add to the operational list if we adopt them in the final rule.

**TABLE 26: Proposed Patient Relationship HCPCS Modifiers and Categories**

No.	Proposed HCPCS Modifier	Patient Relationship Categories
1x	X1	Continuous/broad services
2x	X2	Continuous/focused services
3x	X3	Episodic/broad services
4x	X4	Episodic/focused services
5x	X5	Only as ordered by another clinician

We are proposing that Medicare claims submitted for items and services furnished by a physician or applicable practitioner on or after January 1, 2018, should include the applicable HCPCS modifiers in Table 26, as well as the NPI of the ordering physician or applicable practitioner (if different from the billing physician or applicable practitioner). We anticipate there will be a learning curve with the use of the modifiers to report patient relationships, and

<sup>6</sup> The CMS Level II HCPCS Coding Workgroup meets regularly (generally monthly) to consider requests for new HCPCS codes and modifiers. Information on the code request and approval process is available at <https://www.cms.gov/Medicare/Coding/MedHCPCSGenInfo/index.html> (assessed 04/26/2017).

believe that time would be needed to work with clinicians to ensure they gain experience in using these modifiers. Therefore, for at least an initial period while clinicians gain familiarity, we are proposing that the HCPCS modifiers may be voluntarily reported on Medicare claims, and the use and selection of the modifiers would not be a condition of payment. Claims would be paid regardless of whether and how the modifiers are included. We would work with clinicians to educate them about the proper use of the modifiers.

The use of modifiers to report patient relationships would not change the meaning of the procedure codes used to report items and services and guidelines associated with use of such procedure codes. The modifiers would also not be tied or related to intensity of services (evaluation and management services). Finally, we note that, while we may work with clinicians to explore incorporating these codes into the QPP in future years, the measures we have proposed and finalized to date, those we have proposed for 2018, and those we are currently developing for future rulemaking for the MIPS performance categories do not require patient relationship codes to properly measure clinicians' quality and resource use in the Medicare program.

We solicit comment on our proposal for voluntary reporting of the proposed HCPCS modifiers on claims submitted for items and services furnished by a physician or applicable practitioner on or after January 1, 2018 and on the proposed list of HCPCS modifiers in Table 26. We seek comments on our intention to resubmit these patient relationship modifiers to AMA for future consideration into the CPT modifier code set.

## K. Proposed Changes to the Medicare Diabetes Prevention Program (MDPP) Expanded Model

### 1. Background

#### a. Authority for and Establishment of the MDPP Expanded Model

In the November 15, 2016 **Federal Register**, we issued a final rule to implement aspects of the Medicare Diabetes Prevention Program (MDPP) expanded model (81 FR 80459 through 80475 and 80552 through 80558) as part of the CY 2017 PFS final rule.

Section 1115A(c) of the Act provides the Secretary with the authority to expand, through rulemaking (including implementation on a nationwide basis), the duration and scope of a model that is being tested under section 1115A(b) of the Act if certain determinations specified in the Act are made, taking into account the evaluation of the model under section 1115A(b)(4) of the Act. The MDPP expanded model is an expansion of CMS' Center for Medicare and Medicaid Innovation's (Innovation Center) Diabetes Prevention Program (DPP) model test under the authority of section 1115A of the Act. The Secretary expanded the DPP model test in duration and scope under the authority of section 1115A(c) of the Act. For further information on the DPP model test, and the associated National DPP administered by the Centers for Disease Control and Prevention (CDC), we refer readers to the CY 2017 PFS final rule and the following websites: <https://Innovation.cms.gov/initiatives/Health-Care-Innovation-Awards/> and <https://www.cdc.gov/diabetes/prevention/index.html>.

The aim of the MDPP expanded model is to continue to test a method of prevention of the onset of type 2 diabetes among Medicare beneficiaries with an indication of prediabetes as defined by the MDPP beneficiary eligibility criteria (finalized at §410.79(c)(1)). Services available through the MDPP expanded model are MDPP services furnished in community and health care settings by coaches, such as trained community health workers or health

professionals. We have designated services under the MDPP expanded model to be covered as additional preventive services under Medicare, as defined in section 1861(ddd) of the Act.

For a detailed discussion of the DPP model test and the development of aspects of the MDPP expanded model, we refer readers to the July 15, 2016 MDPP proposed rule (“Proposed Expansion of the Diabetes Prevention Program (DPP) Model”) (81 FR 46413 through 46418), and the CY 2017 PFS final rule (81 FR 80459 through 80475).

In the CY 2017 PFS final rule, we responded to and incorporated certain suggestions from the public comments we received that were within the scope of the MDPP proposals presented in the July 15, 2016 MDPP proposed rule. We indicated in that final rule (81 FR 80459) that the MDPP expanded model would be implemented through at least two rounds of rulemaking. In the CY 2017 PFS final rule, we finalized MDPP policies that will enable CDC-recognized organizations to prepare for enrollment, including finalizing the framework for the MDPP expanded model, details of the MDPP expanded model (codified at §410.79(a) and (b)), beneficiary eligibility criteria (codified at §410.79(c) and (d)), supplier eligibility criteria and supplier enrollment requirements (codified at §424.59, proposed in this rule to be redesignated as §424.205). We also identified several issues, including some issues raised by commenters that we deferred to future rulemaking. The proposals in this proposed rule address a number of issues raised by the public in response to the July 15, 2016 MDPP proposed rule. We also are making additional proposals to implement the MDPP expanded model.

#### b. Summary of Provisions Finalized in the CY 2017 PFS Final Rule

In the CY 2017 PFS final rule (81 FR 80465 through 80468), we finalized the structure of MDPP services. We provided that the MDPP core benefit consists of at least 16 weekly core sessions over months 1 through 6 and at least 6 monthly core maintenance sessions over months

7 through 12, furnished regardless of weight loss (§410.79(b) and (c)(2)). We also finalized that Medicare will cover ongoing maintenance sessions after the 12-month core set of MDPP services if beneficiaries achieve and maintain the required minimum weight loss of 5 percent. In section III.K.2.b. of this proposed rule, we are proposing to further revise the structure of MDPP services as a 3-year service period, generally contingent upon a beneficiary's attainment of two performance goals: achievement and maintenance of weight loss and attendance at a certain number of MDPP sessions.

As used in this proposed rule, the term "MDPP services period" refers to the time period in which MDPP services are furnished under the MDPP expanded model over a minimum of 12 consecutive months and a maximum of 36 consecutive months from the date of the first core session the beneficiary attends. We use the term "set of MDPP services" to include the entirety of MDPP services available under the MDPP expanded model, including core sessions, core maintenance sessions, and, subject to paragraph §410.79(c)(3), ongoing maintenance sessions offered over the course of the MDPP services period. For purposes of this proposed rule and the expanded model, MDPP services would be covered under the "additional preventive services" benefit category under section 1861(ddd)(1) of the Act and paid through the Medicare Part B Trust Fund. As indicated in the CY 2017 PFS, we intended to begin supplier enrollment before MDPP services became available, and we finalized an expanded model start date of January 1, 2018.

In this proposed rule, we propose a new start date for the furnishing of MDPP services within the expanded model of April 1, 2018. That is, MDPP suppliers will not be able to furnish MDPP services, or to receive payment for these services, prior to April 1, 2018. We note that if finalized as part of the CY 2018 PFS, the supplier enrollment and compliance policies will

become effective on January 1, 2018. This change to delay the furnishing of MDPP services would allow time for organizations to enroll in Medicare before they begin furnishing and billing for MDPP services.

In the CY 2017 PFS final rule (81 FR 80459), we described a possible payment structure for MDPP services, but deferred full development of the payment structure to future rulemaking. In section III.K.2.d. of this proposed rule, we discuss our proposed payment structure for MDPP services. This proposal takes into consideration the significant number of public comments we received in response to the possible payment structure we described in the July 15, 2016 MDPP proposed rule. We also are proposing payment policies for instances in which an MDPP beneficiary switches MDPP suppliers.

In the CY 2017 PFS final rule (81 FR 80471 through 80474), we required CDC-recognized organizations that will bill Medicare for MDPP services to enroll in Medicare as MDPP suppliers. We also finalized the requirements for coaches furnishing MDPP services. We finalized policies regarding CDC Diabetes Prevention Recognition Program (DPRP) full recognition for MDPP suppliers and we indicated an intention to propose policies in future rulemaking regarding whether a DPP organization without full CDC recognition could enroll as an MDPP supplier. We are proposing an interim MDPP preliminary recognition standard in section III.K.2.e. of this proposed rule. Also, in this section of this proposed rule, we are proposing revisions to the supplier eligibility and enrollment requirements, including establishment of standards and implementation of appropriate program integrity safeguards. In section III.K.2.f. of this proposed rule, we are proposing policies related to MDPP beneficiary engagement incentives furnished by MDPP suppliers.

In the CY 2017 PFS final rule (81 FR 80459), we deferred establishing policies related to organizations delivering “virtual” DPP services, where services are not furnished in person. In section III.K.3. of this proposed rule, we explain that the MDPP expanded model covers in-person MDPP services (other than ad hoc virtual make-up sessions discussed in section III.K.2.c.iv.(3) of this proposed rule), and thus, explain why we are not currently making any proposals related to MDPP services furnished 100 percent virtual and state that we are considering a separate model under CMS’s Innovation Center authority to test and evaluate virtual DPP services.

## 2. Proposed Policy Changes

### a. Proposed Changes to Effective Date of MDPP Services

In the CY 2017 PFS final rule, we established at §410.79(a) that MDPP services would be available on January 1, 2018. We are proposing to change §410.79(a) to state that MDPP services would be available on April 1, 2018. We are proposing this change because we want to ensure that MDPP suppliers have sufficient time to enroll in Medicare after the effective date of the CY 2018 PFS final rule.

Therefore, beneficiaries will not be able to receive MDPP services immediately on January 1, 2018 due to the time needed for supplier enrollment. For this reason, we are proposing April 1, 2018 as the expanded model start date, which we believe allows a sufficient amount of time (90 days) for eligible suppliers to enroll in Medicare before furnishing and billing for MDPP services. Subject to this proposed change, the following regulatory provisions, if finalized, would be effective April 1, 2018: §414.84 related to payment for MDPP services; and §424.210 related to beneficiary engagement incentives. All other sections, if finalized, will be effective on January 1, 2018, including the policies proposed in section III.K.2.e. related to

supplier enrollment and compliance. We seek comment on this new expanded model start date and whether 90 days is a sufficient amount of time for organizations to enroll in Medicare and prepare to furnish and bill for MDPP services.

b. Proposed Changes to the Set of MDPP Services

In the CY 2017 PFS final rule, we established the parameters of MDPP services. The policies and terms proposed in this proposed rule seek to clarify, build on, and at times change these previously finalized policies. In particular, we propose to refine and add terms related to the different aspects of “MDPP services.” In this proposed rule, we propose to slightly refine the term “MDPP services” to refer to structured health behavior change sessions that are furnished under the MDPP expanded model with the goal of preventing diabetes among Medicare beneficiaries with prediabetes, and that follow a CDC-approved curriculum (proposed §410.79(b)). The sessions provide practical training in long-term dietary change, increased physical activity, and problem-solving strategies for overcoming challenges to maintaining weight loss and a healthy lifestyle.

In the preamble to the CY 2017 PFS final rule, we referenced the set of MDPP services covered under the expanded model as the “MDPP benefit.” In this proposed rule, we propose to update this terminology. In cases where we would have previously referred to the term “benefit” to describe the entire set of MDPP sessions covered under the MDPP model, we propose to use the phrase “set of MDPP services.” “Set of MDPP services” means the series of MDPP sessions, composed of core sessions, core maintenance sessions, and ongoing maintenance sessions, offered over the course of the MDPP services period (proposed §410.79(b)).

In cases where we would have previously used the term “benefit” to describe a period of time, we propose to refer to the “MDPP services period.” The MDPP services period means the



time period, beginning on the date an MDPP beneficiary attends his or her first core session, over which the set of MDPP services is furnished to the MDPP beneficiary, to include the core services period described in paragraph §410.79(c)(2)(i) and, subject to paragraph §410.79(c)(3), one or more ongoing maintenance session intervals during the ongoing services period described in paragraph §410.79(c)(2)(ii) (proposed §410.79(b)). The duration of the MDPP services period is discussed further in section III.K.2.c.iv. of this proposed rule. As noted throughout this section, the term “benefit” would no longer be used. We propose to remove the term “MDPP core benefit” from the list of definitions.

In the CY 2017 PFS final rule, we included a definition for “core sessions” that referred to the set of core sessions covered under the MDPP expanded model. We propose to revise the definition for “core sessions,” and instead define the singular “core session” as an MDPP service that is furnished by an MDPP supplier to an MDPP beneficiary during months 1 through 6 of the MDPP services period, is approximately 1 hour in length, and adheres to a CDC-approved DPP curriculum for core sessions (proposed §410.79(b)). We believe that having a definition for the individual core session would be more uniform with other MDPP definitions, which are defined in the singular form. We propose to revise the definition of “core maintenance session” as an MDPP service that is furnished by an MDPP supplier to an MDPP beneficiary during a core maintenance session interval, is approximately 1 hour in length, and adheres to a CDC-approved DPP curriculum for maintenance sessions (under proposed revised §410.79(b)).

We propose to revise the definition of an “ongoing maintenance session” as an MDPP service that is furnished by an MDPP supplier to an MDPP beneficiary during an ongoing maintenance session interval; is approximately 1 hour in length and adheres to a CDC-approved DPP curriculum for maintenance sessions (proposed revised §410.79(b)). The proposed time

period over which MDPP suppliers offer ongoing maintenance sessions, which differs from our previously finalized policy, is discussed in section III.K.2.b.i. of this proposed rule.

We propose to add a definition for “MDPP session,” which means a core session, a core maintenance session, or an ongoing maintenance session (proposed §410.79(b)).

We invite public comments on these proposals.

#### i. Ongoing Maintenance Session Time Limit

In the CY 2017 PFS final rule, we finalized that “MDPP eligible beneficiaries,” a term we now propose to remove and replace with “MDPP beneficiary,” as described further in section III.K.2.c. of this proposed rule, would have Medicare coverage for ongoing maintenance sessions for an unspecified length of time, provided that they maintained the required minimum weight loss, which is 5 percent weight loss from baseline. Based on public comments indicating the limited administrative and operational capability of many MDPP suppliers to provide ongoing maintenance sessions for an individual indefinitely (81 FR 80468), we stated our intent to propose a limit on the number or duration of ongoing maintenance sessions to be covered in the set of MDPP services, although we did not finalize a policy that would do so.

In this rule, we propose a 2-year limit on Medicare coverage for ongoing maintenance sessions (proposed §410.79(c)(2)(ii)). The CMS Chief Actuary noted in the certification of the expansion of the DPP model test that continued participation in a type 2 diabetes DPP after 3 years has generally been untested. In addition, a DPP clinical trial conducted by the National Institutes of Health from 1996 to 2001 followed participants in a DPP for 3 years and found that, at the end of the study, diabetes incidence was reduced by 58 percent in the group that received a DPP lifestyle intervention when compared to the placebo group.<sup>7</sup> Based on the lack of evidence

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<sup>7</sup>Available at <http://www.nejm.org/doi/full/10.1056/NEJMoa012512>.

about DPP services beyond 3 years and evidence of positive effects from DPP participation for 3 years, in this proposed rule, we propose a total MDPP services period of up to 3 years (consisting of 1 year of core sessions and core maintenance sessions, followed by up to 2 years of ongoing maintenance sessions, (proposed §410.79(b))).

We considered alternatives to this proposal, such as limiting Medicare coverage for ongoing maintenance sessions to 1 year, which would limit the total MDPP services period to 2 years. Because the CDC DPRP does not require organizations to offer ongoing maintenance sessions, we also considered not covering ongoing maintenance sessions altogether, which would limit the total MDPP services period to 1 year. However, we believe that beneficiaries can benefit from maintenance sessions beyond the 6 months of core maintenance sessions because weight loss is difficult to achieve and can be even more difficult to sustain. We believe that the behavior changes necessary to sustain weight loss will be more deeply ingrained through beneficiary participation in ongoing maintenance sessions. Existing evidence also supports the effectiveness of participation in a DPP through 3 years.

We did not consider alternatives that would extend Medicare coverage for ongoing maintenance sessions beyond 2 years, and therefore, create an MDPP services period that would last longer than 3 years. Therefore, we propose to continue to include ongoing maintenance sessions, but with a limit of up to 2 years. As stated earlier, we believe there is not enough evidence available to support the effectiveness of participation in a DPP beyond 3 years. We also believe, based on public comments received in response to the July 15, 2016 MDPP proposed rule, that many suppliers have limited administrative and operational capacity to offer MDPP ongoing maintenance sessions indefinitely to all MDPP beneficiaries who maintain eligibility. As noted in section III.K.2.e.iv.4 of this proposed rule, an example of a capacity limit

could include a situation where an MDPP supplier has met its class size maximum and therefore could not accept additional beneficiaries. We are inviting public comments on our proposal and the alternatives we considered.

ii. MDPP Services Period Clarifications

At §410.79(b), we propose to remove the existing definition of “maintenance session bundle,” and to establish new definitions for “core maintenance session interval,” and “ongoing maintenance session interval,” which we believe will more directly reflect the structure of the set of MDPP services, as well as support the proposed policies in this proposed rule. Through these proposed definition changes, we are seeking to clarify the differences between the two types of intervals. We propose to define “core maintenance session interval” as one of the two consecutive 3-month time periods during months 7 through 12 of the MDPP services period, during which an MDPP supplier offers an MDPP beneficiary at least one core maintenance session per month. We propose to define “ongoing maintenance session interval” as one of the up to eight consecutive 3-month time periods during the ongoing services period described in paragraph §410.79(c)(2)(ii), during which an MDPP supplier offers at least one ongoing maintenance session to an MDPP beneficiary per month.

We are making the proposal to use the term “interval” instead of “bundle” because the proposed performance payments are tied to attendance and weight loss performance goals and, in aggregate, constitute the payment to MDPP suppliers for furnishing MDPP services during the MDPP services period, but they do not provide specific payments for a particular subset of sessions. Therefore, we believe that the term “bundle” is not appropriate for describing performance payments for these time intervals. The proposed new terms allow us to more appropriately describe the relationship of the performance payments to the specific time periods

where performance is measured. Furthermore, we propose to define “make-up session” as a core session, a core maintenance session, or an ongoing maintenance session furnished to an MDPP beneficiary when the MDPP beneficiary misses a regularly scheduled core session, core maintenance session, or ongoing maintenance session (proposed at §410.79(b)). We propose to define “virtual make-up session” as a make-up session that is not furnished in person and that is furnished in a manner consistent with the DPRP standards for virtual sessions (proposed §410.79(b)). Policies describing the parameters of make-up sessions and virtual make-up sessions are described further in section III.K.2.c.iv.(3).

We propose an additional term that helps describe key aspects of the MDPP expanded model: “performance goal.” This term refers to an attendance or weight loss goal that an MDPP beneficiary must achieve during the MDPP services period for an MDPP supplier to be paid a performance payment (proposed §414.84(a)). Because we propose this term that more broadly speaks to the performance goals of this expanded model, we propose to remove the definition of “maintenance of weight loss.” We also propose to move the definition of “coach” from §410.79(b) to §424.205(a) (we propose in section III.K.2.e to redesignate §424.59, Requirements for Medicare Diabetes Prevention Program suppliers to §424.205). We propose to revise the definition of “MDPP supplier” to mean an entity that is enrolled in Medicare to furnish MDPP services as provided in §424.59 (proposed to be redesignated as §424.205).

We invite public comments on these proposals.

#### c. Proposed Changes Related to Beneficiary Eligibility

In the CY 2017 PFS final rule, we established the eligibility criteria for Medicare beneficiaries to have coverage of the set of MDPP services, codified at §§410.79(c)(1) and 410.79(d), respectively. We previously finalized that an individual who met these criteria would

be referred as an “MDPP eligible beneficiary.” However, in this proposed rule, we propose to remove this term, and instead, add the definition of “MDPP beneficiary” to mean a Medicare beneficiary who meets the criteria specified in paragraph §410.79(c)(1)(i), who has initiated the MDPP services period by attending the first core session, and for whom the MDPP services period has not ended as specified in paragraph §410.79(c)(3) (proposed §410.79(b)). We believe that this revised definition will provide more clarity about when a beneficiary qualifies to receive MDPP services. We propose to remove the definition of “MDPP eligible beneficiary” to avoid confusion between the two definitions, and we propose conforming changes to §410.79 to remove the term “MDPP eligible beneficiary” and use the term “MDPP beneficiary” in its place, where appropriate.

In the CY 2017 PFS final rule (81 FR 80470), we specified at §410.79(c)(1) that Medicare beneficiaries are eligible for MDPP services if they meet all of the following criteria:

- Are enrolled in Medicare Part B.
- Have, as of the date of attendance at the first core session, a body mass index (BMI) of at least 25 if not self-identified as Asian or a BMI of at least 23 if self-identified as Asian (please see our discussion of BMI parameters in the CY 2017 PFS final rule at 81 FR 80468).
- Have, within the 12 months prior to attending the first core session, a hemoglobin A1c test with a value between 5.7 and 6.4 percent, a fasting plasma glucose of 110-125 mg/dL, or a 2-hour plasma glucose of 140-199 mg/dL (oral glucose tolerance test).
- Have no previous diagnosis of type 1 or type 2 diabetes (other than gestational diabetes).
- Do not have end-stage renal disease (ESRD).

In this proposed rule, we propose changes to these eligibility criteria at §410.79(c)(1) to clarify the eligibility limitations related to previous type 1 or type 2 diabetes diagnosis (described further in section III.K.2.c.ii. of this proposed rule), move and edit the regulation text that specifies that each beneficiary can only receive the set of MDPP services once in their lifetime (described further in section III.K.2.c.iii. of this proposed rule), and make editorial changes so that the provisions are specific to an individual beneficiary. We also are taking this opportunity to clarify some of these eligibility criteria.

i. Clarifying MDPP Eligibility Criteria Related to Gestational Diabetes and End-Stage Renal Disease (ESRD)

We note that we are not excluding beneficiaries with a prior history of gestational diabetes from eligibility for MDPP services, while beneficiaries with a prior history of a diagnosis of type 1 or type 2 diabetes are ineligible. The eligibility criteria are intended to identify a beneficiary at high risk for the development of type 2 diabetes in an individual that has not been diagnosed with type 1 or type 2 diabetes. Gestational diabetes is a condition that develops during pregnancy and typically resolves after delivery, although an individual with a history of gestational diabetes is at increased risk of subsequent type 2 diabetes development and may benefit from the set of MDPP services. Because of the clinical differences between gestational diabetes and type 1 or type 2 diabetes, we determined that it was appropriate not to exclude a beneficiary with a prior history of gestational diabetes from eligibility for MDPP services.

We also are clarifying that a beneficiary who is diagnosed with ESRD after having begun receiving MDPP services would lose eligibility. We do not believe MDPP services are appropriate for beneficiaries with ESRD because beneficiaries with ESRD require dialysis, and

the nutrition requirements for individuals on dialysis are very specific and therefore MDPP curriculum will not apply.<sup>8</sup> We believe that a beneficiary receiving MDPP services who develops ESRD will be best suited by ceasing to receive MDPP services and receiving attention by other health care professionals specifically suited to address his or her condition. Additionally, individuals with ESRD were not included in the DPP model test. Suppliers can use the online HIPAA Eligibility Transaction System (HETS) to verify if a beneficiary has ESRD by checking his or her eligibility status as a Part B or ESRD Medicare beneficiary. Suppliers can find more information on this system at <https://www.cms.gov/hets/help/>. We recognize that some Medicare beneficiaries may have other serious conditions, such as heart disease or cancer, and therefore may also have specific dietary requirements. We recommend that beneficiaries with complex dietary needs consult their health care provider as to whether they should participate in MDPP.

In summary, a beneficiary must maintain Medicare Part B coverage and not have ESRD throughout the duration of the MDPP services period to remain eligible to receive coverage for MDPP services. In conjunction with our proposal in this proposed rule related to diabetes diagnosis (explained further in section III.K.2.c.ii. of this proposed rule), a beneficiary must meet the eligibility requirements related to prediabetes and diabetes (including BMI, blood test results, and no diagnosis of diabetes other than gestational diabetes) as of the date of attendance at the first core session.

We invite public comments on these proposals.

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<sup>8</sup> WE Mitch, "Beneficial responses to modified diets in treating patients with chronic kidney disease," Kidney International Supplements April, 94 (2005): S133-5, <https://www.ncbi.nlm.nih.gov/pubmed/15752230>. J Rysz et al., "The Effect of Diet on the Survival of Patients with Chronic Kidney Disease," Nutrients 9, no. 5 (2017): E495, <https://www.ncbi.nlm.nih.gov/pubmed/28505087>. ME Chen et al., "Correlations of dietary energy and protein intakes with renal function impairment in chronic kidney disease patients with or without diabetes," The Kaohsiung Journal of Medical Sciences 33, no. 5 (2017):252-259, <https://www.ncbi.nlm.nih.gov/pubmed/28433072>.



ii. Diabetes Diagnosis during the MDPP Services Period

In the CY 2017 PFS final rule, we finalized that to be eligible for coverage for the set of MDPP services, a Medicare beneficiary must have prediabetes, as shown through a qualifying BMI and blood test results, and must have no previous diagnosis of type 1 or type 2 diabetes (other than gestational diabetes). We received public comments in response to the July 15, 2016 MDPP proposed rule that asked whether a beneficiary would remain eligible for the set of MDPP services if the beneficiary developed diabetes during the MDPP services period. In the CY 2017 PFS final rule, we deferred action in response to these public comments and are now addressing them in this proposed rule.

We propose that the diabetes diagnosis exclusion applies only at the time of the first core session (that is, if a beneficiary develops diabetes during the MDPP services period, it would not affect the beneficiary's eligibility to continue receiving MDPP services). Specifically, we propose to revise the eligibility requirements for MDPP services to state that a beneficiary has, as of the date of attendance at the first core session, no previous diagnosis of diabetes, other than gestational diabetes (proposed §410.79(c)(1)(i)(E)). This proposed policy is based in part on the fact that the DPP model test, which demonstrated cost savings, did not exclude from the model individuals who developed diabetes. Additionally, whereas suppliers can check HETS to verify a beneficiary's ESRD status fairly easily, we believe requiring a supplier to reassess other beneficiary eligibility criteria such as diabetes status and blood test results, and subsequently removing those who no longer meet the eligibility criteria is impractical and unduly burdensome.

Alternatively, we considered deeming any beneficiary who develops diabetes during the MDPP services period to be ineligible to continue to receive coverage for MDPP services because these services are intended to be preventive. If a beneficiary progresses to type 2

diabetes, other treatment options, such as Diabetes Self-Management Training (DSMT), may be more appropriate than services that seek to prevent a condition the beneficiary already has. However, it is important to note that the receipt of MDPP services does not preclude a beneficiary from accessing other treatments for diabetes during the time period that the beneficiary is covered for MDPP services. An MDPP beneficiary who ultimately also receives DSMT at some time during the MDPP services period because he or she develops diabetes after beginning the set of MDPP services will receive different types of information and training. For example, a beneficiary receiving DSMT furnished by certified diabetes educators acquires knowledge for self-care and life style changes including blood sugar monitoring, insulin usage, medication management, and crisis management. In contrast, MDPP services are furnished by trained coaches who teach patients with prediabetes how to lower their risk of progressing to type 2 diabetes with methods that do not include medication or other interventions for patients diagnosed with diabetes. Despite some common elements, the interventions for the MDPP expanded model and the DSMT benefit target different populations and furnish different services.

We are seeking public comments on our proposal and whether individuals who develop diabetes during the MDPP services period should continue to be eligible for coverage of MDPP services for the full duration of the MDPP services period.

### iii. Once-Per-Lifetime Set of Services

In the CY 2017 PFS final rule, we specified that coverage for the set of core MDPP services is available only once per lifetime for each MDPP beneficiary (codified at §410.79(d)(1)). In this rule, we propose to delete §410.79(d)(1) and move this provision to proposed §410.79(c)(1)(i)(B) to place it with other MDPP beneficiary eligibility criteria. We

also propose to edit this provision to specify that coverage for the full set of MDPP services, inclusive of ongoing maintenance sessions as opposed to only core MDPP services, is available only once per lifetime per MDPP beneficiary. Now that we propose to limit the ongoing services period to 2 years, we believe that this proposed revision is necessary to clarify that coverage for the entire set of MDPP services is subject to this limitation--otherwise, the once-per-lifetime limitation has no practical effect because an MDPP beneficiary could continue to attend ongoing maintenance sessions long after the MDPP beneficiary has completed the core services period. In addition, for the reasons stated previously, we do not have evidence to support coverage of MDPP services for more than 3 years. We also are clarifying that the once-per-lifetime coverage limit applies to a beneficiary who receives a set of MDPP services under the MDPP model expansion. This limitation would not apply to beneficiaries who participated in a DPP as part of the DPP model test unless they receive the set of MDPP services under the MDPP expanded model. We invite public comments on our proposal.

In the CY 2017 PFS final rule, we stated that beneficiaries could self-report to MDPP suppliers that they had not previously received MDPP services. We recognize that self-reported information may not be the most reliable source for MDPP suppliers to use before submitting claims for MDPP beneficiaries, and there is a risk that information that is inaccurately self-reported could result in the denial of payments for MDPP services. We are considering ways MDPP suppliers would be able to reliably verify if a beneficiary has received coverage of MDPP services from another supplier, such as through a standardized tracker described in section III.K.2.d.v of this proposed rule, and we are seeking public comments on any additional ways MDPP suppliers could access this information. We intend to provide administrative guidance on

any resources to assist MDPP suppliers in identifying beneficiaries' previous receipt of covered MDPP sessions, as appropriate.

iv. Eligibility throughout the MDPP Services Period

In the CY 2017 PFS final rule, we specified the minimum number and frequency of sessions that MDPP suppliers must offer to MDPP beneficiaries (codified at §§410.79(c)(2)(i) and 410.79(c)(2)(ii)). We finalized that MDPP suppliers must furnish ongoing maintenance session intervals to MDPP eligible beneficiaries who have maintained 5 percent weight loss from their baseline weight as measured during the previous maintenance session interval. As defined at §410.79(b), "baseline weight" is the MDPP beneficiary's body weight recorded during that beneficiary's first core session.

However, because in this proposed rule we propose to tie payment for MDPP services to the beneficiary's achievement of performance goals, we propose additional changes to tie the beneficiary's eligibility for continued coverage of ongoing maintenance session intervals to his or her achievement of performance goals, namely requiring a minimum level of attendance. Because our proposed policies for payment and coverage differ somewhat, we are addressing them separately below.

(1) MDPP Services Period

As discussed in section III.K.2.b. of this proposed rule, we propose to revise §410.79(c)(2), which describes MDPP services periods, to specify that the MDPP services period means the time period, beginning on the date an MDPP beneficiary attends his or her first core session, over which the set of MDPP services is furnished to the MDPP beneficiary, to include the core services period described in paragraph §410.79(c)(2)(i) and, subject to paragraph

§410.79(c)(3), one or more ongoing maintenance session intervals during the ongoing services period described in paragraph §410.79(c)(2)(ii).

We propose to revise §410.79(c)(2) to specify that there are two service periods in which Medicare will cover MDPP services for a beneficiary: the core services period; and the ongoing services period. Together these would make up the MDPP services period. The core services period is the first 12 months of the MDPP services period, and consists of core sessions and core maintenance sessions. There are 16 core sessions that are offered at least a week apart in months 1 through 6, beginning on the date of attendance at the first core session. Core maintenance sessions are offered at least once per month in months 7 through 12 of the core services period. We propose to move the requirements for MDPP suppliers to offer these services to §424.205(d)(9) because they are more appropriately included among other requirements for MDPP suppliers. Consistent with our policies finalized in the CY 2017 PFS final rule, we do not condition coverage for the core services period upon weight loss or attendance. Medicare will pay for the set of core MDPP services, regardless of how many sessions the beneficiary attends and regardless of his or her weight loss. However, we note that an MDPP beneficiary must attend at least one core session to initiate the MDPP services period.

These proposals would align with CDC's 1-year curriculum, divided into two 6-month periods. We recognize that framing the MDPP services period in terms of months may cause some confusion because the CDC terminology uses weeks. However, we believe that framing the MDPP services period in months would better align with our proposed payment structure. We did not make eligibility for the core maintenance sessions contingent upon an attendance-based performance goal; because the CDC DPP curriculum covers 12 months of sessions, we believe that coverage for the 12 months of the core services period should be available to all

MDPP beneficiaries, regardless of attendance. The 12-month CDC DPP curriculum is based on evidence from the original DPP randomized clinical trial, and the curriculum used in that trial, which achieved a 58 percent reduction in type 2 diabetes risk (with 71 percent reduction in those over age 60).<sup>9</sup>

As discussed in section III.K.2.e.iv.4 of this proposed rule, MDPP suppliers must offer a minimum of 16 core sessions, no more frequently than once each week, in months 1 through 6, and at least 1 core maintenance session each month in months 7 through 12 of the core services period. However, some MDPP suppliers may choose to furnish more than the minimum number of sessions, and these proposed coverage parameters would allow beneficiaries to receive more than the minimum number of sessions if the MDPP supplier elects to furnish them.

We invite public comments on our proposals.

## (2) Ongoing Services Period

As discussed in section III.K.2.b.i. of this proposed rule, we propose to revise §410.79(c)(2)(ii) to clarify that the ongoing services period consists of up to eight 3-month ongoing maintenance session intervals offered during months 13 through 36 of the MDPP services period. Medicare's coverage of the ongoing services period is subject to limitations proposed subsequently in this section.

### (a) Eligibility for the Ongoing Services Period

Our existing regulations at §410.79(b) affirm that Medicare will cover MDPP services in the first 12 months of the MDPP services period, without regards to a beneficiary's achievement of performance goals, whereas §410.79(d)(2) specifies that, for coverage of ongoing

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<sup>9</sup> WC Knowler et al., "Reduction in the incidence of type 2 diabetes with lifestyle intervention or metformin," *New England Journal of Medicine* 346, 6 (2002): 393-403, <https://www.ncbi.nlm.nih.gov/pubmed/11832527>. The Diabetes Prevention Program (DPP) Research Group, "The Diabetes Prevention Program," *Diabetes Care* 25, 12 (2002): 2165-2171, <http://care.diabetesjournals.org/content/25/12/2165.long>.

maintenance sessions, the beneficiary must have achieved weight loss of 5 percent from his or her baseline weight. In this proposed rule, we propose to delete §410.79(d)(2) and move this provision to §410.79(c)(1) with other MDPP beneficiary eligibility criteria. We also propose to add paragraph (c)(1)(ii) to §410.79 to specify that beneficiaries must also attend at least one in-person core maintenance session in months 10 through 12 of the MDPP services period and achieve or maintain required minimum weight loss at a minimum of one in-person session during the final core maintenance session interval to be eligible for coverage of the first ongoing maintenance session interval. We propose to establish that a beneficiary must attend at least one in-person core maintenance session in months 10 through 12 of the MDPP services period because, as stated in the CY 2017 PFS final rule, an MDPP beneficiary must achieve at least 5 percent weight loss from baseline at least once during the previous maintenance session interval to have coverage of an ongoing maintenance session.

Because we propose that weight measurements used for determining beneficiary eligibility for coverage or supplier payment must be taken in person by an MDPP supplier at an MDPP core maintenance or ongoing maintenance session (proposed §410.79(c)(1)(iv)), a beneficiary must attend at least one in-person core maintenance session during months 10 through 12 to have his or her weight measured to determine whether he or she qualifies for coverage of the first ongoing maintenance session interval. We believe that in-person measurements are the most feasible method for weight ascertainment at this time for services where the beneficiary would have regular in-person sessions with the MDPP supplier. We believe that self-reported weight loss is not reliable for the purposes of determining continued coverage of MDPP services for a beneficiary. We invite public comments on these proposals.

(b) Eligibility for Ongoing Maintenance Session Intervals 2 through 8

In addition to achieving weight loss performance goals, as previously finalized in the CY 2017 PFS final rule, we propose that beneficiaries must also meet an attendance-related performance goal in order for Medicare to cover ongoing maintenance session intervals. We propose to add paragraph (c)(1)(iii) to §410.79 to specify that for coverage of ongoing maintenance session intervals 2 through 8, an MDPP beneficiary must attend at least 3 ongoing maintenance sessions during the previous ongoing maintenance session interval, in addition to maintaining 5 percent weight loss from baseline at least once during the previous ongoing maintenance session interval.

We believe that adding an attendance-related performance goal during the ongoing services period is important because it will provide an incentive to keep MDPP beneficiaries engaged after the core services period. MDPP beneficiaries who meet the specified attendance and weight loss goals will have Medicare coverage of ongoing maintenance sessions, which are a part of the set of MDPP services, but not a part of the CDC DPP curriculum. We believe that the subsequent attendance goal requirements during ongoing maintenance session intervals will motivate beneficiaries to take on more individual responsibility for their behavior changes over time because coverage of these services is dependent upon their attendance and achievement and maintenance of weight loss.

In addition, this proposed policy closely aligns with our proposed policy for supplier payment for ongoing maintenance session intervals. As described further in section III.K.2.d.iii.5. of this proposed rule, we propose that a supplier would be paid for furnishing an ongoing maintenance session interval only if the MDPP beneficiary both attended three sessions, as well as maintained a 5 percent weight loss from baseline measured at least once in that interval. However, in light of our proposal to pay MDPP suppliers upon the beneficiary's



attendance of three ongoing maintenance sessions (in addition to maintaining at least a 5 percent weight loss), we believe that we similarly need to have attendance goals for beneficiaries to continue to have coverage of ongoing maintenance sessions. Without requiring attendance, an MDPP beneficiary who maintained 5 percent weight loss but only attended two ongoing maintenance sessions in an ongoing maintenance session interval would be eligible for coverage of ongoing maintenance sessions, but the supplier would not receive payment for furnishing that ongoing maintenance session interval. In effect, the MDPP supplier could be required to furnish up to 24 months of MDPP services without payment. For this reason, we propose to require beneficiaries to attend all three sessions within an ongoing maintenance session interval to have coverage of the subsequent interval.

We considered an alternative where a beneficiary would have continued coverage of ongoing maintenance session intervals if he or she attends at least one in-person ongoing maintenance session during an ongoing maintenance session interval, as long as that beneficiary maintained at least 5 percent weight loss from baseline at least once during that interval. However, we do not believe that this alternative would align with our proposed supplier payment requirements for ongoing maintenance sessions discussed in section III.K.2.d.iii.5 of this proposed rule, which would require suppliers to furnish, and the beneficiary to attend, all three sessions of the ongoing maintenance session interval for the supplier to receive payment for that interval. We are inviting public comments on our proposal and the alternative we considered.

**(c) Limitations on the Set of MDPP Services**

In this proposed rule, we propose to add §410.79(c)(3) to specify that coverage of the MDPP services period would end upon completion of the core services period for a beneficiary that is not eligible for the first ongoing maintenance session interval as proposed under

§410.79(c)(1)(ii); that is, if the beneficiary does not attend at least one in-person core maintenance session during the second core maintenance session interval and/or does not achieve the required minimum weight loss during this interval. For any beneficiary who is eligible for at least one ongoing maintenance sessions interval, but who does not meet the requirements for coverage of a subsequent interval based on failure to meet attendance or weight loss goals proposed at §410.79(c)(1)(iii), the beneficiary's coverage of the set of MDPP services would end upon completion of his or her current ongoing maintenance session interval. It is important to note that proposed performance payments, discussed in section III.K.2.d.iii.5. of this proposed rule, would be tied to the achievement of the same performance goals a beneficiary must meet to have coverage for the ongoing maintenance session intervals. Therefore, if an MDPP beneficiary does not meet weight loss or attendance goals to access the subsequent ongoing maintenance session interval, the supplier will not receive payment for that ongoing maintenance session interval or any subsequent performance payments related to that beneficiary.

We are inviting public comments on these proposed policies.

**(d) Beneficiaries Who Change MDPP Suppliers during the MDPP Services Period**

In the CY 2017 PFS final rule, we indicated that a beneficiary may change MDPP suppliers at any time. However, we deferred to future rulemaking specific policies to address coverage of and payment for MDPP services when beneficiaries change MDPP suppliers. In this proposed rule, we are clarifying that a beneficiary may change MDPP suppliers at any time during his or her MDPP services period, subject to beneficiary eligibility requirements. Based on evidence from the CDC DPRP, we believe that the instances of beneficiaries changing MDPP suppliers will be relatively infrequent. However, we intend to monitor how often beneficiaries change MDPP suppliers, as well as MDPP suppliers' billing patterns to detect any aberrant

billing patterns suggestive of fraudulent or discriminatory practices. Payment policies related to when a beneficiary changes MDPP suppliers are discussed in section III.K.2.d.v.

### (3) Make-Up Sessions

#### (a) General Requirements.

In this proposed rule, we propose at §410.79(d)(1) that suppliers may offer make-up sessions to an MDPP beneficiary who missed a regularly scheduled session. As defined at proposed §410.79(b), “make-up session” means a core session, core maintenance session, or ongoing maintenance session furnished to an MDPP beneficiary when the MDPP beneficiary misses a regularly scheduled core session, core maintenance session, or ongoing maintenance session. Make-up sessions may be delivered in person or virtually, although virtual make-up sessions are subject to additional requirements proposed in this rule (and the term “virtual make-up session” is separately defined). We propose the availability of make-up sessions to be consistent with CDC’s DPRP standards and to ensure that MDPP beneficiaries have the opportunity to receive the full DPRP curriculum, even if they are unable to attend a particular regularly scheduled MDPP session.

We propose that the curriculum delivered during a make-up session must address the same CDC-approved DPP curriculum topic as the session that the beneficiary missed (proposed §410.79(d)(1)(i)). To be consistent with CDC’s proposed 2018 DPRP standards, we propose that the MDPP supplier may furnish to the beneficiary a maximum of one make-up session on the same day as a regularly scheduled session (proposed §410.79(d)(1)(ii)) and the MDPP supplier may furnish to the beneficiary a maximum of one make-up session per week (proposed §410.79(d)(1)(iii)).

#### (b) Virtual Make-Up Sessions

There is a growing area of research examining the effectiveness of DPP delivered virtually. CDC began recognizing Virtual DPP organizations in 2015 and emerging evidence suggests that virtual delivery of DPP services can show similarly successful participant weight loss and health benefits to DPP delivered in other settings, including among Medicare-age participants.<sup>10</sup> Since CDC's DPRP standards permit virtual make-up sessions, and we recognize that MDPP beneficiaries may encounter situations where they are unable to attend in-person make-up sessions, we propose to allow MDPP suppliers to offer a limited number of virtual make-up sessions (proposed §410.79(d)(2)). As proposed in §410.79(b), "virtual make-up session" means a make-up session that is not furnished in person and that is furnished in a manner consistent with the DPRP standards for virtual sessions. All requirements proposed in §410.79(d)(1) apply to virtual make-up sessions. In addition, we propose that virtual make-up sessions are subject to additional requirements.

First, as indicated by the applicable definition, virtual make-up sessions must be furnished in a manner consistent with CDC's DPRP standards for virtual sessions (proposed §410.79(d)(2)(i)). To align with CDC's DPRP standards, virtual make-up sessions refer to any modality, or method of furnishing MDPP services, that is not in person. This includes, but is not limited to:

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<sup>10</sup> See, for example: F Chen et al., "Clinical and Economic Impact of a Digital, Remotely-Delivered Intensive Behavioral Counseling Program on Medicare Beneficiaries at Risk for Diabetes and Cardiovascular Disease." *PLoS ONE* 11, 10 (2016), <https://doi.org/10.1371/journal.pone.0163627>. W Su et al., "Return on Investment for Digital Behavioral Counseling in Patients With Prediabetes and Cardiovascular Disease." *Preventing Chronic Disease* 13 (2016), <http://dx.doi.org/10.5888/pcd13.150357>. J Ma et al., "Translating the Diabetes Prevention Program lifestyle intervention for weight loss into primary care: a randomized trial." *JAMA Intern Med.* 173, 2 (2013): 113-21, <https://www.ncbi.nlm.nih.gov/pubmed/23229846>. CS Sepah et al., "Translating the diabetes prevention program into an online social network: Validation against CDC standards." *The Diabetes Educator* 40, 4 (2014): 435-443, <https://www.ncbi.nlm.nih.gov/pubmed/24723130>.

(1) Furnishing services online where the behavior change program is furnished 100 percent online, with participants accessing course resources and a coach via a computer, laptop, tablet, smart phone, or other device with Internet access. This modality requires that the MDPP beneficiary have an Internet connection to participate in all aspects of the virtual make-up session;

(2) Furnishing services online with other means of support by a coach (for example, telecommunications, video conferencing). This modality requires that the MDPP beneficiary have an Internet connection for some aspects of the virtual make-up session, but not all; and

(3) Distance learning, where a coach is present in one location and participants are calling, video-conferencing, or otherwise using telecommunications technology to access the coach from another location. This modality does not require that the MDPP beneficiary have an Internet connection for any of the aspects of the virtual make-up session.

By defining MDPP virtual make-up sessions as being consistent with CDC's DPRP standards for virtual sessions, we allow our definition to change over time as such standards are updated.

Second, a supplier may only offer virtual make-up sessions based on an individual MDPP beneficiary's request (proposed §410.79(d)(2)(ii)). A supplier may not cancel a regularly scheduled MDPP session and offer the session to all MDPP beneficiaries virtually. However, the supplier may cancel a regularly scheduled MDPP session and offer the session to all MDPP beneficiaries in person. We believe that this is necessary to ensure that the MDPP expanded model remains a model predominantly delivered in person. Individual beneficiary needs may be accommodated, but suppliers should not use virtual make-up sessions as a means to move toward virtually-delivered MDPP sessions more generally.

Third, to further ensure that MDPP services are largely provided in-person, we propose at §410.79(d)(2)(iii) that a supplier may offer: (a) no more than 4 virtual make-up sessions within the core services period to an MDPP beneficiary, of which no more than 2 virtual make-up sessions may be core maintenance sessions; and (b) no more than 3 virtual make-up sessions that are ongoing maintenance sessions to an MDPP beneficiary during any rolling 12-month time period. At §410.79(d)(3), we propose that these same limitations on the number of virtual make-up sessions also apply for the purposes of determining whether a beneficiary has attended a sufficient number of MDPP sessions in order to be eligible for ongoing maintenance sessions (proposed §410.79(c)(1)) and for assessing whether a beneficiary has met the attendance-related performance goals used to determine whether an MDPP supplier is eligible to receive a performance payment (proposed §414.84(b)). The limitation on the number of make-up sessions is not applicable to in-person make-up sessions.

We assume not all suppliers will have the ability to offer virtual make-up sessions, and we are not requiring suppliers to offer virtual make-up sessions. Conversely, an MDPP supplier could offer only virtual make-up sessions and no in-person make up sessions if the supplier chooses as long as the proposed limits for these sessions are not exceeded. We believe that allowing fewer than these proposed number of virtual make-up sessions will make it difficult for suppliers to meet DPRP standards, and therefore remain enrolled as an eligible MDPP supplier. However, the DPP model test only offered in-person sessions (no virtual sessions) and therefore the MDPP expanded model is intended to predominantly offer services in person. Allowing more than the proposed number of virtual make-up sessions would not support an evaluation of an in-person MDPP curriculum. We seek comment on our proposals and specifically on the proposed limitations on virtual make-up sessions.

We considered the following alternatives to this proposal. We considered not allowing any make-up sessions to be furnished virtually. However, we believe that this would place undue restrictions on MDPP suppliers who are willing and would like to offer virtual make-up sessions to MDPP beneficiaries, particularly if these are offered to other DPP participants who are not Medicare beneficiaries.

We also considered allowing an MDPP supplier to furnish between one and three sessions within the core services period and either one or two ongoing maintenance sessions each year as virtual make-up sessions per MDPP beneficiary. However, we believe that allowing fewer sessions to be furnished as virtual make-up sessions than proposed would not provide sufficient flexibility for MDPP suppliers to meet CDC's DPRP standards, which require organizations to meet attendance requirements for their panel of participants. Organizations may struggle to meet DPRP attendance requirements without the flexibility to provide virtual make-up sessions.

We also considered permitting suppliers to offer any number of virtual make-up sessions, and for attendance at any number of virtual make-up sessions to count toward attendance goals. However, as stated previously, since the DPP model test only offered DPP services in person, the MDPP expanded model is intended to predominantly offer MDPP sessions in person as well. Therefore we believe that it is important to limit the number of virtual make-up sessions so that MDPP beneficiaries are predominantly receiving MDPP sessions in person.

We propose that the payment policies detailed in section III.K.2.d. of this proposed rule apply to virtual make-up sessions. Specifically, as indicated in sections III.K.2.c.1.iv. and III.K.2.d.iii.10.b. of this proposed rule, weight measurements used for the purposes of determining the achievement or maintenance of weight loss for weight loss performance

payments, or for determining eligibility for coverage of ongoing maintenance sessions, would be required to be taken at an in-person session, not during a virtual make-up session. We are seeking public comments on these proposals and the alternatives considered.

d. Payment for MDPP Services

i. MDPP Payment Discussion in Prior Rulemaking

In the July 15, 2016 MDPP proposed rule (81 FR 46415 through 46416), we discussed a potential MDPP payment structure and the associated payment amounts and sought information from the public to inform future MDPP proposals. We received a number of public comments on these topics and have considered this information in the development of our proposals for the MDPP payment structure, payment amounts, and related issues discussed in this section.

ii. Conceptual Framework for Payment for MDPP Services

In this proposed rule, we are proposing to pay for the set of MDPP services through a performance-based payment methodology that makes periodic performance payments to MDPP suppliers during the MDPP services period. The aggregate of all performance payments constitutes the total performance-based payment amount for the set of MDPP services. As discussed in detail throughout this section, we are proposing a maximum total performance payment amount per beneficiary for the set of MDPP services of \$810. Performance payments would be made to MDPP suppliers periodically during the course of a beneficiary's MDPP services period based upon a number of factors, including the beneficiary's completion of a specified number of MDPP sessions and the achievement of the required minimum weight loss that is associated with a reduced incidence of type 2 diabetes, rather than individual payments being made upon the furnishing of any service as is typical of payment in the traditional Medicare program.



The aggregate amount of the performance payments proposed in this section would equal the total performance-based payment amount for the set of MDPP services during the MDPP services period, including core sessions, core maintenance sessions, and ongoing maintenance sessions. Even though these performance payments would be made periodically and in amounts that would not be evenly distributed across the course of sessions furnished during the MDPP services period, payment for each session would be included in the total performance-based payment amount. For example, the proposed performance payment of \$25 that would be paid to MDPP suppliers upon furnishing the first MDPP core session is relatively large on a per-session basis compared to other attendance-based performance payments (as calculated on a per-session basis) ranging from approximately \$3 to \$20 made during the MDPP services period. However, the performance payment for the first core session would make payment for some of the MDPP supplier resources used in furnishing the first session, as well as make a partial prospective payment attributable to the MDPP supplier furnishing subsequent sessions.

Once the required minimum weight loss is achieved and the 12-month core services period, described at proposed §410.79(c)(2)(i), concludes, we would make additional 3-month interval performance payments for ongoing maintenance sessions when the required minimum weight loss is maintained, whereas no additional interval performance payments would be made for ongoing maintenance sessions if the required minimum weight loss is not maintained. Finally, when a beneficiary achieves a significant percentage of weight loss, specifically a level of 5 percent (the required minimum weight loss) or 9 percent, we are proposing to make additional performance payments to the MDPP supplier. This proposal would provide performance payments in addition to the performance payments we may have already made for

the previous MDPP sessions furnished to the beneficiary because those sessions resulted in the beneficiary achieving the weight loss performance goal.

In total, based on our consultation with DPP providers holding commercial contracts, review of information related to DPP providers that currently hold or are in the process of obtaining CDC recognition, and comments received on the discussion of the payment structure and payment amounts for the set of MDPP services included in the July 15, 2016 MDPP proposed rule (81 FR 46415 through 46416), we believe the proposed performance-based payment methodology would pay MDPP suppliers appropriately for the resources used in furnishing MDPP services throughout the MDPP services period. We note that we sought public comment on the payment structure and payment amounts for the set of MDPP services in the July 15, 2016 MDPP proposed rule, and we have used the information provided by commenters in developing the proposed performance-based payments included in this proposed rule.

In this performance-based payment structure, it is important to note that a beneficiary's performance goals are not considered in the same way for beneficiary coverage and supplier payment during each specific period within the MDPP services period. During the core services period, a beneficiary would not be required to achieve attendance and/or weight loss performance goals for coverage of MDPP services, although a beneficiary would be required to achieve specified performance goals for an MDPP supplier to receive performance payments during this period. In contrast, achieving performance goals would be required for both coverage of MDPP services and performance payments during the ongoing services period.

For example, a supplier is required to offer a minimum of 16 core sessions during the core services period according to §410.79(c)(2)(i) but a beneficiary would not need to achieve an attendance or weight loss performance goal to be eligible for coverage of core maintenance

sessions. However, MDPP supplier performance payments during the core services period would be based on the beneficiary's achievement of attendance and/or weight loss performance goals. During the ongoing services period, achievement of performance goals would affect both coverage and supplier payment. We note that a beneficiary would need to attend at least 1 core session to initiate the core services period, and attend at least 1 core maintenance session during the final core maintenance session interval to determine whether he or she has achieved the required minimum weight loss to have coverage of ongoing maintenance sessions. Because we are proposing in section III.K.2.d.iii.4 of this proposed rule to make a performance payment for core maintenance sessions only when the beneficiary attends at least 3 sessions within a 3-month interval, it is possible that an MDPP supplier would not be paid a separate performance payment for the second core maintenance session interval, but the beneficiary would still have coverage of the first ongoing maintenance session interval. This would occur if the beneficiary attended only 1 or 2 core maintenance sessions during the second core maintenance session interval and achieved or maintained the required minimum weight loss as measured at 1 of those 2 sessions.

### iii. Performance Payments for MDPP Services

#### (1) Overview of Public Comments on Discussion of Payment for MDPP Services in Prior Rulemaking

In addition to requests for clarification on certain details of the payment structure, such as the timing of beneficiary achievement of weight loss, which are addressed subsequently in this section, commenters on the discussion of payment for MDPP services in the July 15, 2016 MDPP proposed rule (81 FR 46415 through 46416) expressed a variety of perspectives on the performance-based payment methodology presented in that proposed rule. In general,

commenters urged us to set payment amounts that are sufficient to ensure MDPP supplier participation.

Several commenters recommended that a sustainable payment rate structure should mirror performance-based payment models in the existing employer marketplace. A number of commenters requested that we not tie Medicare payment to weight loss or that we make separate weight loss and attendance payments; that we tie payment to aggregate, rather than individual, beneficiary weight loss; or that we tie payment to other factors besides or in addition to weight loss. Other commenters urged us to provide payment based on sessions furnished by MDPP suppliers rather than basing payment on an individual beneficiary's success, arguing that the payment structure presented would not be a sustainable model for MDPP suppliers that would expend resources furnishing sessions but would have little influence over beneficiaries' achievement of attendance and/or weight loss performance goals.

Several commenters requested that we provide information on how the payment rates included in the discussion were determined. Some commenters expressed concern that the magnitude of MDPP payments was not consistent with payments for other similar services.

A number of commenters urged that higher payments be made at the beginning of the MDPP services period to cover program start-up costs, that we decrease supplier financial risk by providing sufficient payment for beneficiaries who do not achieve weight loss performance goals, and that we implement risk-stratification of payments to reduce the risk of MDPP suppliers preferentially seeking to furnish MDPP services to low-risk beneficiaries most likely to achieve weight loss and avoiding high-risk beneficiaries. In addition, several commenters requested that we update the payment rates annually for inflation and the increasing costs experienced by MDPP suppliers.

As discussed in this section, the proposed MDPP payment structure is generally similar to that which was discussed in the July 15, 2016 MDPP proposed rule (81 FR 46415 through 46416). However, the proposed performance payment amounts for core sessions, core maintenance session 3-month intervals, and ongoing maintenance session 3-month intervals differ somewhat based on our consideration of the comments received in response to the July 15, 2016 MDPP proposed rule in the context of our policy goal to prioritize the achievement and maintenance of the required minimum weight loss that is associated with a reduction in the incidence of type 2 diabetes. In this proposed rule, we are proposing a payment structure for MDPP services that is performance-based in relation to two meaningful performance goals.

First, the proposed payment structure values beneficiary weight loss most significantly. Weight loss is a key indicator of success among individuals enrolled in a DPP due to the strong association between weight loss and reduction in the risk of type 2 diabetes.<sup>11</sup> Second, the proposed payment structure values beneficiary attendance because, in the DPP model test, session attendance was associated with greater weight loss. According to the second year independent evaluation of the DPP model test, those beneficiaries who attended at least 1 core session lost an average of 7.6 pounds, while beneficiaries who attended at least 4 core sessions lost an average of 9 pounds. Body mass index was reduced from 32.9 to 31.5 among Medicare beneficiaries who attended at least 4 core sessions.<sup>12</sup>

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<sup>11</sup>RF Hamman et al., “Effects of Weight Loss with Lifestyle Intervention on Risk of Diabetes,” *Diabetes Care* 29, no. 9 (2006): 2102-2107.

<sup>12</sup>Hinnant L, Razi S, Lewis R, Sun A, Alva M, Hoerger T, Jacobs S, Halpern M. Evaluation of the Health Care Innovation Awards: Community Resource Planning, Prevention, and Monitoring, Annual Report 2015. Awardee-Level Findings: YMCA of the USA; 2016. Table 17. Average/Frequencies Health Outcomes of all Participants through Q11, p. 36. RTI Project Number 0212790.010.001.004, Contract HHSM-500-2010-00021I. Sponsored by the Centers for Medicare & Medicaid Services.

In addition to weight loss, we considered linking other criteria such as hemoglobin A1c level to MDPP performance payments, or using aggregate instead of individual weight loss for MDPP payments. However, the MDPP expanded model was determined to meet the statutory requirements for expansion based on the DPP model test, which demonstrated that weight loss was associated with reductions in Medicare expenditures. Although elevated hemoglobin A1c levels were included as part of the beneficiary eligibility criteria in the DPP model test, hemoglobin A1c levels were not evaluated post-intervention in that model. Therefore, we are not proposing to use hemoglobin A1c blood values in the performance-based payment methodology for MDPP services. The use of hemoglobin A1c blood values in the MDPP payment methodology would have incorporated changes in values for which there was no evidence that could be used to support the determination that the MDPP expanded model meets the statutory requirements for expansion. We further note that the CDC does not require post-MDPP services hemoglobin A1c blood values to be determined as part of its 2015 DPRP standards, and we aim to align with the CDC DPRP standards as much as possible. While 5 percent weight loss is considered a performance measure for DPRP recognition, the CDC does not examine pre-post DPP differences in hemoglobin A1c as part of its DPRP standards.

The proposed MDPP payment structure incentivizes MDPP suppliers to prioritize the achievement and maintenance of beneficiary weight loss by furnishing MDPP services, and provides a balance between performance-based payments related to weight loss and session attendance. We do not believe that it would be appropriate for payment to be tied to attendance alone because weight loss is more directly associated with a reduction in the incidence of type 2 diabetes than attendance at MDPP sessions. We further believe that the proposed performance-based payment structure based on individual beneficiary success, rather than average weight loss

across all MDPP beneficiaries who receive MDPP services from an MDPP supplier, maximizes the focus of MDPP suppliers on the achievement of the performance goals for all beneficiaries, including those beneficiaries who experience challenges with achieving attendance and/or weight loss performance goals. Therefore, we do not believe it would be appropriate to use aggregate beneficiary information (that is, average weight loss) in the proposed performance-based payment methodology.

## (2) Overall Approach to Setting Performance Payment Amounts

We are proposing to establish the rules governing payment for MDPP services at new §414.84. We note that as discussed in section III.K.2.a. of this proposed rule, we are proposing that MDPP services may be furnished and payment made under the MDPP expanded model starting April 1, 2018. Therefore, we are proposing that the effective date of §414.84 would be April 1, 2018. Only MDPP services furnished on or after April 1, 2018, would be eligible for payment when all requirements for billing for performance payments for those services are met.

At proposed §414.84(a)(1), we are proposing to define “performance goal” as an attendance or weight loss goal that an MDPP beneficiary must achieve for an MDPP supplier to be paid a performance payment. We are proposing to define “performance payment” as a payment to an MDPP supplier for furnishing certain MDPP services when an MDPP beneficiary achieves the applicable performance goal. These definitions are used in our proposals for payment of MDPP services.

To align with the once-per-lifetime policy, we are proposing at §414.84(b) that each performance payment made based on attendance of a specified number of core sessions, for a specific 3-month core maintenance or ongoing maintenance interval during the MDPP services

period, or for achieving a weight loss performance goal, is made only once per MDPP beneficiary.

(a) Total Amount and Distribution of Performance Payments Across the Set of MDPP Services

As displayed in Table 27, we are proposing a maximum total performance payment amount per beneficiary for the set of MDPP services of \$810. This amount is the aggregate of the maximum performance payments for core sessions, core maintenance sessions, and ongoing maintenance sessions furnished to MDPP beneficiaries who achieve weight loss of at least 9 percent over the 36 months of the MDPP services period. This performance payment amount would be made for a minimum of 46 MDPP sessions required to be offered to the beneficiary in the set of MDPP services. Although CMS would make performance payments to MDPP suppliers at intervals throughout the MDPP services period in varying amounts, payment for each session furnished would be included in the total performance payment amount a supplier was paid for the set of MDPP services.

While we are not proposing that payment for MDPP services utilize a fee-for-service payment methodology, we note that, estimated on a per-session basis, the maximum MDPP payment amount for achievement of all the performance goals would equate to approximately \$18 per session. For comparison, Medicare pays under the PFS approximately \$10 (excluding physician work and malpractice) for CPT code 98962 (Education and training for patient self-management by a qualified, nonphysician health care professional using a standardized curriculum, face-to-face with the patient (could include caregiver/family) each 30 minutes; 5-8 patients), a service that may bear some resemblance to an MDPP session furnished by an MDPP supplier, although an MDPP session would be furnished by a coach (not necessarily a health care professional), has a duration of 1 hour, and has no explicit limitation on group size.



However, this estimated per-session MDPP payment amount would result only from the furnishing of MDPP services to those beneficiaries who achieve the highest attendance and weight loss performance goals under the proposed performance-based payment methodology for MDPP services. For beneficiaries who do not achieve the highest performance goals, the estimated per-session MDPP payment amount would generally be significantly lower, with the amount based upon the actual attendance and weight loss performance of the beneficiary. The differences between the estimated MDPP per-session payment amounts and between the MDPP and PFS payment amounts result from the proposed performance-based methodology for MDPP services. We note that under the PFS payments are based on suppliers' relative resources used to furnish services. On the other hand, we believe that that the estimated per-session MDPP payment amounts under our proposal for beneficiaries who achieve specified attendance and weight loss performance goals are appropriate in the context of a performance-based payment methodology for the set of MDPP services that differs from the methodology used under the PFS.

Finally, we note that there are also some administrative costs that MDPP suppliers would bear to enroll in Medicare and ensure compliance with the requirements for furnishing MDPP services. The total MDPP performance payment across all Medicare beneficiaries would provide some payment for the resources that would be used by MDPP suppliers to meet the administrative requirements for furnishing MDPP services.

In terms of the proposed distribution of the maximum total performance payment amount for MDPP services across the types of performance payments, as discussed in detail in sections III.K.2.d.iii.(3) and (4) of this proposed rule and displayed in Table 27, we are proposing that, for those beneficiaries achieving the highest core services period performance goals, approximately

13 percent of the maximum of \$810 would be paid for attendance at core sessions during the initial 6 months of the core services period, while approximately 15 percent would be paid for core maintenance sessions during months 7 to 12 of the core services period. We believe that payment of a similar percentage of the maximum total performance payment amount during the initial 6 months of the core services period for beneficiaries who meet attendance performance goals and during months 7 to 12 for beneficiaries who meet both weight loss and attendance performance goals is appropriate to balance performance payment for attendance and weight loss throughout the core services period.

In addition, as discussed in detail in section III.K.2.d.iii.(5) of this proposed rule, we are proposing that approximately 49 percent of the maximum of \$810 would be paid for ongoing maintenance sessions over a 24-month period, or 24.5 percent per each 12-month period, for those beneficiaries who maintain the required minimum weight loss. The focus of ongoing maintenance sessions is on maintenance of weight loss that has already been achieved, and there would typically be an established relationship between the MDPP supplier and the MDPP beneficiary during the ongoing services period. Therefore, the totality of MDPP sessions furnished during this 24-month period would result in a slightly lower performance payment per 12-month period than the totality of those sessions furnished when the required minimum weight loss is achieved during the 12 months of the core services period, when 28 percent of the maximum total performance payment amount would be paid.

Finally, due to the importance of weight loss as a meaningful outcome of MDPP services because of its association with a reduction in the incidence of type 2 diabetes, as discussed in detail in section III.K.2.d.iii.(6) of this proposed rule, we are proposing that 23 percent of the maximum total performance payment amount would be paid for weight loss performance

payments to provide additional payments for MDPP sessions that are effective (that is, lead to specified percentages of weight loss). We note that, in the DPP model test, 44.7 percent of participants achieved 5 percent weight loss, which under our proposal would result in a weight loss performance payment of approximately 20 percent of the maximum total performance payment amount.<sup>13</sup> Moreover, according to estimates from CDC’s DPRP, approximately 12 percent of program participants attending at least 2 sessions achieved 9 percent or greater weight loss.<sup>14</sup>

Table 27 summarizes the proposed maximum total amount and distribution of performance payments for the set of MDPP services.

**TABLE 27: Proposed Maximum Total Amount and Distribution of Performance Payments for the Set of MDPP Services**

Type of Performance Payment	Maximum Performance Payment for Achieving Attendance and/or Weight-Loss Performance Goals	Percentage of Maximum Total Performance Payment
Core sessions	\$105	13%
Core maintenance session intervals	\$120	15%
Ongoing maintenance session intervals	\$400	49%
Weight loss	\$185	23%
<b>Total performance payment</b>	<b>\$810</b>	<b>100%</b>

We are inviting public comments on our proposals for the maximum total performance payment amount and the distribution of performance payments for MDPP services across the set of MDPP services.

<sup>13</sup>National Council of Young Men’s Christian Associations, Measurement and Monitoring Report. CMS Health Care Innovation Awards, Round One, Sixteenth Quarterly Reporting Period (16QR), April, May, and June 2016.

<sup>14</sup>CDC’s Diabetes Prevention Recognition Program dataset as of March 1, 2017.

(b) Payment Considerations Related to Coverage of MDPP Services for Beneficiaries with Social Risk Factors

We understand that social risk factors such as income, education, race and ethnicity, employment, disability, community resources, and social support play a major role in health. The Office of the Assistant Secretary for Planning and Evaluation (ASPE) and the National Academies of Sciences, Engineering, and Medicine recently released reports on the issue of accounting for social risk factors in CMS programs.<sup>15,16</sup> We have previously sought public comment on accounting for social risk factors in CMS programs, primarily on the topics of quality measurement and reporting, such as in the Request for Information Regarding Implementation of the Merit-Based Incentive Payment System, Promotion of Alternative Payment Models, and Incentive Payments for Participation in Eligible Alternative Payment Models published in the October 1, 2015 **Federal Register** (80 FR 59105, 59109, 59110, and 59113).

In the CY 2017 PFS final rule (81 FR 80466), we acknowledged commenters' concerns regarding the potential unintended consequences if the MDPP expanded model were to result in low-income or other disadvantaged populations having less access to ongoing maintenance sessions due to their failure to achieve or maintain the weight loss performance goal required for coverage of these sessions. In addition, through listening sessions, stakeholders have provided us with anecdotal information suggesting that racial and ethnic minorities and low socioeconomic status populations lose about 1 percent less weight, on average, than higher socioeconomic groups and non-Hispanic whites.

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<sup>15</sup> Available at <https://aspe.hhs.gov/sites/default/files/pdf/253971/ASPESESRTCfull.pdf>.

<sup>16</sup> Available at <http://nationalacademies.org/hmd/Reports.aspx?filters=inmeta:activity=Committee+on+Accounting+for+SES+in+Medicare+Payment+Programs>.

We are proposing an MDPP payment structure for the set of MDPP services that is similar to the structure presented in the July 15, 2016 MDPP proposed rule (81 FR 46416), where performance payments are tied to attendance at MDPP sessions and/or weight loss. Based on information provided to us by stakeholders, we acknowledge that tying performance payment to a specific threshold of weight loss and/or attendance may make achieving the performance goals required for the highest performance payments and beneficiary eligibility for coverage of ongoing maintenance sessions more challenging for MDPP suppliers furnishing services to individuals with social risk factors. We note that our proposal for beneficiary engagement incentives as discussed in section III.K.2.f. of this proposed rule would provide MDPP suppliers with the flexibility under certain conditions to furnish in-kind patient engagement incentives, such as transportation, to support beneficiaries in achieving the MDPP expanded model performance goals, including session attendance and weight loss. We expect these beneficiary engagement incentives may be helpful to MDPP suppliers furnishing services to beneficiaries, including those with social risk factors that could increase their risk of not achieving the MDPP performance goals.

We are not proposing to risk-adjust MDPP payments for social risk factors or to adopt additional special payment policies to specifically encourage MDPP suppliers to furnish sessions to beneficiaries with social risk factors because, for the MDPP expanded model, we do not believe that such approaches are necessary to ensure access to MDPP services for all beneficiaries. This is because we believe that the proposed performance goals upon which the performance payments for the set of MDPP services would be based, as well as the payment policies that recognize that weight loss is a gradual process that may occur slowly over the 12 months of the core services period, should allow MDPP suppliers sufficient time to work with all

eligible beneficiaries, including beneficiaries with social risk factors, toward achieving the attendance and weight loss performance goals of the MDPP expanded model. However, we may consider proposing additional payment policies for the MDPP expanded model in the future.

We are requesting comments about social risk factors in the context of the set of MDPP services that could inform any future considerations of additional payment policies for the MDPP expanded model. We also are inviting public comments on other types of strategies that we could utilize throughout the testing of the MDPP expanded model to assist MDPP suppliers in providing robust access to MDPP services for beneficiaries with social risk factors, such as learning activities to share best practices among MDPP suppliers in providing the set of MDPP services.

### (3) Performance Payments for Core Sessions

The payment structure presented in the July 15, 2016 MDPP proposed rule (81 FR 46415 through 46416) would have made attendance-based payments of \$25 for the first core session, \$50 for 4 total core sessions, and \$100 for 9 total core sessions. Based on our consideration of information provided in the public comments on that proposed rule and our increased emphasis in the performance payments on the achievement and maintenance of the required minimum weight loss as the outcome of MDPP services, our proposal for the attendance-based performance payments for 4 and 9 core sessions differs from these payment amounts.

We are proposing that an MDPP supplier would be paid a \$25 performance payment the first time it furnishes an MDPP session to an MDPP beneficiary as displayed in Table 28. This performance payment would be available once per beneficiary for the beneficiary's first core session.

We are proposing that an MDPP supplier would be paid the performance payment upon furnishing the first core session to a beneficiary who initiates the MDPP services period, regardless of whether the MDPP supplier qualifies for any of the additional performance payments for that beneficiary. As we are proposing in the sections that follow, additional performance payments would depend upon the beneficiary's achievement of the performance goals for attendance and/or weight loss. We believe that making the first performance payment based on beneficiary attendance at the first core session is appropriate because the MDPP supplier would use significant resources to furnish the first session, including collecting administrative information on the beneficiary who is not already known to the supplier, regardless of whether the beneficiary goes on to receive further MDPP services from that supplier.

On a per-session basis, the performance payment for the first MDPP core session would be the highest performance payment amount for any core session during the core services period. Of note, the first core session performance payment also provides some payment for MDPP supplier activities to encourage the beneficiary's attendance at additional core sessions following the first session. Such supplier activities could include sending electronic messages or making reminder phone calls about upcoming sessions or providing transportation to the next session under the beneficiary engagement incentives policy proposed in section III.K.2.f. of this proposed rule. It is only through attendance at the first core session with an MDPP supplier that a beneficiary initiates the MDPP services period and has the potential to achieve weight loss through receiving MDPP services.

Further, we are proposing that suppliers would be paid a performance payment for the interval (which we are referring to in this proposed rule as an "interval performance payment" to

distinguish it from other performance payments, such as the performance payment upon an MDPP beneficiary's achievement of the required minimum weight loss, that do not require attendance at multiple sessions) upon a beneficiary's attendance at 4 total core sessions, and again upon a beneficiary's attendance at 9 total core sessions--that is, attendance of 5 more core sessions after having attended his or her first 4. We are proposing an interval performance payment of \$30 upon a beneficiary attending 4 core sessions and an interval performance payment of \$50 upon a beneficiary attending 9 core sessions as displayed in Table 28. Although an MDPP supplier must offer at least 16 core sessions to a beneficiary during the initial 6 month of the MDPP core services period, we are not proposing any other interval performance payment for the core sessions after the performance payment for attendance at 9 core sessions. We note that while these proposed payment amounts are somewhat lower than the payment amounts for these milestones presented in the July 15, 2016 MDPP proposed rule (81 FR 46415 through 46416), they follow a similar pattern of a higher payment amount associated with attendance at a larger cumulative number of core sessions to provide a significant financial incentive for MDPP suppliers to encourage MDPP beneficiary attendance at core sessions in the first 6 months of the core services period.

On a per-session basis, the payments for attendance at 4 total core sessions and 9 total core sessions would be approximately \$10 and \$4 to \$10, respectively, depending upon the number of sessions attended by the beneficiary beyond the 9 required for the second interval performance payment up to the maximum of 16 core sessions that must be offered to the beneficiary by the MDPP supplier during the initial 6 months of the MDPP core services period. Because the performance payments for core sessions would be based solely on the achievement of attendance performance goals, we believe these per-session performance payment amounts



that are lower than the proposed performance payment amount for the first core session are still appropriate because we expect that fewer MDPP supplier resources would be used to furnish sessions to beneficiaries with whom the MDPP supplier has an established relationship. The per-session payment amounts for core sessions are set based on attendance at these sessions, which is associated with ultimate achievement of the required minimum weight loss.

We are proposing to make the first interval performance payment for core sessions when the beneficiary has attended 4 core sessions for the following reasons. First, beneficiary attendance at 4 core sessions was a significant attendance milestone in the evaluation of the DPP model test, which provided evidence that meeting this milestone is tied to weight loss outcomes.<sup>17</sup> According to the second year independent evaluation of the DPP model test, those beneficiaries who attended at least 1 core session lost an average of 7.6 pounds while beneficiaries who attended at least 4 core sessions lost an average of 9 pounds. BMI was reduced from 32.9 to 31.5 among Medicare beneficiaries who attended at least 4 core sessions. Second, in examining CDC's DPRP participant trend data, we found that a higher percentage of participants drop out after 3 core sessions as compared to those who drop out after 4 core sessions, meaning that if a beneficiary completes the 4<sup>th</sup> core session, he or she is more likely to remain in the DPP for the 12-month program.<sup>18</sup> Therefore, we believe making the first interval performance payment after beneficiary attendance at 4 core sessions would be appropriate.

We are proposing to make the second interval performance payment when the beneficiary has attended 9 core sessions because attending a higher amount of sessions in the initial 6 months

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<sup>17</sup>Hinnant L, Razi S, Lewis R, Sun A, Alva M, Hoerger T, Jacobs S, Halpern M. Evaluation of the Health Care Innovation Awards: Community Resource Planning, Prevention, and Monitoring, Annual Report 2015. Awardee-Level Findings: YMCA of the USA; 2016. Table 17. Average/Frequencies Health Outcomes of all Participants through Q11, p. 36. RTI Project Number 0212790.010.001.004, Contract HHSM-500-2010-00021I. Sponsored by the Centers for Medicare & Medicaid Services.

<sup>18</sup>CDC's Diabetes Prevention Recognition Program dataset as of March 1, 2017.

of the MDPP core services period, beginning at session 9, has been shown to greatly improve weight loss outcomes. Specifically, according to CDC data, there is a 125 percent increase in weight loss comparing beneficiaries who attend 4 to 8 sessions (1.6 percent weight loss on average) and beneficiaries who attend 9 to 16 sessions (3.6 percent weight loss on average).<sup>19</sup> Therefore, we believe that attendance at 9 sessions reflects clinically meaningful attendance at core sessions and would provide an incentive to MDPP suppliers to encourage beneficiaries to continue into the second 6 months of the MDPP core services period, which is when the 5 percent weight loss from baseline is usually achieved or exceeded. Additionally, 9 is the number of core sessions, on average, that a participant must attend in CDC's National DPP in the first 6 months for a CDC-recognized organization to achieve full CDC recognition.

MDPP suppliers would be paid these performance payments when beneficiaries achieve these core session attendance performance goals, regardless of weight loss. Although we are proposing to base performance payments during the MDPP services period substantially on weight loss, which is directly associated with a significant decrease in the incidence of type 2 diabetes, we recognize that weight loss is a gradual process and that MDPP suppliers utilize resources to furnish MDPP services during the period of time when the beneficiary is losing weight. Therefore, we are proposing that performance payments for beneficiary attendance at core sessions during the first 6 months of the core services period be based on attendance only.

The maximum total performance payment to MDPP suppliers for furnishing MDPP core sessions would be \$105 per beneficiary, as displayed in Table 28.

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<sup>19</sup>CDC's Diabetes Prevention Recognition Program dataset as of February 28, 2017.

**TABLE 28: Proposed Attendance-Based Performance Payments for MDPP Core Sessions**

<b>Performance Goal</b>	<b>Attendance-Based Performance Payment Per Beneficiary</b>
1 <sup>st</sup> core session attended (performance payment)	\$25
4 total core sessions attended (interval performance payment)	\$30
9 total core sessions attended (interval performance payment)	\$50
Maximum total performance payment for core sessions	\$105

We considered alternatives to this proposed payment structure for core sessions, such as making higher payments for attendance at the earlier sessions to provide MDPP suppliers with additional funds for the resources necessary for start-up of the MDPP expanded model.

Although we understand that there are some up-front supplier costs associated with implementing the MDPP expanded model, we believe these costs would disproportionately be related to start-up and not generally be ongoing costs borne by the MDPP supplier. In addition, because we expect that many MDPP suppliers are currently offering DPPs through contracts with commercial payers, MDPP suppliers may be able to minimize start-up costs by relying on their relevant experience with offering other DPPs. Finally, we believe that our proposal for payment of MDPP core sessions already includes substantial payment for session attendance early in a beneficiary's participation with the MDPP supplier, considering that MDPP suppliers would be paid an initial \$25 performance payment for the first core session attended by the beneficiary and would then be paid performance payments for beneficiary attendance of up to 9 core sessions, regardless of weight loss. We believe that increasing the initial payments for attendance at MDPP sessions would shift the nature of the payment for the set of MDPP services from a performance-based structure based on a balance of attendance and weight loss considerations toward a payment structure that is based on attendance at each session furnished.

The proposed attendance-based performance payments for MDPP core sessions are included at proposed §414.84(b)(1), (2), and (3). We are inviting public comments on these proposals. We also are inviting public comments on the alternative considered.

#### (4) Performance Payments for Core Maintenance Session Intervals

We are proposing that performance payments for core maintenance sessions would be tied to the beneficiary's achievement of attendance and weight loss performance goals during a core maintenance session interval. A core maintenance session interval, as we are proposing to define it at §410.79(b), means one of the two consecutive 3-month time periods during months 7 through 12 of the MDPP services period, during which an MDPP supplier offers at least one core maintenance session per month to an MDPP beneficiary.

The payment structure presented in the July 15, 2016 MDPP proposed rule (81 FR 46415 through 46416) would have required the MDPP beneficiary to attend 3 core maintenance sessions and achieve or maintain a minimum 5 percent weight loss for a \$45 payment to be made to an MDPP supplier for the core maintenance session interval. If 5 percent weight loss was not achieved or maintained during the core maintenance session interval, no separate performance payment would be made. MDPP suppliers would still have been required to offer (and furnish if the beneficiary attended) MDPP services during core maintenance intervals to beneficiaries regardless of weight loss. Based on our consideration of information provided in the public comments on that proposed rule and our increased emphasis in the performance payments on the achievement and maintenance of the required minimum weight loss as the outcome of MDPP services, our proposal for the performance payments for core maintenance sessions differs from

the payment amounts included in the July 15, 2016 MDPP proposed rule (81 FR 46415 through 46416).

For the MDPP expanded model, we are proposing performance payments amounts for core maintenance session intervals that value achievement of both session attendance and the required minimum weight loss, with an emphasis on achieving the weight loss performance goal. We are proposing that an MDPP supplier would be paid a performance payment for a core maintenance session interval if a beneficiary achieves the performance goal of attending at least 3 core maintenance sessions during the interval. The specific performance payment amount would be determined by whether the beneficiary has also achieved or maintained the required minimum weight loss within the interval. The achievement or maintenance of the required minimum weight loss within the 3-month core maintenance session interval would be determined based on a measurement taken in-person during any 1 session within that 3-month interval. We are proposing that MDPP suppliers would be paid a performance payment for no more than two core maintenance session intervals for each MDPP beneficiary.

As discussed previously, we recognize that weight loss is a process that may still be ongoing for some beneficiaries during the final months of the core services period. According to an analysis of participant data from CDC's DPRP, the longer a participant remains in the lifestyle change program, the greater his or her average weight loss achieved.<sup>20</sup> Findings indicate that it takes an average of 17 DPP sessions attended to exceed the required minimum weight loss, and the 9 percent or greater weight loss goal is more likely to be achieved upon attending 19 sessions on average. This average number of sessions exceeds the 16 core sessions that must be offered to the MDPP beneficiary during the first 6 months of the MDPP services period and

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<sup>20</sup>CDC's Diabetes Prevention Recognition Program dataset as of March 1, 2017.

emphasizes the importance of core maintenance sessions to achievement of meaningful weight loss goals.

Of further note, the National DPP's core maintenance sessions were developed based on results from the original 2002 DPP Randomized Control Trial and CDC's DPP standards were developed with this science in mind.<sup>21</sup> Core maintenance sessions are integral for the expected reduction in the incidence of type 2 diabetes to be experienced by MDPP beneficiaries. These findings were recently confirmed in a literature review on combined diet and physical activity programs to prevent type 2 diabetes conducted by the Community Preventive Services Task Force that reiterated the year-long intensity and duration of the National DPP.<sup>22</sup>

Therefore, we believe that providing no performance payment to MDPP suppliers for furnishing core maintenance sessions to beneficiaries who have not achieved the required minimum weight loss prior to or during months 7 to 12 of the core services period could reduce the opportunity for MDPP beneficiaries to achieve the weight loss performance goal. Such a payment methodology could reduce the likelihood that MDPP suppliers would continue to work to engage beneficiaries in the weight loss process if those beneficiaries had not achieved the required minimum weight loss after completion of the initial 6 months of the MDPP core services period. We note that, as finalized in the CY 2017 PFS final rule (81 FR 80459), suppliers must offer a minimum of 1 core maintenance session per month in months 7 to 12 of the core services period to eligible beneficiaries, regardless of the beneficiary's weight loss. We believe that it is possible for some beneficiaries to have achieved the required minimum weight loss performance goal by the time the core sessions have been completed, and we want to incentivize MDPP

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<sup>21</sup>Available at [https://www.niddk.nih.gov/about-niddk/research-areas/diabetes/diabetes-prevention-program-dpp/Documents/DPP\\_508.pdf](https://www.niddk.nih.gov/about-niddk/research-areas/diabetes/diabetes-prevention-program-dpp/Documents/DPP_508.pdf).

<sup>22</sup>Available at <http://www.thecommunityguide.org/diabetes/combineddietandpa.html>.

suppliers to work toward the weight loss performance goal in that timeframe. However, we believe that it is also appropriate to place some value on achieving attendance performance goals alone through performance payments for core maintenance session intervals so that MDPP suppliers continue to work to engage all beneficiaries in striving to achieve the required minimum weight loss performance goal.

As discussed in section III.K.2.d.iii.(2)(a) of this proposed rule, we are proposing that the maximum total performance payment for MDPP core maintenance sessions would be \$120 for beneficiaries who achieve both the attendance and weight loss performance goals during months 7 to 12 of the core services period. Specifically, we are proposing to pay MDPP suppliers \$60 for a core maintenance session interval if a beneficiary attends 3 sessions and achieves or maintains the required minimum weight loss during that interval, and to pay MDPP suppliers \$10 for a core maintenance session interval if the beneficiary attends 3 sessions but does not achieve or maintain the required minimum weight loss during that core maintenance session interval.

As compared to the payment amounts with and without achievement or maintenance of the required minimum weight loss that were presented for core maintenance session intervals in the July 15, 2016 MDPP proposed rule (81 FR 46415 through 46416), these payment amounts are both higher. As discussed previously in this section, we believe it is appropriate in months 7 to 12 of the core services period to provide some performance payment for achievement of attendance performance goals even if the required minimum weight loss is not achieved, in order to provide the greatest opportunity for beneficiaries to achieve the required minimum weight loss over the full core services period. In addition, we are proposing a higher payment amount for core maintenance session intervals with achievement or maintenance of the required minimum

weight loss to recognize that achievement and maintenance of the required minimum weight loss are necessary for the reduced incidence of type 2 diabetes and to encourage MDPP suppliers to work to engage beneficiaries in achieving weight loss and sustaining their weight loss over time.

Proposed performance payments for the core maintenance session intervals are displayed in Table 29. On a per-session basis, these payments would be approximately \$20 and \$3, respectively. While both of these payment amounts provide payment to MDPP suppliers for the resources involved with furnishing core maintenance sessions, we believe the relatively high per-session performance payment of \$20 in comparison to the per-session performance payment amounts for core sessions is appropriate due to the achievement or maintenance of both the required minimum weight loss and beneficiary attendance at core maintenance sessions, as compared to core sessions where the performance payment is based solely on attendance. On the other hand, we believe that the relatively low per-session payment amount in our core maintenance session interval performance payment proposal for core maintenance sessions for those beneficiaries who do not achieve the weight loss performance goal, while providing some performance payment for attendance at core maintenance sessions by beneficiaries still working to achieve the required minimum weight loss, is appropriate because these sessions have not yet resulted in those beneficiaries achieving the weight loss performance goal.



**TABLE 29: Proposed Performance Payments for Core Maintenance Session Intervals**

<b>Performance Goal</b>	<b>Performance Payment Per Beneficiary (with achievement or maintenance of required minimum weight loss)</b>	<b>Performance Payment Per Beneficiary (without achievement or maintenance of required minimum weight loss)</b>
3 sessions attended in first core maintenance session interval (months 7-9 of the MDPP core services period)	\$60	\$10
3 sessions attended in second core maintenance session interval (months 10-12 of the MDPP core services period)	\$60	\$10
Maximum total performance payment for core maintenance session intervals (two consecutive 3-month intervals over months 7-12 of the MDPP core services period)	\$120	\$20

The proposed core maintenance session interval performance payments for core maintenance sessions are included at proposed §414.84(b)(4). We are inviting public comments on these proposals.

(5) Performance Payments for Ongoing Maintenance Session Intervals

Similar to our proposal for the payment of core maintenance session intervals described previously, we are proposing to make performance payments to MDPP suppliers for 3-month ongoing maintenance session intervals. This payment would be made when suppliers furnish ongoing maintenance sessions during the 24 months of the ongoing services period after the 12-month MDPP core services period ends. We are proposing that an MDPP supplier would be paid a performance payment for an ongoing maintenance session interval if an MDPP beneficiary achieves the performance goals of attending at least 3 ongoing maintenance sessions and maintaining the required minimum weight loss from baseline measured in person during a

session at least once within that interval. Under this proposal, an MDPP supplier would not be paid a performance payment unless the beneficiary has achieved these both of these performance goals within that 3-month interval. An ongoing maintenance session interval, as we are proposing to define it at §410.79(b), means one of the up to eight consecutive 3-month time periods during the ongoing services period, during which an MDPP supplier offers at least one ongoing maintenance session to an MDPP beneficiary per month.

The payment structure presented in the July 15, 2016 MDPP proposed rule (81 FR 46415 through 46416) would have required the MDPP beneficiary to attend 3 ongoing maintenance sessions and maintain the required minimum weight loss for a \$45 payment to be made to an MDPP supplier for the ongoing maintenance session interval. Based on our consideration of information provided in the public comments on that proposed rule and our increased emphasis in the performance payments on the achievement and maintenance of weight loss as the outcome of MDPP services, our proposal for the performance payment for ongoing maintenance session intervals differs from that payment amount.

We are proposing that MDPP suppliers could be paid up to 8 performance payments of \$50 each for ongoing maintenance session intervals. Just like the other proposals for performance payments, we are proposing this payment in CY 2018 dollars to ensure consistency in calendar year dollars among performance payments for a given calendar year. However, we note that no ongoing maintenance session interval payments, available only for intervals in the ongoing services period during months 13 through 36 of an MDPP beneficiary's MDPP services period, would be made in CY 2018 based on our proposal in section III.K.2.a. of this proposed rule that MDPP services be available on April 1, 2018. Under this proposal, MDPP services would only be available for 9 months of CY 2018 so no MDPP beneficiaries would attend

ongoing maintenance sessions in CY 2018. The first ongoing maintenance session interval performance payments would be made in CY 2019 and would equal \$50 adjusted by the percent change in the Consumer Price Index for All Urban Consumers (CPI-U) (U.S. city average) for the 12-month period ending June 30<sup>th</sup>, 2018, as discussed in section III.K.2.d.iii.(9) of this proposed rule.

This proposed payment amount is somewhat higher than the potential payment discussed in the July 15, 2016 MDPP proposed rule (81 FR 46415 through 46416) to recognize that maintenance of the required minimum weight loss is necessary for the reduced incidence of type 2 diabetes and to encourage MDPP suppliers to work to engage beneficiaries in sustaining their weight loss over time. The maximum total performance payment for MDPP ongoing maintenance sessions would be \$400, as displayed in Table 30. On a per-session basis, this payment would be approximately \$17, which we believe is appropriate for MDPP suppliers that furnish ongoing maintenance sessions to beneficiaries who maintain the required minimum weight loss during ongoing maintenance session interval. We note that this per-session payment amount would be somewhat lower than the \$20 per-session payment amount included in the core maintenance session interval performance payment for beneficiaries who achieve attendance and weight loss performance goals during the 3-month intervals in months 7 to 12 of the MDPP core services period. Like the proposed performance payment for core maintenance session intervals, the proposed performance payment for ongoing maintenance session intervals values both attendance and weight loss. However, during core maintenance session intervals it is likely that the required minimum weight loss would first be achieved, and we believe that a somewhat higher per-session payment amount is appropriate under these circumstances. In contrast, we believe that a somewhat lower per-session payment amount for ongoing maintenance sessions

during intervals where the required minimum weight loss is maintained, rather achieved, is appropriate.

We considered an alternative policy in which an MDPP supplier would receive a payment for an ongoing maintenance session interval so long as the beneficiary attended at least 1 ongoing maintenance session during the interval and maintained the required minimum loss. In this scenario, we considered that the MDPP supplier would still be required to offer at least 2 additional ongoing maintenance sessions (at least one per month) to the beneficiary over the 3-month interval. However, we believe that the goal of ongoing maintenance sessions is to promote both sustained beneficiary engagement and weight loss and, therefore, we believe that ongoing maintenance session interval performance payments should be tied to achieving both attendance and weight loss performance goals.

The proposed payment policy also would align with the service limitations for ongoing maintenance sessions at §410.79(c)(1)(iii) in that beneficiaries also would be required to attend all 3 sessions within a given ongoing maintenance session 3-month interval to be covered for the subsequent 3-month interval. We note that the proposed coverage and payment policies are aligned for ongoing maintenance session intervals, where attendance at 3 sessions within an interval is required for a performance payment as well as for coverage of ongoing maintenance sessions in the next interval. In contrast, MDPP suppliers are required to offer core maintenance sessions in both core maintenance session intervals for all beneficiaries, regardless of a beneficiary's attendance at core maintenance sessions, although attendance is required for a performance payment to be made for the core maintenance session interval.

**TABLE 30: Proposed Performance Payments for Ongoing Maintenance Session Intervals**

<b>Performance Goal</b>	<b>Performance Payment Per Beneficiary (with maintenance of the required minimum weight loss)</b>	<b>Performance Payment Per Beneficiary (without maintenance of the required minimum weight loss)</b>
3 sessions attended in 1 ongoing maintenance session interval	\$50	\$0
Maximum total performance payment for ongoing maintenance session intervals (8 consecutive 3-month intervals over months 13-36 of the MDPP ongoing services period)	\$400	*\$0 to \$350

\* = The specific payment amount depends on whether the beneficiary has coverage of 1 to 7 ongoing maintenance session intervals, as well as whether the beneficiary meets the performance goals for the performance payment for that ongoing maintenance session interval.

The proposed ongoing maintenance session interval performance payments for ongoing maintenance sessions are included at proposed §414.84(b)(5). We are inviting public comments on these proposals. We also are inviting public comments on the alternative considered.

**(6) Weight Loss Performance Payments**

We are proposing that if a beneficiary achieves the required minimum weight loss measured at any session attended during the core services period, an MDPP supplier would be paid the weight loss performance payment of \$160 displayed in Table 31. As discussed in section III.K.2.d.iii.(2)(a) of this proposed rule, we are proposing that 23 percent of the maximum total performance payment amount for the set of MDPP services would be paid for the achievement of weight loss, regardless of session attendance, because weight loss is the most important outcome for the MDPP expanded model. The proposed performance payment of \$160 for the required minimum weight loss, which constitutes approximately 90 percent of the maximum total weight loss performance payment, was set to be the large majority of the

available weight loss performance payment based on the strong evidence for the association of the required minimum weight loss with a reduction in the incidence of type 2 diabetes.

We note that this association is evidenced by the CDC's National DPP, which is based on the 2002 DPP Randomized Control Trial and follow-up efficacy trials.<sup>23</sup> All of the trials found that the greater the intensity and duration of the diabetes prevention program—with 1 year being the most effective program “dose”—the greater the reduction in the incidence of type 2 diabetes. Specially, persons at high-risk for type 2 diabetes who participated in a year-long lifestyle change program, focused on modest weight loss (5-7 percent), experienced a 58 percent lower incidence of type 2 diabetes than those who did not receive the lifestyle intervention. The DPP Randomized Control Trial, as well as the DPP model test, involved the provision of 16 weekly core sessions and 6 monthly core maintenance sessions (all approximately 1 hour in length), similar to the set of core services in the MDPP expanded model. We recognize that not all beneficiaries would be able to achieve the required minimum weight loss within the first 6 months, which is the period when core sessions are furnished. Therefore, we believe that our proposed policy for payment of the performance payment upon achievement of the required minimum weight loss any time during the 12 months of the MDPP core services period would allow MDPP suppliers the greatest flexibility to work throughout the full MDPP core services period with beneficiaries who face difficulty in achieving this weight loss performance goal.

We also are proposing that, in addition to the weight loss performance payment for the required minimum weight loss, an MDPP supplier would be paid an additional weight loss performance payment of \$25 if the beneficiary achieves at least 9 percent weight loss from his or her baseline weight at any time during the MDPP services period as displayed in Table 31. We

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<sup>23</sup> Available at [https://www.niddk.nih.gov/about-niddk/research-areas/diabetes/diabetes-prevention-program-dpp/Documents/DPP\\_508.pdf](https://www.niddk.nih.gov/about-niddk/research-areas/diabetes/diabetes-prevention-program-dpp/Documents/DPP_508.pdf).

are proposing this additional weight loss performance payment based on information from stakeholders that commercial payers paying for DPPs frequently include an incentive payment for 9 percent weight loss as an incentive to try to encourage greater and/or continued weight loss and behavior change. We believe that making an additional weight loss performance payment for 9 percent weight loss at any time during the MDPP services period would provide an additional incentive for MDPP suppliers to continue weight loss efforts with beneficiaries, especially during the ongoing services period, which may extend for a period of up to 24 months.

We are proposing that MDPP suppliers may submit claims for these weight loss performance payments on the date when the beneficiary first reaches the required minimum or 9 percent weight loss, as measured in person during a session, respectively, and each weight loss performance payment would be paid to only one supplier and only once per beneficiary. In the unusual circumstance where the beneficiary achieved 9 percent weight loss as the first weight loss change measured from baseline, the MDPP supplier could bill and be paid both the 5 percent and 9 percent weight loss performance payments.

**TABLE 31: Proposed Weight Loss Performance Payments**

Performance Goal	Performance Payment Per Beneficiary
5 percent weight loss (required minimum weight loss)	\$160
9 percent weight loss	\$25
Maximum total performance payment for weight loss	\$185

The proposed weight loss performance payments are included at proposed §414.84(b)(6) and (7). We are inviting public comments on these proposals.

(7) Summary Table of Performance Payments for the Set of MDPP Services

In summary, for furnishing MDPP services during the MDPP services period, we are proposing that MDPP suppliers could be paid a minimum of \$25 per beneficiary (if the

beneficiary attends the first core session) and a maximum total of \$810 per beneficiary (if the beneficiary achieves all performance goals, maintains eligibility for 36 months, and does not change MDPP suppliers). Table 32 summarizes all of the proposed performance payments for the set of MDPP services that are discussed in sections III.K.2.d.iii.(3) through (6) of this proposed rule.

**TABLE 32: Proposed Performance Payments for the Set of MDPP Services**

<b>Performance Goal</b>	<b>Performance Payment Per Beneficiary (<i>with</i> the required minimum weight loss)</b>	<b>Performance Payment Per Beneficiary (<i>without</i> the required minimum weight loss)</b>
1 <sup>st</sup> core session attended	\$25	
4 total core sessions attended	\$30	
9 total core sessions attended	\$50	
3 sessions attended in first core maintenance session interval (months 7-9 of the MDPP core services period)	*\$60	\$10
3 sessions attended in second core maintenance session interval (months 10-12 of the MDPP core services period)	*\$60	\$10
5 percent weight loss achieved	\$160	\$0
9 percent weight loss achieved	\$25	\$0
3 sessions attended in ongoing maintenance session interval (eight consecutive 3-month intervals over months 13-36 of the MDPP ongoing services period)	*\$50	**\$0
<b>Total performance payment</b>	<b>\$810</b>	<b>\$125</b>



\* = The required minimum weight loss from baseline must be achieved or maintained during the core maintenance session 3-month interval or maintained during the ongoing maintenance session 3-month interval.

\*\* = A beneficiary attends at least 1 core session during the core services period to initiate the MDPP services period; must attend at least 1 session during the final core maintenance session 3-month interval; and must achieve or maintain the required minimum weight loss at least once during the final core maintenance session 3-month interval to have coverage of the first ongoing maintenance session interval. Then, a beneficiary must attend at least 3 sessions and maintain the required minimum weight loss at least once during an ongoing maintenance session 3-month interval to have coverage of the next ongoing maintenance session interval.

#### (8) Considerations Related to Potential Future Geographic Adjustment of MDPP Payments

Although Medicare is a national program, it frequently adjusts fee-for-service payments to hospitals, physicians, and other providers and suppliers according to the geographic locations in which they furnish services. These adjustments generally account for differences in the relative costs of doing business in different geographic areas compared to the national average. For example, section 1886(d)(3)(E) of the Act requires that, as part of the methodology for determining prospective payments to hospitals, the Secretary must adjust the standardized amounts for area differences in hospital wage levels by a factor (established by the Secretary) reflecting the relative hospital wage level in the geographic area of the hospital compared to the national average hospital wage level. This adjustment factor for hospitals is the wage index, and we currently define hospital geographic areas (labor market areas) based on the definitions of Core-Based Statistical Areas (CBSAs) established by the Office of Management and Budget. Similarly, a geographic adjustment is also made for services paid under the PFS, and a geographic practice cost index (GPCI) has been established for every Medicare PFS payment locality, many of which are statewide, for each of the three components of a service's relative value units (that is, the relative value units for work, practice expense, and malpractice).

We are proposing to make performance-based payments to MDPP suppliers in intervals based on achievement of performance goals, rather than fee-for-service payments for individual

services furnished. While we intend for those performance payments to make payment to MDPP suppliers for MDPP services that involve the use of supplier resources, we are unsure if there is notable variation in the relative costs of furnishing MDPP services among geographic areas. Because the DPP model test was carried out in only eight States, we do not have the data to determine whether there are geographic differences nationwide. In addition, because a substantial portion of the proposed MDPP performance payments are based on the beneficiary's achievement of weight loss performance goals, we are uncertain about the appropriateness of geographically adjusting such performance-based payments.

Therefore, we are not proposing geographic adjustment of performance payments for MDPP services. However, we are inviting public comments on issues related to geographic adjustment of payment for MDPP services in the context of the MDPP performance-based payment methodology, including appropriate sources of information for determining any geographic cost differences. We may consider proposing additional payment policies for the MDPP expanded model in the future. We request that commenters submitting information on these issues provide justification, including any relevant analysis, to support any suggestions regarding potential future geographic adjustment of performance-based payments for MDPP services.

#### (9) Updating MDPP Payment Amounts

To account for inflation, we are proposing to update MDPP payment amounts annually based on the CPI-U). The CPI-U is a measure of the average change over time in prices paid for a market basket of consumer goods and services, and is a measure of economy-wide inflation. There are no statutory requirements for the update factor for payments for MDPP services so there is no requirement that a productivity adjustment be applied to the MDPP services update

factor as there are for certain other Medicare-covered items and services where prices are updated by the CPI-U, such as the Clinical Laboratory Fee Schedule; Durable Medical Equipment, Prosthetics/Orthotics, and Supplies Fee Schedule; Ambulance Fee Schedule; and Ambulatory Surgical Center payment system.

We considered using other indices such as the Medicare Economic Index (MEI) to update the MDPP payment amounts. The MEI measures price changes in the inputs required to operate a self-employed physician practice. We do not believe that the MEI would be appropriate to update MDPP payment amounts because MDPP suppliers are not similar to self-employed physician practices. We note that the CPI-U by definition is an economy-wide measure of inflation and, therefore, in the absence of an appropriate specific index for MDPP services, we believe the CPI-U to be the most technically appropriate index available to update payments for MDPP services. We further note that the CPI-U is used to update Medicare payments for other Medicare-covered items and services, such as ambulance, clinical laboratory, and ambulatory surgical center services.

We are proposing to update MDPP performance payments and the bridge payment (a proposed one-time payment to an MDPP supplier for furnishing its first session to an MDPP beneficiary who has previously received MDPP services from a different MDPP supplier as discussed in detail in section III.K.2.d.v. of this proposed rule) that may be paid to MDPP suppliers in the following manner:

- Beginning in CY 2019 and each year forward, the performance payment and bridge payment amounts will be adjusted by the 12-month percent change in the CPI-U (U.S. city average) for the period ending June 30th of the year preceding the update year. The percent change update will be calculated based on the level of precision of the index as published by the

Bureau of Labor Statistics and applied based on one decimal place of precision. The annual MDPP services payment update will be published by CMS transmittal.

The proposed methodology to update MDPP performance payments and the bridge payment is included at proposed §414.84(d). We are inviting public comments on this proposal.

#### **(10) MDPP Supplier Billing and Payment for MDPP Services**

##### **(a) Payment for MDPP Services on an Assignment-Related Basis**

We are proposing that performance payments and bridge payments to MDPP suppliers for MDPP services would be made only on an assignment-related basis in accordance with §424.55. As described in Chapter 1, Section 30.3 of the Medicare Claims Processing Manual,<sup>24</sup> CMS identifies a number of supplier and practitioner types who furnish services under the Medicare program and who are required to accept assignment for all Medicare claims for their services. This means that they must accept the Medicare allowed amount as payment in full for their services, regardless of whether the supplier is a participating or non-participating provider in the Medicare program. In these circumstances, the beneficiary's liability is limited to any applicable deductible plus the 20 percent coinsurance if coinsurance applies to the service. CMS currently mandates assignment for claims from multiple types of suppliers and practitioners, including clinical diagnostic laboratory services and physician lab services; physician services to individuals dually entitled to Medicare and Medicaid; and services of physician assistants, nurse practitioners, clinical nurse specialists, nurse midwives, certified registered nurse anesthetists, clinical psychologists, clinical social workers, registered dietitians/nutritionists, anesthesiologist assistants, and mass immunization roster billers. The beneficiary (or the person authorized to request payment on the beneficiary's behalf) is not required to assign the claim to the supplier in

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<sup>24</sup> Available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c01.pdf>.

order for an assignment to be effective, and when these claims are inadvertently submitted as unassigned, Medicare Administrative Contractors (MACs) process them as assigned.

Consistent with our established requirements for these other types of suppliers, some of whom are similar to MDPP suppliers in that they furnish a limited breadth of Medicare-covered services, we believe it would be appropriate to require all MDPP suppliers, whether they are participating or not participating in Medicare, to accept assignment. We also believe that making performance payments for MDPP services solely on an assignment-related basis is the most appropriate methodology, given the performance-based MDPP payment methodology which is based on the achievement of weight loss and/or attendance performance goals and not based on the MDPP supplier resource expended to furnish individual MDPP services. We further note that as finalized in the CY 2017 PFS final rule (81 FR 80464), MDPP services are additional preventive services under section 1861(ddd) of the Act and, therefore, consistent with section 1833(a)(1)(W) of the Act, are not subject to the Medicare Part B coinsurance or deductible. Under our proposal Medicare would pay 100 percent of the Medicare allowed charge for MDPP services furnished to MDPP beneficiaries, and a beneficiary would have no liability for covered MDPP services. MDPP suppliers would be required to accept the Medicare allowed charge as payment in full and would not be able to bill or collect from the beneficiary any amount.

Finally, to minimize the potential administrative burden on beneficiaries related to payment for MDPP services on an assignment-related basis, we are proposing that for purposes of claims for services submitted by an MDPP supplier, Medicare would deem such claims to have been assigned by the beneficiary (or the person authorized to request payment on the beneficiary's behalf) and the assignment accepted by the MDPP supplier. This proposed treatment of claims from MDPP suppliers in new §424.55(d) is consistent with the current

exception in §424.55(c) regarding payment to a supplier which specifies that when payment under the Act can only be made on an assignment-related basis or when payment is for services furnished by a participating physician or supplier, the beneficiary (or the person authorized to request payment on the beneficiary's behalf) is not required to assign the claim to the supplier in order for an assignment to be effective.

The proposed assignment-related basis for performance payments and bridge payments MDPP suppliers is included at proposed §414.84(b) and (c). The proposal to not require the beneficiary to assign the claim for MDPP services to the MDPP supplier in order for assignment to be effective is included at proposed §424.55(d). We are inviting comments on these proposals.

#### (b) Requirements for Payment of Bridge Payments and Performance Payments

MDPP suppliers may only submit claims for a performance payment or bridge payment for MDPP services when all of the proposed requirements for the payment are met. Claims for services that do not meet these requirements will not be paid. In accordance with §424.80, MDPP suppliers are reminded that there are exceptions to the prohibition of reassignment of claims by suppliers for certain arrangements provided the applicable requirements are met. Of specific note, Medicare may pay an agent who furnishes billing and collection services to the supplier if the conditions of §424.80(b)(5) are met.

Proposed requirements for performance payments and the bridge payment include that the MDPP services were furnished to a beneficiary eligible for MDPP services as specified at §410.79(c) and that the MDPP supplier complies with all applicable enrollment and program requirements. In addition, the MDPP services must be furnished by an eligible coach on or after his or her coach eligibility start date and, if applicable, before his or her coach eligibility end

date, and the MDPP supplier must submit the National Provider Identifier (NPI) of the coach on MDPP claims. We describe additional details on how eligible coach information would be processed in section III.K.2.d.iii.(10)(d) of this proposed rule. All specific additional proposed requirements for the performance payment or bridge payment, as discussed in sections III.K.2.d.iii.(3) through (6) and III.K.2.d.v. of this proposed rule, must also be met.

In order to submit a claim for a performance payment under the MDPP expanded model, the billing supplier must have documentation in the beneficiary's MDPP record, as specified in proposed §424.205(g), that all requirements for the payment, including the achievement of the performance goal(s) applicable to the performance payment, have been met. We note that the billing supplier's MDPP record for the beneficiary may include a copy of the beneficiary's MDPP record from a previous MDPP supplier that has been provided to the billing supplier at the request of the MDPP beneficiary. For purposes of an MDPP supplier submitting a claim for an interval performance payment based on attendance at more than one session, this copy of the MDPP record from the previously MDPP supplier may be used as part of the billing supplier's documentation demonstrating that the attendance and weight loss, if applicable, performance goal(s) for the performance payment were achieved. We note that as we finalized at §424.59(b) in the CY 2017 PFS final rule (proposed to be redesignated and amended at §424.205(g)), MDPP suppliers are required to maintain and handle any personally identifiable information (PII) and protected health information (PHI) in compliance with HIPAA, other applicable state and federal privacy laws, and CMS standards. Therefore, MDPP suppliers must follow these rules when providing any copies of information from a beneficiary's MDPP records to another MDPP supplier.

We are proposing that any weight loss measurement taken and recorded by an MDPP supplier for the purposes of performance payments must be taken in person during an MDPP core session, core maintenance session, or ongoing maintenance session by the MDPP supplier during the MDPP services period. We believe that in-person measurements are the most feasible method for weight ascertainment at this time for services because the beneficiary would attend regular in-person sessions with the MDPP supplier. Moreover, we believe that self-reported weight loss is not reliable for the purposes of performance payment in the MDPP expanded model. This proposal also would apply to our proposed policy regarding virtual make-up sessions, described in detail in section III.K.2.c.iv.(3) of this proposed rule, meaning that weight loss could not be measured or reported during a virtual make-up session for the purpose of the MDPP supplier submitting a claim for a performance payment. We also are proposing to require that weight loss be measured in person at an MDPP session to align with CDC's DPRP standards, which require for in-person sessions that weight be measured in person at the session.

In addition, we note that the achievement or maintenance of the required minimum weight loss that determines the performance payment amount for a core maintenance session interval and the maintenance of the required minimum weight loss that determines whether a performance payment for an ongoing maintenance session interval is made must be determined by an in-person weight measurement at a session furnished during the applicable interval. Thus, for these interval performance payments, achievement of the performance goal for minimum weight loss does not need to be determined based on attendance at a session furnished by the MDPP supplier billing for that performance payment. However, as discussed previously, if achievement of the performance goal for minimum weight loss was measured at a session furnished by a previous MDPP supplier in the interval, the subsequent supplier must have



documentation through a copy of the beneficiary's MDPP record from that previous supplier that the weight loss performance goal was met in the interval to bill for the interval performance payment. Finally, the performance payments for the required minimum and 9 percent weight loss would only be billed by the MDPP supplier furnishing the session at which the weight loss performance goal is met during an in-person session.

Furthermore, we are proposing that the beneficiary must achieve the applicable attendance performance goal for core session, core maintenance session interval, or ongoing maintenance session interval performance payments upon attendance at a session furnished by the MDPP supplier billing for that specific performance payment. An MDPP supplier can only bill for a performance payment on the date the beneficiary has achieved all performance goals associated with that performance payment. We note that in order to bill for an interval performance payment that is based on attendance, the MDPP supplier that furnished the session where the attendance goal is met would bill for the performance payment, even if that supplier did not itself furnish all sessions attended by the MDPP beneficiary during that interval. In these circumstances, as discussed previously, if attendance at a session furnished by a previous MDPP supplier occurred in the interval, the subsequent supplier must have documentation through a copy of the beneficiary's MDPP record from that previous supplier of the session attendance in order to bill for the interval performance payment based on attendance at that session. An MDPP supplier may not bill for an interval performance payment when the MDPP supplier does not furnish the session where the attendance goal is met.

For all interval performance payments, we are proposing that the performance payment would be based on the date the MDPP supplier furnished the session where the interval attendance performance goal is met. Thus, for those intervals where the performance payment is

based on MDPP beneficiary session attendance that spans two calendar years, the interval performance payment would be the amount applicable to the later calendar year, reflecting the annual update from the prior year as discussed in section III.K.2.d.iii.(9) of this proposed rule.

The proposed conditions for payment by CMS of performance payments and bridge payments to MDPP suppliers are included at proposed §414.84(b) and (c), as well as at the other provisions in these sections. We are inviting public comments on these proposals.

(c) Reporting HCPCS G-Codes on Claims for MDPP Services

We are proposing to establish 19 unique Healthcare Common Procedure Coding System (HCPCS) G-codes so that MDPP suppliers may submit claims for payment when all the requirements for billing the codes have been met. Our proposal for the HCPCS G-codes is displayed in Table 33.

We note that each MDPP supplier would be able to bill one of the 18 payable HCPCS G-codes on the date when all the requirements for billing the code have been met, including the session attendance for specific core and ongoing maintenance session intervals and achievement and/or maintenance of weight loss, as applicable to the specific HCPCS G-code. One of the proposed HCPCS G-codes would be nonpayable and assigned a payment amount of \$0 because it would only be reported on a claim that also includes a payable HCPCS G-code for MDPP services as described subsequently in this section.

HCPCS G-codes GXXX1 through GXXX3 and GXXX8 through GXX17 may each be paid only once in a beneficiary's lifetime, and the Medicare claims processing system would ensure that no more than one of each specific performance payment per beneficiary reported with these HCPCS G-codes is made. In addition, because only one performance payment may be made for each core maintenance session interval per beneficiary, the claims processing system

would also ensure that no more than one unit of HCPCS code GXXX4 or GXXX6 and no more than one unit of HCPCS code GXXX5 or GXXX7 was paid in a beneficiary's lifetime.

Due to these lifetime limitations on payment for certain HCPCS codes for each beneficiary, in the circumstances where two MDPP suppliers furnished sessions during the MDPP services period and both MDPP suppliers met all requirements for billing the same HCPCS G-code, based on our operational processes, we would pay the first valid claim received and deny the second claim. The first valid claim received for a beneficiary for a given HCPCS G-code with a lifetime limitation would be determined through the CMS' Common Working File (CWF), which processes claims for all MACs.

Based on information from the CDC's national DPP, we expect that circumstances where a beneficiary changes MDPP suppliers during the MDPP services period will be uncommon. In addition, in view of the typical structure of DPPs where core sessions are offered weekly for the first 6 months of the core services period, and then offered monthly, we believe it would be rare for more than one MDPP supplier to meet the requirements for billing for the same once-per-lifetime performance payment. However, as an example an MDPP beneficiary could maintain the required minimum weight loss throughout the first core maintenance session interval and attend 3 sessions furnished by one MDPP supplier in the first 1 ½ months of the first core maintenance interval, and then change to another supplier and attend 3 more core maintenance sessions furnished by a subsequent MDPP supplier before the end of that interval. While both MDPP suppliers would meet the requirements for billing HCPCS code GXXX6, we would only pay the first claim for the HCPCS G-code that was submitted. The second claim for HCPCS code GXXX6 received by us would be denied. We expect that our operational processes will result in MDPP suppliers submitting claims for HCPCS G-codes as soon as the sessions are

furnished that meet all of the requirements for billing for the particular performance payment, and that this practice will generally result in the performance payment being made to the MDPP supplier that furnished the first session where the performance goals were met.

Finally, as discussed in section III.K.2.d.v. of this proposed rule, we are not proposing to limit the number of bridge payments, which would be reported with HCPCS code GXX18, that may be paid for an MDPP beneficiary who changes MDPP suppliers during the MDPP services period.

**TABLE 33: Proposed HCPCS G-Codes for MDPP Services**

<b>Proposed HCPCS G-Code for MDPP Services*</b>	<b>Proposed Payment Amount</b>	<b>Description of MDPP Service</b>
GXXX1	\$25	1 <sup>st</sup> core session attended
GXXX2	\$30	4 total core sessions attended
GXXX3	\$50	9 total core sessions attended
GXXX4	\$10	3 core maintenance sessions attended in months 7-9 (weight- loss goal not achieved or maintained)
GXXX5	\$10	3 core maintenance sessions attended in months 10-12 (weight loss goal not achieved or maintained)
GXXX6	\$60	3 core maintenance sessions attended in months 7-9 and weight loss goal achieved or maintained
GXXX7	\$60	3 core maintenance sessions attended in months 10-12 and weight loss goal achieved or maintained
GXXX8	\$160	5 percent weight loss from baseline achieved
GXXX9	\$25	9 percent weight loss from baseline achieved
GXX10	\$50	3 ongoing maintenance sessions attended in months 13-15 and weight loss goal maintained
GXX11	\$50	3 ongoing maintenance sessions attended in months 16-18 and weight loss goal maintained
GXX12	\$50	3 ongoing maintenance sessions attended in months 19-21 and weight loss goal maintained
GXX13	\$50	3 ongoing maintenance sessions attended in months 22-24 and weight loss goal maintained
GXX14	\$50	3 ongoing maintenance sessions attended in months 25-27 and weight loss goal maintained
GXX15	\$50	3 ongoing maintenance sessions attended in months 28-30 and weight loss goal maintained
GXX16	\$50	3 ongoing maintenance sessions attended in months 31-33 and weight loss goal maintained
GXX17	\$50	3 ongoing maintenance sessions attended in months 34-36 and weight loss goal maintained
GXX18	\$25	Bridge payment – first session furnished by MDPP supplier to an MDPP beneficiary who has previously received MDPP services from a different MDPP supplier
GXX19	\$0	MDPP session reported as a line-item on a claim for a payable MDPP services HCPCS G-code for a session furnished by the billing supplier that counts toward achievement of the attendance performance goal for the payable MDPP services HCPCS G-code

\* = Illustrative HCPCS G-code numbers are placeholders to allow for comment on this proposed rule. Final HCPCS codes for MDPP services under the MDPP expanded model will be included in the CY 2018 PFS final rule.

We also plan to issue specific billing instructions to MDPP suppliers for those 14 proposed HCPCS G-codes (excluding GXXX1, GXXX8, GXXX9, GXX18, and GXX19) that represent an interval performance payment where attendance at more than 1 session is required for the performance payment to be made. Suppliers would report the applicable HCPCS G-code as a line-item on the claim on the date the session was furnished where the interval attendance goal was met. On the same claim, suppliers would also report 1 line-item of HCPCS code GXXX19 for each other session furnished by the supplier during the interval that was not previously reported on a claim but that counts toward achievement of the attendance performance goal for the applicable HCPCS G-code.

For example, while beneficiary attendance at the 2<sup>nd</sup> and 3<sup>rd</sup> of the 4 core sessions would not result in a separate performance payment, we would instruct MDPP suppliers that the 2<sup>nd</sup> and 3<sup>rd</sup> core sessions furnished by the supplier submitting the claim for HCPCS code GXXX2 (4 total core sessions attended) be reported as 2 separate line-items of HCPCS code GXX19 on the claim for the performance payment for 4 core sessions attended. The 4<sup>th</sup> core session furnished by the billing supplier where the interval attendance goal was met would be represented on the claim line reporting HCPCS code GXXX2. Each of these line-items (one line-item of GXXX2 and 2 line-items of GXX19) would include the date of service and the NPI of the coach associated with that MDPP supplier who furnished the specific session reported as the line-item.

When billing for a HCPCS G-code that represents a cumulative number of MDPP sessions where some sessions already have been reported on a previous claim, only the sessions not previously reported on a claim would be reported by the MDPP supplier. For example, HCPCS code GXXX3 (9 total core sessions attended) would be used to bill for 9 core sessions attended, and the line-item of HCPCS code GXXX3 would represent the 9<sup>th</sup> core session

furnished. Separate line-items of HCPCS code GXX19 would be reported on the same claim only for the 5<sup>th</sup> through 8<sup>th</sup> core sessions furnished by the MDPP supplier. Claims for HCPCS codes GXXX1 (1<sup>st</sup> core session attended) and GXXX2 (4 core sessions attended) would already have been submitted, and those claims would have included line-items for the 1<sup>st</sup> core session, and for the 2<sup>nd</sup>, 3<sup>rd</sup>, and 4<sup>th</sup> core sessions.

We believe that instructing MDPP suppliers to report a line-item for each session on a single claim submitted for an interval performance payment would simplify the tracking and administrative activities of MDPP suppliers and the reporting of the coach NPI on claims for MDPP services furnished to beneficiaries as discussed in section III.K.2.d.iii.(10)(d) of this proposed rule. We further believe that there should be no significant administrative burden for MDPP suppliers to include information on all sessions they furnished on interval performance payment claims for two reasons. First, the documentation requirements for MDPP sessions at §424.205(g), including the beneficiary's eligibility, specific session topics attended, the NPI of the coach who furnished the session attended, the date and place of service of sessions attended, and weight, would require the MDPP supplier to document and retain this information. Therefore, MDPP suppliers would have documentation of the date of each session and the NPI of the furnishing coach for reporting on each line-item on the claim for the interval performance payment. Second, MDPP suppliers would be instructed not to submit separate claims for each session represented in an interval performance payment. All sessions would be reported on the single claim that would be submitted for the interval performance payment.

In the case of an MDPP supplier submitting a claim for an interval performance payment where the billing supplier did not furnish all the sessions attributable to the interval because another supplier had furnished some of the first sessions in the interval, the billing supplier

would report on the claim only the sessions it furnished. However, the supplier would need to maintain MDPP records documenting that all requirements, including session attendance and achievement or maintenance of weight loss, if applicable, for billing the HCPCS G-code for the interval for the beneficiary were met. Any sessions covered by the interval performance payment HCPCS G-code but not furnished by the supplier submitting the claim for that interval would not be reported as separate line-items on the claim. However, the billing supplier would need to maintain in the beneficiary's MDPP record a copy of his or her MDPP record from the previous supplier in order to consider sessions furnished by the previous supplier in determining that the performance goal(s) for the interval performance payment were met.

Although the NPIs of the coaches who furnished such sessions that would not be reported as separate line-items would also not be recorded on the claim, the billing supplier would still be required to maintain documentation in the beneficiary's MDPP record of the NPI of each coach who furnished each session through a copy of the beneficiary's MDPP record about those sessions from the previous supplier. Therefore, upon medical review, CMS and its contractors would be able to review and assess the remaining coaches who furnished sessions to Medicare beneficiaries associated with a claim submitted for a given interval performance payment HCPCS G-code, but who do not have an NPI reported on the claim. Because we expect it to be uncommon for suppliers not to furnish all sessions attributable to an interval and due to the administrative burden that could result from a requirement that an MDPP supplier report specific information on sessions on a claim that the particular supplier did not itself furnish, we believe the program integrity risk associated with the limitation in the completeness of information from administrative claims data under this scenario is low. However, we will monitor the completeness of reporting line-items on claims for interval performance payments and may



consider revising our billing instructions in the future if we determine that we lack information from administrative claims on a significant number of sessions furnished to MDPP beneficiaries.

We are inviting public comments on the proposal to create 19 HCPCS G-codes for billing for the performance payments and bridge payment and reporting additional session line-items on claims for MDPP services. We also are inviting public comment on matters related to billing instructions for MDPP suppliers that we plan to issue so that information on the date and furnishing coach NPI for all sessions furnished by the billing supplier would be submitted on claims. However, we note that we intend to provide additional claims submission instructions in guidance.

(d) Reporting the Coach National Provider Identifier (NPI) on Claims

In the CY 2017 PFS final rule, we established the policy that coaches will not enroll in Medicare for purposes of furnishing MDPP services, but that they will be required to obtain NPIs. Further details on these policies are described in section III.K.2.e.iii. of this proposed rule.

According to Chapter 26, Section 10.4 of the Medicare Claims Processing Manual,<sup>25</sup> the NPI of the rendering provider is to be reported as Item 24J on the line-item for each service reported on the CMS-1500 claim form. Our proposal in section III.K.2.d.iii.(10)(c) of this proposed rule would require that, in the circumstances of a claim for an interval performance payment for MDPP services, each session furnished by the billing supplier be reported as a separate line-item on the claim. In addition, we are proposing to require MDPP suppliers to report the NPI of the coach who furnished the session as Item 24J on the line-item for each session reported on claims for performance payments for MDPP services. Under our proposal,

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<sup>25</sup> Available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/clm104c26.pdf>.

the coach who furnished the session would be the rendering provider for purposes of reporting on the CMS-1500 claim form.

While only MDPP suppliers, not coaches, would be subject to potential Medicare administrative actions related to payments the suppliers may receive, we believe that our proposal to require the NPI of the coach who furnished the session to be reported as the rendering provider for each line-item HCPCS G-code on a claim for MDPP services would provide us with a number of program integrity protections, including the ability to monitor MDPP coach activity to identify suspected fraud or other improper payments and to determine the need for medical review or investigation as appropriate. We would only process claims for payment of MDPP services when all of the coach NPIs reported on the claim are associated with eligible coaches who have been submitted on the coach roster in the MDPP supplier's enrollment application, and when all of the coaches have successfully completed Medicare's screening processes. We would also only process claims for payment of MDPP services furnished by a coach on or after his or her coach eligibility start date, and, if applicable, prior to his or her coach eligibility end date, as the definitions of these terms are included in proposed §424.205(a).

Without such program integrity protections, we would lack a sufficient method to verify that payment is being made for services furnished by a coach who has met the requirements outlined in section III.K.2.e.iii. of this proposed rule. This verification will help protect both Medicare beneficiaries and the Medicare Trust Funds. Including coach NPIs on claims may also encourage accuracy in reporting on the achievement of beneficiary attendance and/or weight loss performance goals because both CMS and MDPP suppliers would be able to identify on the claim in question which coaches furnished the sessions attributable to the performance payment. In addition, because the accuracy of information reported on the claim is ultimately the MDPP

supplier's responsibility, and the MDPP supplier attests to the accuracy of each claim submitted, including the relevant coach NPIs on the claim may assist the MDPP supplier when conducting internal monitoring of claim accuracy.

These proposed requirements for reporting the coach NPI as the rendering provider on session line-items included on claims for performance payments and bridge payments to MDPP suppliers are included at proposed §414.84(b) and (c). We are inviting public comments on these proposals.

#### iv. Comparison of Supplier Requirements for Furnishing the Set of MDPP Services and Supplier Payment

As in the DPP model test under section 1115A(b) of the Act, MDPP services are based on a CDC-approved DPP curriculum and, therefore, MDPP suppliers must offer sessions in accordance with that curriculum. We are proposing to apply a performance-based payment methodology to MDPP services, which ties most payments to outcomes – in this case, weight loss and session attendance - to help incentivize suppliers to be engaged in their beneficiaries' weight loss efforts. Given this proposed methodology, we recognize that there would be an inherent amount of supplier financial risk, and that coverage of sessions and supplier requirements and payment would not always align. This section aims to clarify how we are proposing that these elements would fit together in the MDPP expanded model, as displayed in Table 34.

**TABLE 34: Set of MDPP Services and Payment**

<b>MDPP Services</b>	<b>MDPP Beneficiary Eligibility for Coverage</b>	<b>MDPP Supplier Must Offer</b>	<b>MDPP Supplier Payment</b>
Core sessions (months 1 to 6 of the MDPP services period)	An eligible beneficiary has Medicare coverage of core sessions in the first 6 months of the MDPP core services period, regardless of attendance or weight loss. *NOTE: To start the MDPP services period, the beneficiary attends his or her first core session, which begins the beneficiary’s MDPP services period timeline of a maximum of 36 months.	At least 16 core sessions, furnished no more frequently than once per week, over the first 6 months of the beneficiary’s MDPP services period.	<ul style="list-style-type: none"> <li>• \$25 performance payment for beneficiary attendance at the first core session.</li> <li>• \$30 interval performance payment after the beneficiary has attended a total of 4 core sessions.</li> <li>• \$50 interval performance payment after the beneficiary has attended a total of 9 core sessions.</li> </ul> *NOTE: All payments for core sessions are independent of beneficiary weight loss.
Core maintenance sessions (months 7 to 12 of the MDPP services period)	Beneficiary has coverage of core maintenance sessions in months 7 to 12 of the MDPP services period, regardless of attendance or weight loss.	At least 1 core maintenance session per month in months 7 to 12 of the MDPP services period.	<ul style="list-style-type: none"> <li>• \$10 payment if a beneficiary attends 3 sessions within a 3-month core maintenance session interval but does not achieve or maintain the required minimum weight loss at least once within that 3-month core maintenance session interval; <i>or</i></li> <li>• \$60 if a beneficiary attends 3 sessions <i>and</i> achieves or maintains the required minimum weight loss at least once within that 3-month core maintenance session interval.</li> </ul> *NOTE: There are two consecutive core maintenance session intervals.
Ongoing maintenance sessions (months 13 to 36 of the MDPP services period)	Beneficiary has coverage of ongoing maintenance sessions in the first ongoing maintenance session interval (months 13 to 15 of the MDPP services period) if: <ul style="list-style-type: none"> <li>• He or she attended at least 1 session during the final core maintenance session interval (months 9 to 12</li> </ul>	At least 1 ongoing maintenance session per month for up to 24 months, if the beneficiary maintains eligibility to have coverage	<ul style="list-style-type: none"> <li>• \$50 payment if a beneficiary attends 3 sessions and maintains the required minimum weight loss from baseline at least once within a 3-month ongoing maintenance session interval.</li> </ul> *NOTE: There are up to eight consecutive ongoing maintenance session intervals.

<b>MDPP Services</b>	<b>MDPP Beneficiary Eligibility for Coverage</b>	<b>MDPP Supplier Must Offer</b>	<b>MDPP Supplier Payment</b>
	<p>of the MDPP services period) and had weight measured.</p> <ul style="list-style-type: none"> <li>• He or she achieved or maintained the required minimum weight loss at least once during the final core maintenance session interval (months 10 to 12 of the MDPP services period).</li> </ul> <p>A beneficiary has coverage of a subsequent ongoing maintenance session interval (for up to 21 months after the end of the first ongoing maintenance session interval), if he or she attended at least 3 sessions and maintained the required minimum weight loss from baseline at least once during the previous ongoing maintenance session interval.</p>	<p>of ongoing maintenance sessions.</p>	

Once an MDPP supplier enrolls in Medicare to furnish MDPP services, it must offer the set of MDPP services in accordance with the MDPP supplier standards (noted in section III.K.2.e.iv.(4) of this proposed rule and at §424.205(d), including that it must offer at least 16 core sessions, furnished no more frequently than once per week, over the first 6 months of the MDPP core services period; at least 1 core maintenance session per month over months 7 to 12 of the MDPP core services period; and at least 1 ongoing maintenance session per month for up to 24 additional months (months 13 through 36 of the MDPP services period), if the beneficiary maintains eligibility for coverage of ongoing maintenance sessions. We recognize that

beneficiaries might not attend these sessions. However, they must be made available, in accordance with CDC's DPRP standards, to beneficiaries as long as they are eligible for coverage of MDPP sessions. We further note that the set of MDPP services must be furnished in compliance with all applicable federal laws and regulations.

Although a beneficiary is not required to use MDPP services at all, the MDPP services period is initiated by the beneficiary attending his or her first core session, which begins the MDPP services period timeline. To qualify for coverage of ongoing maintenance sessions, a beneficiary would also need to attend at least 1 session during the final core maintenance session interval where in-person weight measurement is performed that demonstrates the achievement or maintenance of the required minimum weight loss.

All of the proposed performance payments except for the weight loss performance payments require the achievement of an attendance performance goal, and if a beneficiary does not achieve attendance performance goals, an MDPP supplier would not be paid a performance payment that relies on achieving those goals. For example, if a beneficiary does not attend 3 sessions in the first core maintenance session interval, a supplier would not be paid a performance payment for the interval that spans months 7 to 9 of the MDPP core services period. However, a supplier must offer at least 1 core maintenance session per month to the beneficiary to ensure that the beneficiary has the opportunity to attend. Furthermore, while the proposed weight loss performance payments are based solely on the achievement of the required minimum or 9 percent weight loss, we note that all weight loss measurements must be obtained in person at a session so that if a beneficiary does not attend a session where weight loss can be measured and compared to baseline, the MDPP supplier would not be paid a performance payment that relies on achieving a weight loss performance goal.

v. Payment Policies When a Beneficiary Changes MDPP Suppliers

In the CY 2017 PFS final rule (81 FR 80470), we confirmed that a beneficiary may change MDPP suppliers at any time. However, we deferred specific policies regarding attribution of beneficiaries who change MDPP suppliers as related to payment to future rulemaking. We are making proposals for payment policies when a beneficiary changes MDPP suppliers during the MDPP services period in this section.

At proposed §414.84(a)(1), we are proposing to define “bridge payment” as a one-time payment to an MDPP supplier for furnishing its first MDPP services session to an MDPP beneficiary who has previously received one or more MDPP services from a different MDPP supplier. We use this definition in the proposed MDPP payment policies for the circumstances when a beneficiary changes MDPP suppliers for any reason during the MDPP services period after the beneficiary has attended at least the first core session.

In cases where the beneficiary changes MDPP suppliers, there is a shift in accountability for offering the set of MDPP services for which the beneficiary is eligible for coverage from one MDPP supplier to a subsequent MDPP supplier. Similar to our proposal for a performance payment to an MDPP supplier that furnishes the first core session to an MDPP beneficiary who initiates the MDPP services period as discussed in section III.K.2.d.iii.(3) of this proposed rule, we are proposing that an MDPP supplier would be paid a bridge payment of \$25 for furnishing its first session to an MDPP beneficiary who has previously received MDPP services from a different MDPP supplier, regardless of whether the MDPP supplier is paid any performance payments for that beneficiary. A subsequent MDPP supplier would be paid this bridge payment after furnishing the first session to a beneficiary and billing the appropriate HCPCS G-code only if the supplier did not furnish the first core session to the MDPP beneficiary.

We believe that making a bridge payment that is the same amount as the proposed performance payment for the first core session discussed in section III.K.2.d.iii.(3) of this proposed rule is appropriate because we expect the MDPP supplier's resources used to be similar under both of these circumstances. The subsequent supplier would expend resources for furnishing a first session to a beneficiary, including collecting administrative information on the beneficiary who is not already known to the supplier, regardless of whether the beneficiary goes on to receive further MDPP sessions from that supplier.

We are proposing that the bridge payment would be paid to the subsequent MDPP supplier any time a beneficiary changes suppliers during the MDPP services period, regardless of when during the core services period or ongoing services period the beneficiary changes MDPP suppliers. The bridge payment is not intended to be a performance payment, which could be paid to the subsequent MDPP supplier in addition to the bridge payment if a beneficiary achieves a performance goal while receiving MDPP services from that the subsequent supplier. Rather, the bridge payment accounts for the financial risk a subsequent MDPP supplier takes on by furnishing services to a beneficiary changing MDPP suppliers during the MDPP services period. We believe that when suppliers furnish MDPP services to MDPP beneficiaries in these circumstances, they generally do not have the same opportunity for performance payments that they would have if the beneficiary had been receiving MDPP services from the supplier from the beginning of the MDPP services period because certain performance goals, such as the required minimum weight loss, might already have been achieved by the beneficiary. The proposed bridge payment policy would play an important role in ensuring access to MDPP services and freedom of choice of MDPP suppliers for those beneficiaries who either choose to or must change suppliers during the MDPP services period.



If we were to only make performance payments for MDPP services as proposed in sections III.K.2.d.iii.(3) through (6) of this proposed rule and not make a bridge payment to a subsequent supplier when an MDPP beneficiary changes suppliers during the MDPP services period, access problems could result due to the number of scenarios where subsequent MDPP suppliers offering and furnishing MDPP services would be paid no performance payment for the sessions furnished. The following examples illustrate such scenarios.

- A beneficiary changes from MDPP supplier A to MDPP supplier B after attending core session 4; attends core sessions 5 to 8 with supplier B; and then decides not to attend any more MDPP sessions. Supplier B does not meet the requirements for billing for the performance payment for the 9<sup>th</sup> core session because only 8 core sessions were attended, despite supplier B offering and furnishing core sessions 5 to 8.

- A beneficiary who has not met the required minimum weight loss performance goal changes from MDPP supplier A to MDPP supplier B after completing the first 3-month core maintenance session interval; attends 2 core maintenance sessions in months 9-12 with supplier B; and then fails to attend the 3<sup>rd</sup> core maintenance session in this interval. Supplier B does not meet the requirements for billing for the performance payment for the second core maintenance session interval despite offering and furnishing core maintenance sessions and the beneficiary eligibility for coverage of MDPP services then ends after month 12, the end of the core services period.

We believe that circumstances like these examples where subsequent MDPP suppliers would receive no payment for sessions furnished to MDPP beneficiaries who change suppliers during the MDPP services period in the absence of the bridge payment policy could lead to those MDPP suppliers preferentially seeking to furnish the remaining MDPP services during the

MDPP services period to beneficiaries who have either already achieved the required minimum weight loss, or whom they believe will attend sessions and achieve weight loss, because the required minimum weight loss is tied to eligibility for ongoing maintenance sessions and higher performance payment for core maintenance session intervals.

We note that we are proposing in section III.K.2.e.iv.(4) of this proposed rule that MDPP suppliers may not deny access to MDPP services to eligible beneficiaries based on any reason other than the supplier's own capacity limits to furnish MDPP services to additional beneficiaries and on a discretionary basis if a beneficiary significantly disrupts the session for other participants or becomes abusive. However, MDPP suppliers could comply with this access requirement, while still preferentially seeking to furnish the remaining MDPP services in the MDPP services period to MDPP beneficiaries they believe are most likely to achieve the performance goals. To ensure beneficiary freedom of choice of MDPP supplier, including the choice to change suppliers, we believe the proposal to make a bridge payment helps mitigate the likelihood of MDPP suppliers acting on such preferences. The subsequent supplier would be paid a bridge payment for a beneficiary who changes suppliers, even if the beneficiary does not achieve performance goals that result in a performance payment being made to the subsequent supplier.

We considered an alternative policy in which the bridge payment would only be made in circumstances where the subsequent supplier would not be paid a performance payment that is based on attendance at the first session furnished by that supplier. For example, under this alternative if a beneficiary attends the 1<sup>st</sup> session during the ongoing maintenance session interval for months 13 through 15 at one MDPP supplier and then changes to a subsequent MDPP supplier that furnishes two additional ongoing maintenance sessions within that same

interval and the beneficiary maintains the required minimum weight loss, the subsequent supplier would not be paid the \$25 bridge payment but would be paid the ongoing maintenance session interval performance payment for months 13 through 15. The subsequent supplier would only be paid the \$25 bridge payment if the beneficiary did not maintain the required minimum weight loss for the performance payment for that ongoing maintenance session interval. We are not proposing this alternative because we believe it is appropriate to make a bridge payment for the first session furnished by the subsequent supplier that expends resources for furnishing a session to a beneficiary not previously known to that supplier, unrelated to whether or not the beneficiary achieves a performance goal that results in a performance payment being paid to the subsequent supplier.

We are proposing that an MDPP supplier can be paid either one performance payment for furnishing the first core session or one bridge payment per beneficiary, but not both. We are proposing this policy because we believe that the potential to be paid both a performance payment for the first core session and a bridge payment, or multiple bridge payments, for the same beneficiary, could increase the risk of MDPP suppliers encouraging discontinuous care patterns. Such patterns could hinder the achievement of the required minimum weight loss that leads to a reduction in the incidence of type 2 diabetes and could lead to increased Medicare expenditures for MDPP services. Financial incentives resulting from the potential for multiple bridge payments to a single supplier for one beneficiary could lead MDPP suppliers to encourage beneficiaries to repeatedly change among them between sessions during the MDPP services period so that the suppliers may repeatedly bill for bridge payments. We believe that limiting the bridge payment to one per beneficiary per supplier and making it available for payment only if the performance payment for the first core session was not paid to that same supplier helps

mitigate this risk. However, we are not proposing to limit the number of MDPP suppliers that may be paid a bridge payment for a particular beneficiary because we are not proposing to limit beneficiary freedom of choice for MDPP suppliers. We are proposing only to limit the bridge payments that a particular MDPP supplier may be paid for each MDPP beneficiary to one.

While this proposed limit is intended to provide some protection against MDPP suppliers encouraging certain care patterns for the purposes of their financial gain alone, we understand there may be organizations enrolled in Medicare as the same supplier type but under separate MDPP supplier enrollment records that are part of a larger franchise or umbrella organization with shared financial interests. There is some program integrity risk that these organizations could coordinate to bill multiple bridge payments that would ultimately increase total MDPP payments to separately enrolled MDPP suppliers to serve the financial interests of the umbrella organization. This scenario could occur if MDPP suppliers systematically encourage beneficiaries to change suppliers for the purpose of being paid the bridge payment.

Although we believe that organizations under a larger umbrella organization may have a greater financial incentive and opportunity to engage in this behavior, we understand that any two or more MDPP suppliers could coordinate in this way, potentially affecting large numbers of MDPP beneficiaries. To mitigate this risk, we are proposing to prohibit MDPP suppliers and other individuals or entities performing functions or services related to MDPP services on an MDPP supplier's behalf from unduly coercing an MDPP beneficiary's decision to change or not to change to a different MDPP supplier, including through the use of pressure, intimidation, or bribery as described further in section III.K.2.e.iv.(4). of this proposed rule. We will monitor MDPP supplier billing patterns to detect how frequently bridge payments are paid and to determine whether patterns exist that may suggest fraudulent activity regarding bridge payment

claim submissions across suppliers, conducting audits, medical reviews, and investigations as appropriate.

In the CY 2017 PFS final rule, we finalized at §410.79(b) that a beneficiary's baseline weight refers to the MDPP beneficiary's body weight recorded during that beneficiary's first core session. This definition applies to determine weight loss throughout the MDPP services period. Additionally, the once-per-lifetime policy finalized at §410.79(d)(1) applies if a beneficiary changes MDPP suppliers, and the services furnished by the subsequent supplier would begin where the beneficiary left off with the previous supplier. We recognize these policies may require the beneficiary to request that a copy of his or her MDPP record be provided by the previous supplier to the subsequent supplier so that subsequent supplier can determine whether the beneficiary achieves or maintains the required minimum weight loss and has information about the MDPP services already furnished. We also finalized at §424.59(b) (proposed to be redesignated and amended as §424.205(g)) that an MDPP supplier shall maintain documentation that includes services furnished and body weight measurements. Finally, we finalized at §424.59(b) (proposed to be redesignated and amended as §424.205(g)) that MDPP suppliers are required to maintain and handle any beneficiary PII and PHI in compliance with HIPAA, other applicable privacy laws and CMS standards. Any sharing of information from a beneficiary's MDPP record between MDPP suppliers must follow these rules.

We are considering ways to streamline the sharing of this information between suppliers, such as through the development of a model tracker that logs the contact information of a beneficiary's previous supplier and/or coach, and the beneficiary's attendance and weight loss. Beneficiaries could take the tracker with them if they change suppliers during the MDPP services period. Such a tracker would not supplant the previous supplier's beneficiary MDPP record

which the subsequent supplier would need to have a copy of in order to consider sessions furnished by the previous supplier in determining whether the subsequent supplier could bill for a performance payment that was based in part on those prior sessions as discussed in section III.K.2.d.iii.(10)(b) of this proposed rule. If the subsequent supplier does not have the beneficiary's MDPP record from the previous supplier, the subsequent supplier cannot use information from the sessions furnished by the previous supplier, such as weight or session attendance, to determine that the performance goals for a performance payment were met so that the subsequent supplier can bill for the performance payment. However, it may help facilitate the process for subsequent suppliers to enroll beneficiaries partway through the MDPP services period while the subsequent supplier is coordinating with the previous supplier to obtain a copy of the beneficiary's MDPP record from that supplier. We are inviting public comments on additional ways this data sharing could be streamlined between suppliers.

The proposed bridge payment is included at proposed §414.84(c). We are inviting public comments on this proposal and the alternative considered.

#### e. Supplier Enrollment and Compliance

In the CY 2017 PFS final rule, we established MDPP supplier enrollment eligibility and revocation policies at §424.59. We propose to add subpart I, which includes §§424.200, 424.205, and 424.210. This subpart specifies the requirements for Medicare Diabetes Prevention Program suppliers and beneficiary engagement incentives under the Medicare Diabetes Prevention Program expanded model. We propose to redesignate all requirements under §424.59 to §424.205. These requirements previously finalized in the CY 2017 PFS final rule created MDPP suppliers as a new Medicare supplier type, and require that any organization seeking to furnish and receive payment for MDPP services must enroll as this supplier type. Given that the

set of MDPP services utilizes CDC's DPRP curriculum, in the CY 2017 PFS final rule we established supplier eligibility criteria that closely match CDC's DPRP standards. The CY 2017 PFS final rule provides that any organization that meets full CDC DPRP recognition will be eligible to enroll as an MDPP supplier. In this proposed rule, we are proposing to build on these eligibility criteria for enrollment, as well as make some changes, as described in further detail later in this section.

The CY 2017 PFS final rule also established other requirements related to MDPP suppliers. For example, we assigned MDPP suppliers to the high-risk screening category under §424.518. We also established the policy that coaches will not enroll in Medicare for purposes of furnishing MDPP services, but that they would be required to obtain NPIs. We established that MDPP suppliers must submit the active and valid NPIs of all affiliated coaches and provide updates of this information to us within 30 days of a coach beginning or ceasing to furnish MDPP services. We provided that this roster of coach information must include the first and last name, social security number (SSN), and NPI. The proposals outlined in this section seek to build on these requirements.

In the CY 2017 PFS final rule, we acknowledged that many DPP organizations have not yet achieved full CDC DPRP recognition, and that it might take 36 months to meet CDC's performance standards for full recognition. We believe allowing only organizations with full recognition to enroll as an MDPP supplier would limit the number of organizations with demonstrated capacity to furnish MDPP services, and therefore, constrain beneficiary access to these services. However, we deferred to future rulemaking addressing the issue of allowing certain DPP organizations with less than full CDC recognition to enroll in Medicare.

We are proposing an MDPP interim preliminary recognition standard under CMS authority (proposed at §424.205(c)). We also are proposing that organizations that meet this standard would be eligible to enroll in Medicare as an MDPP supplier.

i. Preliminary Recognition

The current CDC 2015 Diabetes Prevention Recognition Program (DPRP) Standards do not have standards for preliminary recognition. In the CY 2017 PFS final rule, we indicated that we would align the CDC's DPRP and the set of MDPP services, to the extent possible. It will not be possible for CMS to permit DPP organizations to enroll as MDPP suppliers based on achievement of any new CDC standard through this rulemaking because any updates to the CDC Standards are not expected to go into effect until 2018.

However, our intent is to allow organizations that do not yet have full recognition, but have demonstrated a capacity to furnish DPP services, to enroll in Medicare as of the effective date of the enrollment policies proposed in this rule. We believe this will increase access to MDPP services. For this reason, we are proposing, at §424.205(c), to establish an MDPP interim preliminary recognition standard to permit DPP organizations who meet this standard to enroll in Medicare even if they do not have full CDC recognition. This MDPP interim preliminary recognition standard will be hereafter referred to as "interim preliminary recognition." As we stated in CY 2017 PFS final rule, our intent with this policy is to bridge the gap until such time as any CDC preliminary recognition standards are established. Once we have established the transition process with CDC, we would expect DPP organizations that seek to enroll into Medicare to obtain CDC preliminary recognition, but MDPP suppliers who have enrolled in Medicare with interim preliminary recognition would maintain their enrollment eligibility as an MDPP supplier.



(1) MDPP Interim Preliminary Recognition Standard

We are proposing, at §424.205(c)(2)(ii), that DPP organizations with pending CDC recognition that meet the following additional criteria would meet the interim preliminary recognition standard:

- The organization must continue to follow the current 2015 CDC DPRP Standards for data submission and submit a full 12 months of performance data to CDC on at least one completed cohort (see Appendix D, 2015 CDC DPRP Standards, <https://www.cdc.gov/diabetes/prevention/pdf/dprp-standards.pdf>). For this purpose, a completed cohort is a set of at least five participants that entered into a lifestyle change program that has a fixed first and last session and runs for 12 months. An organization can have multiple cohorts running at the same time:

- The 12-month data submission to CDC includes at least 5 participants who attended at least 3 sessions in the first 6 months, and whose time from first session attended to last session of the lifestyle change program was at least 9 months; and

- Of the participants eligible for evaluation in the first criterion, at least 60 percent attended at least 9 sessions in months 1 through 6 and at least 60 percent attended at least 3 sessions in months 7 through 12.

All proposed data requirements reflect current reporting requirements to progress from pending recognition to full recognition through CDC's DPRP; no new data collection would be required.

To implement the proposed interim preliminary recognition standard, DPP organizations with pending recognition would submit data following CDC's typical recognition process. For the current standards, this includes data submission every 12 months, during the month of the

anniversary of the effective date. The organization's data submission should include: (1) data for all sessions attended by participants from the approval date to the day before the first anniversary of the effective date, (if the organization has a 2016 effective date; this should include at least 6 months of participant data) *or* data for all sessions attended by participants from the last anniversary of the effective date to the day before the next anniversary of the effective date (if an organization's effective date is before 2016); and (2) one record for each session attended by each participant during the preceding year. CDC would perform a new assessment, interim preliminary recognition, on our behalf. Our interim preliminary recognition will be evaluated by CDC based on those data submissions that use the timetables and submission deadlines that currently apply for CDC recognition. For interim preliminary recognition governed under this regulation, CDC would provide us with its recommendation as to which organizations have met the recognition standards for interim preliminary recognition, but we, using our authority, would make the final decision. CMS would not make any determination for recognition status governed under current or future CDC DPRP recognition processes. We believe that such an approach would minimize burden for DPP organizations, promote consistency in the application of the standards, and allow for a smooth transition if and when CDC adopts preliminary recognition standards. We intend to release additional guidance on the details of this process once the CDC 2018 Standards are released.

(2) MDPP Supplier Enrollment under the MDPP Interim Preliminary Recognition Standard

Our regulations at §424.59 (proposed to be redesignated and amended at §424.205 in this proposed rule) specify that a DPP organization with full CDC recognition is eligible for enrollment as an MDPP supplier if it also meets all of the other conditions for enrollment in §424.59(a) (proposed to be redesignated and amended at §424.205(b) in this proposed rule). We

are proposing that organizations that meet the MDPP interim preliminary recognition standard, as proposed in section III.K.2.e.i.(1) of this proposed rule, and meet all other enrollment conditions would also be eligible to enroll as an MDPP supplier.

We also are proposing that DPP organizations would be eligible to enroll as an MDPP supplier if they meet CDC DPRP Standards for preliminary recognition, once any such standards go into effect (proposed §424.205(c)(2)(i)). We anticipate that CDC's preliminary recognition standards will be established on or after January 1, 2018. After the effective date of any updated CDC standards, we are proposing that MDPP suppliers who have enrolled in Medicare with MDPP interim preliminary recognition would continue to be eligible for MDPP enrollment (assuming they continue to meet all other requirements for enrollment, described in proposed §424.205(b)). We intend to ensure that any transition an MDPP supplier may make from interim preliminary recognition to CDC preliminary recognition does not disrupt its status as an MDPP supplier. We will address possible transition issues in future rulemaking or guidance, as appropriate.

We considered an alternative to wait until new CDC DPRP standards are effective to allow organizations other than those with full recognition to enroll as MDPP suppliers. However, as indicated in the CY 2017 PFS final rule, based on CDC data we believe that waiting until the new DPRP standards are effective would limit the number of organizations with demonstrated capacity to furnish the set of MDPP services from enrolling in Medicare when enrollment starts and offering MDPP services once they become effective. We are inviting public comments on this proposed MDPP interim preliminary recognition standard, including performance standards, and the use of this standard as a condition for enrollment in Medicare, and the alternative considered.

## ii. Enrollment and Billing Effective Dates

**(1) Date MDPP Suppliers May Begin Enrollment**

As described in section III.K.2.a. of this proposed rule, we are proposing to change the start date of the MDPP expanded model to April 1, 2018. All other policies not related to the furnishing or billing of MDPP services would, if finalized, be effective January 1, 2018. Thus, although MDPP suppliers would not be able to begin furnishing MDPP services on January 1, 2018, MDPP supplier enrollment would begin on January 1, 2018, if these proposals are finalized. In the CY 2017 PFS final rule, we established that any organization wishing to furnish MDPP services must enroll as an MDPP supplier, regardless of any existing enrollment in Medicare. As indicated in section J.4. of the CY 2017 PFS final rule, we believe that including an effective date for enrollment that precedes the implementation date for MDPP services is necessary to allow organizations sufficient time to enroll as MDPP suppliers. Thus, MDPP services would only become available after there is sufficient time to enroll MDPP suppliers that will furnish those services.

**(2) Effective Date of MDPP Suppliers' Billing Privileges**

Under §424.502, the definition of enroll/enrollment means “the process that Medicare uses to establish eligibility to submit claims for Medicare-covered items and services, and the process that Medicare uses to establish eligibility to order or certify Medicare-covered items and services.” Thus, the purpose of enrollment is to establish billing privileges in Medicare. In accordance with our proposal that MDPP services will be available beginning on April 1, 2018, we propose that MDPP suppliers may not have an effective date of billing privileges that precedes the date that MDPP services become available (proposed at §424.205(e)(2)). Given that it typically takes an enrollment application 45-60 days to process, if an MDPP supplier submitted its application in January, the application may be approved prior to when MDPP services

become available. For this reason, we are specifying a proposal that, under no circumstances would an MDPP suppliers have an effective date for billing privileges for MDPP services prior to April 1, 2018.

We propose that for MDPP supplier enrollment applications that are submitted and subsequently approved, the effective date for billing privileges would be the date the application was submitted. However for applications submitted and subsequently approved prior to April 1, 2018, we propose that the effective date for billing privileges would be April 1, 2018. This proposal is consistent with other suppliers like physicians, non-physician practitioner organizations, ambulance suppliers, and independent diagnostic testing facilities (IDTFs). However, unlike physicians, non-physician practitioner organizations, and ambulance suppliers, MDPP suppliers would not be permitted to retrospectively bill for services rendered prior to their effective date for billing privileges. Given that MDPP suppliers do not furnish services with immediate impacts on health like the aforementioned Part B suppliers, we chose to utilize the approach of IDTFs. We have established MDPP supplier standards as a condition of enrollment, as described in section III.K.2.e.iv of this proposed rule (proposed at §424.205(d)), and MDPP suppliers are required to certify in their enrollment application that they are in compliance and will continue to remain in compliance with all MDPP supplier standards. Therefore, generally, an MDPP supplier could begin furnishing services on the date the application was submitted, with the goal of having their application subsequently approved. However, payment for those services would depend upon whether the enrollment application is subsequently approved.

We propose that for any enrollment application that is denied under §424.530(a)(1) for non-compliance, but then subsequently approved due to the submission of a corrective action plan (CAP), the effective date of enrollment would be the date of the CAP submission. This

proposal is also consistent with practices for existing suppliers, and institutes an appropriate safeguard for Medicare beneficiaries and the program at-large by prohibiting services from being furnished from suppliers who are not compliant. We acknowledge, however, that if a supplier began furnishing services the date it submitted its application, but was then denied enrollment, it would not be paid for any services it furnished prior to the date it submitted the CAP, if approved. However, as described in section III.K.2.e.iv of this proposed rule (proposed at §424.205(d)), upon submitting its enrollment application, an MDPP supplier certifies that – to its knowledge –it meets and agrees to continue to meet the following MDPP supplier standards, and all other applicable Medicare requirements. Thus, at the time the MDPP supplier applicant submits its application, it should believe that its enrollment application will be approved. Examples of actions the MDPP supplier could take to improve its certainty and increase the probability that the application will be approved may include reviewing any MDPP supplier supporting documentation to fully understand MDPP supplier enrollment requirements and accompanying CMS guidance or supplier support materials, confirming compliance with the MDPP supplier standards in this rule (including conducting background checks for those who would be screened by CMS during the enrollment process as required under §424.518(c) and proposed §424.205(d)(3)), and conducting a thorough review of the enrollment application to ensure no mistakes exist in the submitted application.

We also propose that if an MDPP supplier adds a new administrative location (defined and discussed further section III.K.2.e.iii.(2) of this section of the proposed rule) that resulted in a new enrollment record or Provider Transaction Access Number (PTAN), the effective date for billing privileges would be the date the MDPP supplier began its MDPP operations at that location. We believe that this proposal is appropriate given that it follows a similar approach for

an effective date that applies to when physician organizations, non-physician practitioner organizations, ambulance suppliers, and Independent Diagnostic Testing Facilities (IDTFs) add a new practice location to an existing enrollment record. Though the definition of administrative location differs from that of practice location, it provides a similar function. We seek comments on these proposals.

### iii. Enrollment Application

#### **(1) Enrollment Application Type Applicable to MDPP Suppliers**

We are proposing to require the use of a new, CMS-approved enrollment application specific to MDPP suppliers. We believe that the creation of a new application will be more easily navigated by and reduce the burden on new, non-traditional suppliers because the new enrollment application will only solicit information relevant to the MDPP supplier type. As this new enrollment application is being created specifically for the MDPP expanded model, we have determined that this new enrollment application is exempt from the Paperwork Reduction Act in accordance with section 1115A(d)(3) of the Act. Further, this enrollment application would be considered an “enrollment application” for purposes of part 424 subpart P, and therefore, all existing regulations and administrative guidance that govern the CMS-855 enrollment applications would apply to this new form, unless otherwise specified. We also considered an alternative option to amend the current CMS-855B Medicare Enrollment Application for Clinics/Group Practices and Certain Other Suppliers (CMS-855B) for MDPP supplier enrollment, but we determined that the existing length and complexity of the CMS-855B enrollment application and its applicability to other non-MDPP suppliers may add burdens or unnecessary confusion to MDPP suppliers given that many sections of the current CMS-855B enrollment application would not apply to MDPP suppliers. In addition, we would need to add

new sections to solicit information specific to MDPP suppliers, which would only further increase the length of the CMS-855B enrollment application. We invite public comments on this proposal.

## ***(2) Information on MDPP Enrollment Application***

On the new MDPP enrollment application, we intend to solicit information specific to MDPP suppliers, as well as information consistent with existing reporting requirements applicable to all suppliers who enroll through the CMS-855B enrollment application, while excluding all reporting requirements that do not apply to MDPP suppliers. As a Medicare supplier enrolling under part 424 subpart P, MDPP suppliers are required to provide complete and accurate information on the MDPP enrollment application, or be subject to enrollment denial under §424.530(a)(4) or revocation under §424.535(a)(4). This requirement would include all information solicited on the MDPP-specific enrollment application. The MDPP-specific enrollment application is under development and will be available prior to its use, if this proposal is finalized. While the application is being developed, we wish to indicate some of the information we intend to include on the MDPP enrollment application, as further described in this section.

As finalized in the CY 2017 PFS final rule, §424.59(a)(5) requires that MDPP suppliers submit the active and valid NPIs of all coaches who will furnish services on the supplier's behalf, as well as their first name, last name, and SSN (in this proposed rule, §424.59(a)(5) is proposed to be redesignated and amended at §424.205(b)(4)). We are proposing, at §424.205(b)(4), to require that MDPP suppliers provide this identifying information of the coaches directly through the enrollment application. This information will be used to complete background checks of the coaches. To accompany the coach identifying information, we



propose to require MDPP suppliers to provide an eligibility start and end date, if applicable, for each coach on the supplier's roster. Coach eligibility start and end dates are described at length in section III.K.2.e.iv.(2). As described in more detail in section III.K.2.e.iv., the background checks would be used to prevent MDPP suppliers from allowing coaches to furnish MDPP services when certain adverse histories may indicate potential to harm Medicare beneficiaries or undermine program integrity. We outline further details on our proposed enforcement of this provision in section III.K.2.e.iv. of this proposed rule.

To enable us to conduct background checks of coaches, we are proposing that MDPP suppliers also submit to CMS the date of birth of all coaches who will furnish MDPP services (proposed §424.205(b)(4)). Combined with other identifying information, date of birth plays a critical role in validating an individual's identity. By collecting date of birth, we would be able to more accurately screen coaches, including accurately conducting a background check, and distinguishing them in the Provider Enrollment, Chain and Ownership System (PECOS). In addition, we want to ensure that we have the capability to most accurately identify individuals reported on the form. To mitigate potential confusion or error found when individuals have common names, we are proposing to collect coach's middle initial (if applicable) on the enrollment application (proposed §424.205(b)(4)). We believe that this proposal will help to lessen the possibility that CMS or its contractors misattribute the background of one individual for another.

We are proposing, at §424.205(d)(4), that MDPP suppliers would identify their administrative location(s) by reporting these location(s) on their enrollment application. We are proposing, at §424.205 (a), to define administrative location as the physical location associated with the supplier's operations, from where coaches are dispatched or based, and where MDPP

services may or may not be furnished. We are proposing that an MDPP supplier must have at least one such administrative location, and report any additional administrative locations of the supplier, if MDPP services are either furnished at these locations and/or if the location reflects from where coaches are dispatched or based. For example, if an MDPP supplier operated 2 locations, but only 1 of the 2 locations associated with the entity offered MDPP, only the location offering MDPP would be considered an administrative location. If coaches began offering MDPP in community settings (described in the subsequent paragraph and proposed to be defined at §424.205(a), but were dispatched and/or based out of the other non-administrative location, then this location would then be considered under the definition of an administrative location, and would need to be reported on the MDPP enrollment application within 90 days of the change. Given that MDPP suppliers are categorized as high risk under §424.518, these administrative locations may be subject to site visits prior to approval of an enrollment application. Collecting information on the MDPP supplier's administrative location (regardless whether they furnish services in this location) is important because we may utilize this information to verify that the organization is operational per requirements under proposed §424.205(d)(4) and (6), discussed in detail in section III.K.2.e.iii.(3) of this proposed rule.

While we recognize that many suppliers furnish MDPP services outside of their administrative locations in community settings, we are proposing to only require enrollment of the administrative locations. In proposed §424.205(a), we define "community setting" as a location where the MDPP supplier furnishes MDPP services outside of their administrative locations. A community setting is a location open to the public, not primarily associated with the supplier. Community settings may include, for example, church basements or multipurpose rooms in recreation centers. When determining whether a location is considered an

administrative location or a community setting, MDPP suppliers should consider whether their organizational entity is the primary user of that space and whether coaches are based or dispatched from this location. If so, the location would be considered an administrative location, even if this location dually serves as a community setting. In comparison, community settings are locations not primarily associated with the supplier where many activities occur, including MDPP services.

We seek public comments on these proposals.

### **(3) Updating Information on MDPP Enrollment Application**

We are proposing, at §424.205(d)(5), that MDPP suppliers must update their enrollment application within 30 days of any changes of ownership, changes to the coach roster, or new final adverse action history of any individual or entity required to report such information on the enrollment application. We are proposing that MDPP suppliers report all other changes to information required on the enrollment application within 90 days of the reportable event. Timely reporting and updating of information plays a critical role in our ability to protect Medicare beneficiaries and protect the integrity of the Medicare program and Trust Funds. We believe that these requirements are fair and consistent with existing reporting requirements for other Medicare suppliers.

All suppliers are required to report changes of ownership and new adverse action history within 30 days. Adding the requirement that any changes to the coach roster be reported within 30 days is consistent with IDTFs requirements at §410.33(g)(2). Although IDTFs differ from MDPP suppliers in many ways, IDTFs must report a roster of supervising physicians who serve functions on the supplier's behalf and must also report changes to this roster within 30 days. Given this similarity with IDTFs, we modeled our approach after this process. However, we

note that while MDPP suppliers would be required to submit changes to the coach roster within 30 days, we would encourage them to submit such changes as soon as possible, due to reasoning explained further in section III.K.2.e.iv.(2) of this proposed rule.

We invite public comments on these proposals.

#### **(4) Enrollment Application Fee**

In the CY 2017 PFS final rule, we finalized that MDPP suppliers would enroll in Medicare. We solicited comments on, but did not propose or finalize, an applicable application fee associated with the MDPP supplier's enrollment. In this proposed rule, we propose to amend the definition of "institutional provider" as defined under §424.502, to include MDPP suppliers such that, §424.514, which governs the application fee, would similarly apply to MDPP suppliers. "Institutional providers" that are initially enrolling in Medicare, revalidating their enrollment, or adding a new Medicare practice location are required to submit a fee with their enrollment application. We would like to highlight that while we are proposing to include MDPP suppliers as an institutional provider, MDPP suppliers utilize administrative locations, not practice locations, and therefore the fee would not apply when adding a new administrative location to an existing enrollment record. The application fee is adjusted annually, and additional information about how the adjustment is calculated may be found in the November 7, 2016 **Federal Register** notice establishing the calendar year 2017 application fee (81 FR 78159). For calendar year 2017, the application fee is \$560. Section 6401(a) of the Patient Protection and Affordable Care Act (as amended by section 10603 of the Affordable Care Act, amended section 1866(j)(2)(C) of the Act to require the Secretary to impose a fee on each institutional provider of medical or other items or services or supplier. This fee would be used for program integrity efforts including to cover the cost of screening and to carry out the provisions of

sections 1866(j) and 1128J of the Act. Given that section 10603 of the Affordable Care Act excludes individual practitioners, such as physicians and nurse practitioners, from paying an enrollment application fee, we have previously determined that an “institutional provider” to include any provider or supplier that submits a paper Medicare enrollment application using the CMS–855A, CMS–855B (not including physician and non-physician practitioner organizations), CMS–855S or associated Internet-based PECOS enrollment application<sup>26</sup>. MDPP suppliers are entities, and not individual practitioners. We believe that they would similarly qualify as a “provider of medical or other items or services” used to define institutional providers. Taken together, we believe that the definition of institutional provider would also apply to MDPP suppliers. Given that the CY 2017 PFS final rule established that MDPP suppliers would be screened under high categorical risk (codified at §424.59(a)(3), proposed to be redesignated as §424.205(b)(3)(i)), the application fee would play an important role in executing particular aspects of the high-risk screening. As we noted in the CY 2017 PFS final rule, any organization that faces financial difficulty related to the application fee may apply for a hardship exception. For more information on the hardship exemption, see <https://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/MM7350.pdf>. We are soliciting comments on this proposal.

#### iv. MDPP Supplier Standards

We are proposing to establish standards that MDPP suppliers must meet and remain in compliance with to be eligible to receive payment for an MDPP service (proposed §424.205(d)). These supplier standards would build on the conditions for enrollment established under existing §424.59(a) (which in this proposed rule is proposed to be redesignated and amended at paragraph

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<sup>26</sup> See CMS-6028-FC for further discussion, 76 FR 5862 and 5907 through 5908 (Feb. 2, 2011).

§424.205(b)), as well as any existing Medicare requirements that apply to all suppliers. We are proposing that an MDPP supplier wishing to participate in MDPP must adhere to current Medicare MDPP supplier requirements as outlined in §424.59 (proposed to be redesignated as §424.205), as well as all other requirements that apply to Medicare providers and suppliers. MDPP suppliers may choose to utilize a third party administrator, billing agent, or other entity to comply with the requirements of §424.59 (proposed to be redesignated as §424.205). Regardless of any use of such entities, any failure to comply with the standards of §424.205(d) or other relevant Medicare requirements, may result in an enrollment denial under §424.530(a)(1), revocation of the MDPP supplier for non-compliance under §424.535(a)(1) or other revocation authority, as appropriate (as proposed in §424.205(g)). Consistent with existing regulations, we are proposing that MDPP suppliers would have appeal rights under part 498.

We believe that the standards outlined in this section are generally consistent with standards established for other Medicare suppliers while adding safeguards to help ensure compliance with MDPP rules and regulations specific to this expanded model. Because this expanded model would pay MDPP suppliers based on a beneficiary's achievement of performance goals, we believe that it is prudent to include additional requirements consistent with the Office of the Inspector's General's compliance guidance,<sup>27</sup> to promote adherence to applicable statutes, regulations, and program requirements and help reduce fraud, waste, and abuse. In addition to the proposed standards, the MDPP expanded model will be routinely monitored for compliance with supplier standards, consistent with section 1893 of the Act (42 U.S.C. 1395ddd). Although we recognize that these standards may be new for MDPP suppliers and would, if finalized, impose additional requirements on these organizations that they may not

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<sup>27</sup> <https://oig.hhs.gov/compliance/compliance-guidance/>.

otherwise face, both individually and collectively, these standards play an important role in ensuring the integrity of the Medicare program and the safety of our beneficiaries. Therefore, given the goals of these proposed standards to mitigate fraud, waste, or abuse to the Medicare program and its beneficiaries, we believe that they are appropriate for governing MDPP suppliers and do not place an undue burden on suppliers. We are inviting public comments on our proposed approach, as well as any unintended consequences or burdens that we may have not considered.

#### (1) Medicaid Terminations

In addition to establishing standards for MDPP suppliers with respect to their delivery of MDPP services, we also are proposing standards for MDPP suppliers' general eligibility to furnish services to Medicare beneficiaries. These standards would establish program integrity safeguards that would protect both Medicare beneficiaries and the Medicare program. We are proposing that MDPP suppliers must not currently have their billing privileges terminated for-cause from any State Medicaid program or be excluded from any State Medicaid program (proposed §424.205(d)(2)). If a supplier's Medicaid billing privileges are currently terminated from or the supplier is excluded from any State Medicaid program, we do not believe that supplier should be able to furnish Medicare services. We believe that this proposal is warranted given that a supplier's improper behavior in another Federal health care program may be duplicated in Medicare. We believe that this proposed requirement would mitigate the MDPP expanded model's susceptibility to fraud, waste, and abuse. Consistent with all standards in this section, any MDPP supplier who does not meet this requirement would be subject to a Medicare enrollment denial or revocation. We believe that this proposed standard would serve to ensure continuity of safeguards across Federal health care programs, and will help preserve the integrity

of the Medicare program and protect beneficiaries by prohibiting suppliers found to be noncompliant in one Federal health care program from enrolling in and furnishing services in another.

We seek comments on this proposal.

(2) Ineligible Coaches: Individuals Prohibited from Furnishing MDPP Services to Medicare Beneficiaries

We are proposing, at §424.205(d)(3), that the MDPP supplier must report coach information on its enrollment application and the MDPP supplier must only permit MDPP services to be furnished by individual coaches who meet the eligibility criteria. We propose, at §424.205(e)(1) that MDPP coach eligibility criteria require that a coach must not:

- Currently have his or her Medicare billing privileges revoked and whose reenrollment bar has not yet expired. We believe that this proposed supplier standard would protect beneficiaries from receiving MDPP services from individuals already prohibited from furnishing other Medicare services. If an individual is precluded from maintaining enrollment in Medicare for a non-MDPP service, we believe that it is prudent that they similarly not furnish MDPP services.

- Currently have his or her Medicaid billing privileges terminated for-cause or is excluded from any State Medicaid Agency (proposed at §424.205(e)(1)(ii)). We believe that this proposed supplier standard is warranted given that an individual's improper behavior in another Federal health care program may be duplicated in Medicare. We do not believe that we should permit MDPP suppliers to allow coaches with current for-cause terminations or exclusions in Medicaid to furnish MDPP services to Medicare beneficiaries.



- Currently be excluded from any other Federal health care program, as defined in §1001.2 of this chapter, in accordance with section 1128, 1128A, 1156, 1842, 1862, 1867 or 1892 of the Act. This includes, but is not limited to, the Office of Inspector General (OIG)'s List of Excluded Individuals and Entities (LEIE). We are proposing this supplier standard for similar reasons we are proposing not to permit coaches with revocations from Medicare or current exclusions from Medicaid to furnish MDPP services.

- Currently be debarred, suspended, or otherwise excluded from participating in any other Federal procurement or non-procurement program or activity in accordance with the Federal Acquisition Streamlining Act implementing regulations and the Department of Health and Human Services non-procurement common rule at 45 CFR part 76. We note that this includes individuals who have an active status on the General Service Administration's System for Award Management list. We may also utilize the Bureau of the Fiscal Service, U.S. Department of the Treasury's Do Not Pay (DNP) List as a resource for determining which individuals fall under this category. The Improper Payments Elimination and Recovery Improvement Act (IPERIA) of 2012 established the DNP to support Federal agencies with their efforts to prevent and detect improper payments by aggregating various data sources for pre-award, pre-payment eligibility verification. Data sources included in this list include Credit Alert System, Death Master File, LEIE, Office of Foreign Assets Control (OFAC), System for Award Management (SAM) Entity Registration Records, and SAM Exclusion Records. We believe that we may utilize the DNP as a method of determining whether a coach is excluded from participating in any other federal procurement or nonprocurement programs. Although coaches will not directly be receiving payment from us for furnishing MDPP services, we do not believe that payment should be made to MDPP suppliers for services furnished by individuals

excluded from federal procurement or nonprocurement programs, particularly given that MDPP payments rely on beneficiary's achievement of performance goals that the coaches will document. Although the MDPP supplier is ultimately responsible for attesting to all claims submitted for MDPP services, we do not believe that it would be prudent to permit MDPP suppliers to allow coaches excluded from other federal procurement programs to furnish MDPP services.

- Have, in the previous 10 years, one of the following state or federal felony convictions:

- ++ Crimes against persons, such as murder, rape, assault, and other similar crimes for which the individual was convicted, as defined under 42 CFR 1001.2, had a guilty plea or adjudicated pretrial diversion.

- ++ Financial crimes, such as extortion, embezzlement, income tax evasion, insurance fraud and other similar crimes for which the individual was convicted, as defined under 42 CFR 1001.2, had a guilty plea or adjudicated pretrial diversion.

- ++ Any felony that placed the Medicare program or its beneficiaries at immediate risk, such as a malpractice suit that results in the individual being convicted, as defined under 42 CFR 1001.2, having a guilty plea or having adjudicated pretrial diversion of criminal neglect or misconduct.

- ++ Any felonies that for which the individual was convicted, as defined under 42 CFR 1001.2, had a guilty plea or adjudicated pretrial diversion that would result in mandatory exclusion under section 1128(a) of the Act.

We propose that CMS will screen each individual identified on the roster of coaches included with the supplier's enrollment application to verify that the individual coach does not

meet any of these conditions and that the coach can provide MDPP services on behalf of an MDPP supplier (proposed at §424.205(e)(2). We are proposing these requirements as a means to ensure the integrity and safety of the Medicare program and the beneficiaries whom we serve. We have selected these types of felony convictions based on the risk we believe they could pose to the Medicare program and our beneficiaries. Additionally, it is consistent with existing criteria that we use to determine felonies that are detrimental to the best interest of the program and its beneficiaries as described in §424.535(a)(3)(ii). While we selected these criteria to be consistent with how we evaluate other individuals, we also sought to create a more definite list such that MDPP suppliers would have the ability to conduct background checks on coaches prior to, as well as potentially after enrolling in Medicare, to avoid receiving an enrollment denial or revocation due to failure to meet this standard. While coaches are not directly enrolled, and therefore, not directly receiving payment, we believe that it is prudent to prohibit MDPP suppliers from utilizing individuals convicted of certain felonies to furnish services to Medicare beneficiaries. Because coaches will be directly interacting with beneficiaries, recording their attendance and weight loss, we believe that a coach's trustworthiness is vital. Consequentially, we do not believe that such coaches should have a criminal history such as those described in §424.535(a)(3)(ii).

Coaches that meet any of these criteria would be considered ineligible to furnish MDPP services, and therefore, could not be on an MDPP supplier's roster. Coaches whose information was submitted in an MDPP supplier's enrollment application, screened, and determined as not meeting any of these criteria would be considered eligible coaches. Although the MDPP supplier is the entity that is enrolled in Medicare and submits claims, coaches furnish MDPP services, directly interacting with the beneficiary and documenting attendance and weight loss.

Therefore, we believe that precluding individual coaches who meet any of the ineligibility criteria from directly furnishing MDPP services to Medicare beneficiaries would both help reduce fraud, waste, and abuse that could occur in the MDPP expanded model, as well as protect beneficiaries from harm.

If after screening, CMS or its contractors determine that a coach is eligible to furnish MDPP services, the coach would be assigned an eligibility start date, similar to a supplier's enrollment effective date. We are proposing to define coach eligibility start date as follows: the start date indicated by the MDPP supplier when submitting an eligible coach's information on the MDPP enrollment application (proposed at 424.205(a)). On the enrollment application, the MDPP supplier will include a date indicating when the coach began furnishing MDPP services. Consistent with proposals at §424.205(d)(5), the MDPP supplier must report changes to the coach roster on its enrollment application, including any new coaches added, within 30 days of such a change. Thus, the start date associated with any new coach information must be within 30 days of the date the MDPP supplier actually reports the change on its application. If the coach has not yet begun furnishing MDPP services, the MDPP supplier should indicate the date the supplier is reporting the information. Though the date reflects either when the coach began furnishing services or when the coach could ultimately be determined as eligible to begin furnishing services, after the enrollment application was submitted, CMS must still determine whether the coach is eligible (proposed at §424.205(e)(2)). If we determine the coach to be eligible, then his or her eligibility start date would be the date the MDPP supplier indicated on its enrollment application. As described in III.K.2.d.(10)(d), payment can be made for services furnished by this coach on or after his or her eligibility start date.

However, if a coach was determined to be ineligible at the onset, the coach would have its eligibility start and end date on the same date, effectively never being eligible to furnish MDPP services. If the coach later became ineligible, he or she would be assigned an eligibility end date. Consistent with proposals at 414.84, payment for MDPP services is made only if such services are furnished by an eligible coach, on or after his or her coach eligibility start date and, if applicable, before his or her coach eligibility end date, to an MDPP beneficiary. This could pose a situation in which an MDPP supplier could submit an updated coach roster that includes a new coach, and allow him or her to begin furnishing services based on the belief that he or she is eligible. Should, after screening, CMS or its contractors determine that the coach is ineligible, the MDPP supplier could be revoked for non-compliance. Though the MDPP supplier would have an opportunity to submit a corrective action plan that removes the ineligible coach from their enrollment application, any claims for services furnished by the ineligible coach would be denied, and the MDPP supplier would not be paid for such services. For this reason, we encourage suppliers to report changes to the coach roster as soon as possible. If the MDPP supplier submits a claim that includes a coach NPI for a coach we have not yet determined to be an eligible coach for furnishing MDPP services as of the date of service, the claim will be rejected, and the supplier will need to refile the claim with the same information once CMS has made the eligibility determination. If at that time, CMS determined the coach to be ineligible, the claim for the service provided by the coach will be denied, as described in section III.K.2.d.iii.(10)(d).

We believe that the majority of the coach ineligibility criteria described in this section is crafted in such a way that the MDPP supplier could, with reasonable certainty, conduct an independent background check on the coach, to determine whether he or she meets the

ineligibility criteria. If the MDPP supplier has any uncertainty about whether the coach meets the ineligibility criteria, they may wish to preclude the coach from furnishing services to Medicare beneficiaries until CMS determines that the coach is eligible. This would avoid a potential situation of a coach furnishing services for which the MDPP supplier could not get paid. If the MDPP supplier believes the coach is eligible and wishes to allow the coach to furnish services prior CMS determining his or her eligibility, then the MDPP supplier would assume the risk not receiving payment for claims for services rendered by the ineligible coach.

If a coach no longer provides MDPP services for an MDPP supplier, the supplier must remove that coach from its roster and indicate the date of such event to designate an eligibility end date for that coach. If the MDPP supplier voluntarily terminates its Medicare enrollment or is revoked, CMS will automatically reflect the date of this action as the coach's eligibility end date for that MDPP supplier. We are proposing to define coach ineligibility end date as follows, the end date indicated by the MDPP supplier in submitting a change to the supplier's MDPP enrollment application that removed the coach's information, or the date the supplier itself was revoked from or withdrew its Medicare enrollment as an MDPP supplier.

We are proposing that CMS or its contractors would determine whether coaches submitted on MDPP rosters satisfy the previously stated criteria by using the identifying information MDPP suppliers submit on their enrollment applications (including any changes that MDPP suppliers would be required to report). This information would be checked against internal and publicly available data sources. We are proposing that, upon identification of evidence that a coach met any ineligibility criteria, we may take administrative action to deny or revoke the MDPP supplier's enrollment as appropriate under §§424.530(a)(1) and 424.535(a)(1) (proposed at §424.205(g)(1)(ii)). Consistent with existing enrollment denial and revocation

actions, we would notify the prospective or enrolled MDPP supplier via an enrollment denial or revocation notification and include the specific reason for the administrative action. The enrollment denial or revocation notification detailing the findings and the reasoning for the determination would follow requirements under §488.18. Consistent with similar processes at §§424.530(c) and 424.535(e), we are proposing that an MDPP supplier could respond to the enrollment denial or revocation by submitting a corrective action plan (CAP) that would include the removal of the coach from its roster within 30 days of receiving the enrollment denial or revocation notification, and therefore, come into compliance and enroll or maintain its enrollment status. If MDPP suppliers believe that the decision was made in error, they could exercise existing appeal rights under part 498.

We also are proposing that if we determine that an MDPP supplier has continued to allow an ineligible coach to furnish MDPP services after having submitted a CAP removing the coach from its roster to enroll or maintain enrollment in Medicare, we would revoke the MDPP supplier without the opportunity for additional corrective action. This authority, outlined in proposed §424.205(h)(1)(v), would allow us to revoke an MDPP supplier for knowingly using an “ineligible coach” to furnish MDPP services. “Knowingly,” in this context, means that the supplier received an enrollment denial or revocation notice based on failing to meet supplier standards at §424.205(d)(3) (related to ineligible coaches), was provided notice by CMS or contractors working on its behalf of this action including the reason(s) for the administrative action, submitted a CAP to remove the coach, but continued to allow the coach to provide MDPP services in violation of the CAP. We are proposing to define an “ineligible coach” in §424.205(a) as an individual whom CMS has screened and has determined ineligible to furnish MDPP services on behalf of an MDPP supplier based on the standard specified in §424.205(e),

and we are proposing in the same paragraph to define “eligible coach” in §424.205(a) as an individual who CMS has screened and has determined can furnish MDPP services on behalf of an MDPP supplier based on the standard specified in proposed §424.205(e).

While any individual may be eligible to become a DPP coach, provided that they meet requirements and trainings as dictated by the CDC’s DPRP Standards, an individual can only become an eligible coach for purposes of furnishing MDPP services after having their required identifying information submitted on an MDPP supplier’s enrollment application, being screened by CMS or its contractors, and as a result, being determined to be eligible to furnish MDPP services on behalf of an MDPP supplier. If CMS or its contractors deem a coach ineligible, this would apply only to the furnishing of MDPP services and would not preclude the DPP organization from continuing to allow this individual to furnish administrative services or DPP sessions to non-Medicare beneficiaries. However, serving as a coach for Medicare beneficiaries would be prohibited and would be subject the MDPP supplier to this revocation authority.

We are proposing this new revocation authority due to the novel program integrity risks that would be posed by MDPP suppliers who knowingly continue to permit ineligible coaches to furnish MDPP services to Medicare beneficiaries. We believe that this new basis for revocation is necessary because coaches are not enrolled in Medicare, even though they will undergo background checks by CMS or its contractors and must meet specified criteria. While we considered using existing revocation authorities under §424.535(a)(1) (related to noncompliance), §424.535(a)(4) (related to false or misleading information), and §424.535(a)(9) (related to failure to report), we determined that these authorities were too general for purposes of specifically addressing MDPP coaches who become ineligible to furnish MDPP services. We are proposing that this revocation authority would follow similar requirements under



§424.535(c), (g), and (h). We do not believe that §424.535(e) (related to reversal of the revocation) should apply in this case, given that the MDPP supplier already had an opportunity to remove the coach from their roster by submitting a CAP, but continued to allow the ineligible coach to furnish MDPP services. The proposals that we would apply from the provisions of §424.535 stated in this section are as follows:

- The revocation becomes effective 30 days after CMS or the CMS contractor mails notice of its determination to the MDPP supplier;
- For the revocation authority, MDPP suppliers are barred from participating in the Medicare program from the date of the revocation until the end of the re-enrollment bar, which begins 30 days after CMS or its contractor mails notice of the revocation and lasts a minimum of 1 year, but not greater than 3 years, depending on the severity of the basis for revocation; and
- A revoked MDPP supplier must, within 60 calendar days after the effective date of revocation, submit all claims for items and services furnished before the date of the revocation letter.

We believe that these proposals would appropriately govern this proposed new revocation authority, given the consistency with existing revocation authorities. Given these consistencies, we do not believe that this proposal places an undue burden on MDPP suppliers, and any burden established would be warranted given the violation of the supplier standards that jeopardize both the integrity of the Medicare program and the safety of its beneficiaries.

We are inviting public comments on these proposals.

### (3) Ensuring MDPP Suppliers Are Legitimate, Operational Organizations

We are proposing a number of requirements that would help ensure that MDPP suppliers are operational, have the resources necessary to furnish MDPP services, and are in compliance

with MDPP supplier standards. At §424.205(d)(4), we are proposing that, regardless of whether the MDPP supplier furnishes services solely in community settings, it must maintain at least one administrative location. All administrative locations maintained by the MDPP supplier must be on an appropriate site available to the public and must be reported on the CMS-approved enrollment application. We are proposing that this administrative location may not be a private residence. We are proposing that an appropriate site must have signage posted on the exterior of the building, as well as be open for business and have employees, staff, or volunteers present during operational hours. For the purposes of this requirement, such signage may include, for example, the MDPP supplier's legal business name or its "doing business as" (DBA) name, as well as hours of operation. This proposal seeks to utilize measurable objective indicators to determine that organizations are legitimately operating and able to furnish MDPP services to Medicare beneficiaries. We believe that, regardless of whether the MDPP supplier furnishes services at its administrative location, establishing a physical location is necessary for associated requirements for furnishing MDPP services, including recordkeeping requirements, training facilities, and storage for any educational materials distributed during sessions.

We are proposing, at §424.205(d)(6), that a MDPP supplier must maintain a primary business telephone number listed under the name of the organization in public view. Public view could signify, for example, that the phone number is listed on a website, on flyers and materials. This proposed policy would require that calls must not automatically go to the answering machine or utilize an answering service during posted business hours. The purpose of this proposed requirement is to help verify that the organization is a legitimate organization and not simply posing as an organization and seeking to bill Medicare fraudulently.

We are further proposing, at §424.205(d)(7), that an MDPP supplier must not knowingly sell to or allow another individual or entity to use its billing number, consistent with §424.535(a)(7). We are including this proposal to avoid a situation in which another entity uses an existing MDPP supplier's billing number. We believe that this proposal plays an important role in ensuring that payments are only being made to the intended recipient who has met all of the supplier and compliance standards and that we continue to hold entities responsible for maintaining compliance. Otherwise, we risk making payments to suppliers potentially engaging in fraudulent or potentially harmful behavior.

We believe that the proposed requirements in this section would not pose an undue burden on MDPP suppliers as they are minimum requirements for any functional, operational organization. By establishing these requirements, we believe that we would ensure that MDPP suppliers that do not meet the baseline requirements for an operational organization would not be permitted to furnish MDPP services to or receive payment for such services. We are proposing, at §424.205(d)(15), that an MDPP supplier must permit CMS or its agents to conduct onsite inspections to ascertain the supplier's compliance with these standards. While we believe that any operational business that truly furnishes MDPP services would be able to meet these requirements, we are inviting public comments on any aspects of these proposed standards.

#### (4) Beneficiary Access

We are proposing, at §424.205(d)(8), that MDPP suppliers may not deny access to MDPP services to eligible beneficiaries based on any reason other than the supplier's own self-determined and published capacity limits to furnish MDPP services to additional people and, on a discretionary basis, if a beneficiary significantly disrupts the session for other participants or becomes abusive. Given that we do not yet currently have data on optimal class size for MDPP

services, we are currently allowing MDPP suppliers to self-determine any upper limitation on class size. Should they establish such a limit and intent to turn beneficiaries away once the capacity limit is reached, the MDPP supplier must have previously made this limit publicly available; for example, denoting the limit in any brochures, websites, or other materials that outline their MDPP services. We are proposing that MDPP suppliers must maintain a record of the number of eligible Medicare beneficiaries turned away for each of these reasons, as well as the date the beneficiary was informed. We are further proposing that if an MDPP supplier denies a Medicare beneficiary access citing disruptive or abusive behavior, details of the occurrence(s), including date(s) of the behavior, any remediation efforts taken by the supplier, and final action (for example, dismissal from an MDPP session or denial from future sessions) must be documented in the beneficiary's MDPP records and adhere to documentation requirements outlined in §424.205(g). We note that one supplier's decision to dismiss a beneficiary for this purpose would not limit that beneficiary from switching to another MDPP supplier.

We will seek to monitor compliance with this requirement, and investigate further if necessary, based on beneficiary complaints, rates of access denials citing capacity limits in comparison to estimated capacity based on claims submitted, as well as monitoring claims for success rates for achieving performance goals that are higher than what would be expected for a typical Medicare population. Illustrative examples of capacity limits could include that the MDPP supplier has met its self-determined and published class size maximum, or that the supplier is providing MDPP sessions in cohorts and does not have a new or upcoming cohort at the time the beneficiary is seeking MDPP services. Furnishing MDPP services in a cohort means that the DPP curriculum is delivered among a single group, or cohort, from start to finish with

sessions furnished in a specific order, therefore, not allowing any new individuals to join once the cohort has begun.

Given that our proposed payment structure for MDPP services relies on the achievement of weight loss and attendance goals, there may be incentives for MDPP suppliers to seek to serve only those beneficiaries for which they are more likely to earn performance payments. This, in turn, could result in discriminatory treatment of beneficiaries. Through this proposed supplier standard, we would expressly prohibit MDPP suppliers from conditioning access to MDPP services on the basis of a beneficiary's weight or health status (except as provided in our proposed regulations). We also would prohibit MDPP suppliers from conditioning access to MDPP services on the basis of a beneficiary's achievement of performance goals, except where the beneficiary becomes ineligible for additional sessions as a result of not meeting those goals, as proposed elsewhere in this proposed rule. We believe that it is appropriate to prohibit suppliers from denying access to MDPP services except in certain limited circumstances. If a supplier were to deny access to a beneficiary citing lack of capacity, but then furnish MDPP services to a different beneficiary, this may signal a violation of such standards. In addition, and for the same reasons, we are proposing to prohibit MDPP suppliers, which includes any coaches or entities performing functions or furnishing services related to MDPP services on their behalf, from unduly coercing a beneficiary's decision to change or not change to a different or specific MDPP supplier, including through the use of pressure, intimidation, or bribery in proposed §424.205(d)(9). Information that may result in a beneficiary changing to a different MDPP supplier provided in response to a beneficiary's request for information would not violate this provision.

At §424.79, the CY 2017 PFS final rule established the set of services included in the expanded model, but did not stipulate that once a supplier began furnishing such services to a beneficiary, that it must continue to offer them to the beneficiary as a part of the MDPP expanded model. We are proposing, at §424.205(d)(10), that MDPP suppliers must offer and provide beneficiary access to the *entire set* of MDPP services for which beneficiaries are eligible. This includes the requirement that suppliers offer at least 16 in-person core sessions, no more frequently than once per week, over the first 6 months of the core services period and offer at least 6 core maintenance sessions, at least once per month, over months 7 through 12 of the core services period (proposed at §410.79(c)(2)(i)). For beneficiaries to whom the supplier has begun furnishing MDPP services, and who meet the eligibility requirements for ongoing maintenance sessions described in proposed §410.79(c)(1)(ii) and (iii), MDPP suppliers are required to offer 24 ongoing maintenance sessions, furnished at least once per month over the course of months 13 through 36 of the MDPP services period, in 3-month consecutive increments. These requirements would also apply to any MDPP supplier who gains a beneficiary at some point during their receipt of MDPP services. Should this MDPP supplier begin furnishing services to a beneficiary at any point during the 3-year MDPP services period, it must continue to offer the services for which the beneficiary is eligible but has not yet received. For example, if a beneficiary changed suppliers after the core sessions in month 6, the subsequent supplier would be required to offer core maintenance sessions for months 7 through 12, and ongoing maintenance sessions should the beneficiary remain eligible for these services.

We also are soliciting public comments on a potential future policy to require a specific class size limit for MDPP sessions. While we acknowledge that MDPP services may be successfully furnished in group settings, we believe that it is important to ensure that the group's

size is appropriately set such that each beneficiary gains the necessary interaction with the coach furnishing the session to properly learn the curriculum. We considered different mechanisms to ensure this program objective, and are requesting public comments on considerations to date. The mechanism that currently seems most viable would require a limitation on the number of total attendees in a given session taught by an individual coach. Based on CDC's experience with the DPP program and review of the literature on appropriate class sizes for educational settings, we considered including a class size limitation of 30 participants per coach in a given session (including Medicare beneficiaries). Given that limited data currently exist on this type of requirement among DPP sessions, we are soliciting public comments on what an appropriate class size limitation would be, including any evidence to support such a proposal.

Furthermore, we are soliciting public comments on how MDPP suppliers who furnish sessions in no specific sequential order and allow drop ins would balance the requirement of providing beneficiary access with a class size requirement for a given session. For example, if a supplier offers classes multiple times a week and gives beneficiaries flexibility regarding when to participate, we questioned whether a certain class size limitation could force a supplier to turn away a beneficiary seeking to attend a session at a time when attendance is high, and in so doing potentially discourage continued use of the set of MDPP services. In addition, we are unsure of any implications that would result from establishing a class size restriction for MDPP services while acknowledging that MDPP beneficiaries may participate in DPP sessions with non-Medicare beneficiaries who may not face the same class size limitation. Given these considerations, we are soliciting public comments on how we could structure this proposal in the future that would achieve the programmatic goals of effectively furnishing the DPP curriculum to Medicare beneficiaries in a manner and setting that contributes to positive behavioral changes

and ultimately less progression to type 2 diabetes. In providing comments on this approach, we encourage the submission of data and evidence to justify what specific class size would be appropriate for MDPP suppliers.

#### (5) Disclosure

We are proposing, at §424.205(d)(11), that MDPP suppliers must provide information about the MDPP expanded model to each beneficiary to whom it furnishes MDPP services as specified by CMS. This includes detailed information on coverage for the set of MDPP services, the once-per-lifetime limit, on eligibility requirements, and the MDPP supplier standards. We recognize that many aspects of the MDPP expanded model are novel for both beneficiaries and suppliers, and we desire that both parties are well informed. Therefore, we believe that requiring the supplier to fully disclose information about the MDPP expanded model, coverage, and the MDPP supplier standards will help inform all parties. We intend to provide a specific template for the MDPP supplier to use to disclose this information to the beneficiaries. For this reason, we do not believe that requiring this type of disclosure places a significant burden on the supplier. While we believe that this approach will help to address the policy goals of the MDPP expanded model, we are inviting public comments on this approach, particularly upon the provision of a standard CMS disclosure notification as compared to CMS providing MDPP suppliers with information they could use to their own disclosure notification materials. Along these lines, we would like to highlight that we also intend to publish information on MDPP in the 2019 Medicare & You Handbook.

We invite public comments on these proposals.

#### (6) Beneficiary Complaints



We are proposing that MDPP suppliers must answer Medicare beneficiaries' questions about MDPP services and respond to MDPP related complaints within a reasonable timeframe in proposed §424.205(d)(12). We also are proposing that MDPP suppliers implement a complaint resolution protocol and maintain documentation of all beneficiary contact regarding such complaints, including the name and Medicare Beneficiary Identifier of the beneficiary, a summary of the complaint, related correspondences, notes of actions taken, and the names and/or NPIs of individuals who took such action on behalf of the MDPP supplier. We are proposing that this information must be kept at a supplier's administrative location and made available to CMS or its contractors upon request. These records would adhere to the same recordkeeping requirements in §424.205(g), and therefore, would need to be maintained for 10 years. While other records are typically required to be held only for 7 years (per §424.516(f)), given that the MDPP expanded model includes beneficiary engagement incentive (described further in section III.K.2.f.v.) which typically requires an extended documentation requirement, we considered it important to align all recordkeeping requirements for the MDPP expanded model. As noted earlier in this section, we are proposing at §424.205(d)(15) that an MDPP supplier must allow CMS or its agents to conduct recordkeeping reviews to ascertain the supplier's compliance with these standards, as well as documentation requirements as outlined in §424.205(g).

We believe our proposal that MDPP suppliers must answer, respond to, and document beneficiary complaints and resolutions establishes a tracking mechanism to determine whether or not suppliers are adequately addressing beneficiary concerns. We find this requirement particularly important given that complaint procedures provide a good way to ensure best practices by suppliers. Moreover, DMEPOS supplier standards contain a requirement regarding maintaining complaint procedures. Although we acknowledge that this method requires the

MDPP suppliers to self-attest to complaints, requiring such documentation as a required Medicare standard can help to build accountability to following through with complaint resolution. Additionally, mandating that suppliers take and maintain records of complaints may help to address situations where beneficiaries raise issues directly to us after failing to receive resolution from the supplier directly.

We believe that requiring this documentation would provide an additional mechanism for us to ensure that the supplier is fully disclosing information pertinent to the supplier standards, specifically those regarding beneficiary access, and other concerns. As an additional benefit of this policy, if a beneficiary is denied access, the MDPP supplier would be required to demonstrate the reasoning behind this approach, and we could have an opportunity to review if this reasoning complied with the proposed standard under §424.205(d)(8).

This approach is consistent with supplier standards for other Medicare suppliers, including those for Durable Medical Equipment Prosthetics, Orthotics, and Supplies (DMEPOS) suppliers. Given that CMS has imposed similar standards regarding supplier responsibility for addressing beneficiaries' complaints among other supplier types, we do not believe that requiring a similar such requirement poses an undue burden on MDPP suppliers. Rather, we believe that this approach can facilitate beneficiary satisfaction with the services suppliers furnish by requiring that beneficiary complaints are acknowledged, resolved, and tracked appropriately. We believe that this approach will help ensure that the supplier is meeting beneficiaries' needs as they relate to the MDPP expanded model. In addition, we believe that this will help ensure the integrity of the MDPP expanded model.

We invite public comments on these proposals.

(7) MDPP Expanded Model Evaluation Compliance

In the CY 2017 PFS final rule, we finalized a requirement for MDPP suppliers to maintain and submit to CMS a crosswalk file that documented how the beneficiary identifiers submitted to CMS for billing and the beneficiary identifiers submitted to CDC for session-level performance data linked to the same beneficiary as a documentation retention and provision requirement (existing §424.59(b), proposed to be redesignated and amended as §424.205(e) in this proposed rule). CMS will use this crosswalk for evaluation purposes so CMS can review session level data that MDPP suppliers provide to CDC to supplement the claims data we receive directly from MDPP suppliers. We indicated that we would provide additional information on format and frequency of this reporting requirement in future rulemaking or administrative guidance as appropriate. We are proposing the maintenance and submission of the crosswalk as an MDPP supplier standard and are providing additional details regarding the format and frequency.

We are proposing that the crosswalk file would contain Medicare Health Insurance Claims Numbers or Medicare Beneficiary Identifiers and the unique participant identifier assigned by the organization, for the purposes of CDC performance data reporting, for each beneficiary receiving MDPP services (proposed §424.205(d)(13)). Beneficiaries for whom at least one Medicare claim was submitted by an MDPP supplier would be required to be included in the crosswalk. We are proposing that the crosswalk be supplied to CMS, or our contractor, beginning 6 months after the organization begins furnishing MDPP services, and quarterly thereafter. The crosswalk would be maintained in a spreadsheet (for example, an Excel file or a CSV file), in a form and manner as specified by CMS. We are inviting public comments on this approach.

Additionally, to enable evaluation of MDPP services for a beneficiary's entire MDPP services period (that is, up to 3 years), we are proposing that MDPP suppliers must submit performance data for any beneficiaries who attend ongoing maintenance sessions in a manner and form as specified by CMS (proposed §424.205(d)(14)). This proposal serves to ensure that MDPP suppliers provide session-level data for ongoing maintenance sessions that are consistent with the data they are already providing to CDC for the core MDPP services period. This requirement is necessary given that session-level performance data plays a critical role in the Innovation Center's evaluation of the entirety of the MDPP expanded model. Without such data, the Innovation Center would lack any streamlined method of obtaining session-level data for ongoing maintenance sessions furnished to MDPP beneficiaries. We are proposing that this performance data must align with the performance data elements as required by CDC for the DPRP standards. We are soliciting public comments on this approach.

#### v. MDPP Supplier Revalidation

In the CY 2017 PFS final rule, we specified that newly enrolling MDPP suppliers as high categorical risk in accordance with §424.518(c), but we did not address the risk level of MDPP suppliers upon revalidation. Section 6401(a) of the Affordable Care Act established that all Medicare suppliers must revalidate their enrollments as a program integrity measure. Upon revalidation, suppliers are screened for their continued enrollment in Medicare. While MDPP suppliers enroll at the high risk level, we are proposing, at §424.205(b)(3)(ii), that MDPP suppliers would revalidate under a moderate risk level in accordance with §424.518(b). We believe that this approach is appropriate, given that fingerprint-based criminal history record checks through the Federal Bureau of Investigation's Integrated Automated Fingerprint Identification System requirement for "high" categorical risk and will have already been

completed upon initial enrollment. In addition, we believe that this approach is appropriate, given its consistency with other providers and suppliers who initially enroll under “high” categorical risk, but revalidate under “moderate” categorical risk, such as DMEPOS suppliers and Home Health Agencies. We also are proposing, at §424.205(b)(6), as a condition of enrollment, that MDPP suppliers must agree to revalidate their enrollment every 3 years, consistent with DMEPOS suppliers who are initially screened under “high” categorical risk screening level. While we believe that this approach is appropriate for MDPP suppliers, we welcome public comments on these proposals. Interested parties can learn more information on revalidation available on the CMS website at <https://www.cms.gov/medicare/provider-enrollment-and-certification/medicareprovidersupenroll/revalidations.html>.

We invite comment on the proposed risk level upon revalidation, as well as the frequency with which MDPP suppliers must revalidate their enrollment.

#### vi. Documentation Retention and Provisions Requirements

We are proposing that the following requirements would apply to records related to a MDPP supplier’s compliance with the MDPP expanded model (codified at §424.59(b), redesignated as amended at §424.205(g)). We believe that these proposals will increase supplier recordkeeping accuracy, and clarify documentation retention requirements. Specifically, we are proposing that an MDPP supplier must:

- Provide to CMS or its contractors, the OIG, and the Comptroller General or their designee(s) scheduled and unscheduled access to all books, contracts, records, documents, and other evidence sufficient to enable the audit, evaluation, inspection, or investigation of the supplier’s compliance with MDPP requirements, including the MDPP expanded model

requirements for in-kind beneficiary incentive engagements found in §424.210 in the event that the MDPP supplier chooses to offer such incentives to any MDPP beneficiary.

- Maintain all such books, contracts, records, documents, and other evidence for a period of 10 years from the last day of the MDPP beneficiary's receipt of MDPP services furnished by the MDPP supplier or from the date of completion of any audit, evaluation, inspection, or investigation, whichever is later, unless—

- ++ CMS determines that there is a special need to retain a particular record or group of records for a longer period and notifies the MDPP supplier at least 30 calendar days before the normal disposition rate; or

- ++ There has been a dispute or allegation of fraud or similar fault, as defined at §405.902, against the MDPP supplier, in which case the records must be maintained for an additional 6 years from the date of any resulting final resolution of the dispute or allegation of fraud or similar fault.

We believe these modifications increase the likelihood of operationalizing MDPP program integrity strategies that include audits, evaluations, inspections, or investigations, and that they provide additional clarity on documentation retention for ongoing program integrity. In addition, in the CY 2017 PFS established supplier requirements for documentation and recordkeeping (codified at §424.59(b), proposed to be redesignated and amended at §424.205(g). In this proposed rule, we are modifying these requirements to improve clarity. We are proposing at §424.205(g)(1) and (g)(2) to require that documentation must be established contemporaneous to the furnished MDPP services, which we believe is important for accuracy. We are also proposing that for the initial core session, these records must include the following organizational information:

- The organizational name, CDC DPRP organization number, and organizational NPI;
- Basic beneficiary information including but not limited to beneficiary name, HICN, and age; and
- Evidence that each such beneficiary satisfied the eligibility requirements under §410.79(c) at the time of service.

For each additional session, we propose that these records must include:

- Documentation of the type of session, whether a core session, a core maintenance session, an ongoing maintenance session, an in-person make-up session, or a virtual make-up session.
- Identification of which CDC-approved DPRP curriculum was associated with each session.
- The NPI of the coach who furnished the session.
- The date and place of service of the session.
- Each MDPP's beneficiary's weight and date weight taken, in a form and manner as specified by CMS.

We believe that this information will play an important role in documenting the provision of MDPP services and fidelity to the requirements established for the expanded model. Finally, at §424.205(g)(3), we are proposing that MDPP suppliers must maintain and handle any beneficiary Personally Identifiable Information (PII) and Personal Health Information (PHI) in compliance with HIPAA, other state and federal privacy laws, and CMS standards. We believe these proposals will improve supplier recordkeeping accuracy and lessen the possibility of incomplete records and supplier recordkeeping variations.

We are inviting public comments on our proposed documentation and maintenance of records requirements, including whether additional or different requirements may provide better program integrity safeguards.

f. Beneficiary Engagement Incentives under the MDPP Expanded Model

We believe that the MDPP expanded model would encourage MDPP suppliers to furnish high quality and engaging health behavior change services to MDPP beneficiaries that lead to improved beneficiary health and reductions in Medicare spending. We further believe that one mechanism that may be useful to the MDPP suppliers in achieving these goals would be allowing MDPP suppliers to furnish certain in-kind items and services to their MDPP beneficiaries during the core services period and ongoing services period (described at proposed §410.79(c)(2)). Under such an approach, the costs of these beneficiary engagement incentives would be borne by the MDPP supplier. However, we believe that certain conditions on these incentives are necessary to ensure that they would be furnished solely for the purpose of achieving the MDPP goal of engaging beneficiaries in making sustainable, healthy behavior changes to reduce their risk of type 2 diabetes.

We are proposing to establish the rules governing the furnishing of beneficiary engagement incentives to MDPP beneficiaries under the MDPP expanded model at new §424.210. As discussed in section III.K.2.a. of this proposed rule, we are proposing that MDPP services would be available beginning on April 1, 2018. Therefore, because there would be no MDPP beneficiaries who could receive beneficiary engagement incentives from MDPP suppliers until on or after April 1, 2018, we are proposing that the effective date of §424.210 would be April 1, 2018.

i. Definitions Specific to Beneficiary Engagement Incentives



We are proposing that if an MDPP supplier offers an in-kind beneficiary engagement incentive, the item or service offered as an incentive must be furnished by an MDPP supplier to a MDPP beneficiary during the engagement incentive period. An engagement incentive period would begin when an MDPP supplier furnishes any MDPP service to an MDPP beneficiary. As proposed at §424.210(a), the term “engagement incentive period” means the period of time during which an MDPP supplier may furnish in-kind beneficiary engagement incentives to a given MDPP beneficiary to whom the MDPP supplier is furnishing MDPP services. The engagement incentive period would end upon the earliest of the following: the beneficiary’s MDPP services period ends (as specified in proposed §410.79(c)(3)) for any reason; the MDPP supplier knows the MDPP beneficiary will no longer be receiving MDPP services from the MDPP supplier; or the MDPP supplier has not had direct contact, either in person, by telephone, or via other telecommunications technology, with the MDPP beneficiary for more than 90 consecutive calendar days during the MDPP services period.

We are proposing that items and services may only be furnished as in-kind beneficiary engagement incentives during the engagement incentive period. This is to ensure that the flexibilities that MDPP suppliers would be afforded under these proposed regulations to furnish free items and services to Medicare beneficiaries only apply while the beneficiary is an MDPP beneficiary being offered MDPP services by that MDPP supplier. Once the MDPP beneficiary’s engagement incentive period ends with an MDPP supplier, all existing laws and regulations would apply to the furnishing of free items and services to a Medicare beneficiary by the entity that is an MDPP supplier. Limiting the furnishing of beneficiary engagement incentives under the MDPP expanded model to the engagement incentive period with a particular MDPP supplier serves as a safeguard against the furnishing of free items and services to Medicare beneficiaries

to steer them toward particular providers, suppliers, or other services, rather than to engage MDPP beneficiaries in healthy behavior changes that reduce their incidence of type 2 diabetes.

During the course of the MDPP services period, an MDPP beneficiary may begin and end multiple engagement incentive periods, and, to the extent feasible, the MDPP beneficiary would not be in more than one engagement incentive period at the same time. For example, where, after receiving MDPP services from MDPP supplier A, an MDPP beneficiary notifies MDPP supplier A that he or she has chosen to receive MDPP services from MDPP supplier B and subsequently receives MDPP services from MDPP supplier B, the first engagement incentive period ends when MDPP supplier A is told by the MDPP beneficiary that he or she will no longer attend MDPP services with MDPP supplier A. A new engagement incentive period begins when the MDPP beneficiary receives his or her first MDPP service from MDPP supplier B. Additionally, where an MDPP beneficiary begins an engagement incentive period with an MDPP supplier and the engagement incentive period has ended because the MDPP supplier has not had direct contact, either in person, by telephone, or via other telecommunications technology, with the MDPP beneficiary for 90 consecutive days during the MDPP services period, should that MDPP beneficiary receive MDPP services from that MDPP supplier on day 100, a new engagement incentive period would begin.

These proposals for the definitions specific to beneficiary engagement incentives are included at proposed §424.210(a). We are inviting public comments on these proposed definitions specific to furnishing in-kind beneficiary engagement incentives.

#### ii. General Conditions for Beneficiary Engagement Incentives

We are proposing, at §424.210(b), that an MDPP supplier may choose to furnish items or services as in-kind beneficiary engagement incentives to an MDPP beneficiary only during the

engagement incentive period, subject to a number of additional conditions as program safeguards. Under this proposal, the in-kind items and services furnished as beneficiary engagement incentives under the MDPP expanded model would not be Medicare-covered items or services.

We are proposing that the engagement incentive must be furnished directly by an MDPP supplier or by an agent of the MDPP supplier under the MDPP supplier's direction and control, such as a coach, to an MDPP beneficiary. As established in the §410.79(b) in the CY 2017 PFS final rule, coach refers to an individual who furnishes MDPP services on behalf of an MDPP supplier as an employee, contractor, or volunteer. We considered whether this policy on beneficiary engagement incentives should extend to entities other than MDPP suppliers and their agents that may refer to or furnish MDPP services during an engagement incentive period. However, given that MDPP suppliers maintain the responsibility to ensure the integrity of MDPP programs and would be best positioned to comply with beneficiary engagement incentive documentation and technology retrieval requirements proposed at §424.210(e) and (c), respectively, we believe that they are best suited to furnish beneficiary engagement incentives.

We are proposing that the item or service furnished as a beneficiary engagement incentive must be reasonably connected to the CDC-approved curriculum taught by an MDPP supplier to an MDPP beneficiary during a core session, a core maintenance session, or an ongoing maintenance session. For example, under this proposal, an MDPP supplier could furnish beneficiary engagement incentives such as gym memberships to reduce barriers associated with beneficiary achievement of physical activity recommended as part of the CDC-approved curriculum, but they could not furnish theater tickets, which would bear no reasonable connection to the CDC-approved curriculum. Similarly, MDPP suppliers may offer incentives

such as onsite child care when the MDPP beneficiary attends MDPP services or transportation vouchers to the site of MDPP services that may reduce barriers to beneficiary attendance at MDPP services, but they could not furnish attendance awards such as movie tickets or retail gift cards, which would have no reasonable connection to the CDC-approved curriculum. Likewise, this proposal would allow MDPP suppliers to furnish equipment that is reasonably necessary for the curriculum being taught to the beneficiary, such as digital scales to track and document patient weight or pedometers to track physical activity, but not broadly used technology that is more valuable to the beneficiary, such as a smartphone. If an MDPP supplier were to furnish a smartphone at no cost to an MDPP beneficiary, a reasonable inference arises that the technology would not be reasonably connected to the curriculum being taught to the beneficiary. Among other things, this safeguard precludes incentives that might serve to induce beneficiaries inappropriately to receive other services than MDPP services from the MDPP supplier.

We also are proposing that the beneficiary engagement incentive must be a preventive care item or service, or an item or service that advances a clinical goal for an MDPP beneficiary as described in section III.K.2.f.iv. of this proposed rule by engaging him or her in better managing his or her own health. This ensures that a relationship between the incentive and the goals of the MDPP expanded model exists so that the beneficiary engagement incentive is necessary for testing the expanded MDPP model. Under this proposed condition, we note that beneficiary engagement incentives may not be offered to an MDPP beneficiary as a reward for achievement of a specified outcome, such as losing weight or attending a certain number of sessions, unless the beneficiary engagement incentive meets all the proposed conditions, including that it is reasonably connected to the CDC-approved DPP curriculum furnished to the MDPP beneficiary during a core session, a core maintenance session, or an ongoing maintenance

session by the MDPP supplier and that it is a preventive care item or service or it advances a clinical goal for an MDPP beneficiary by engaging him or her in better managing his or her own health. Furnishing in-kind patient engagement incentives upon achievement of an outcome may not advance a clinical goal for an MDPP beneficiary by engaging him or her in better managing his or her own health unless there are clinical goals that the incentive itself can continue to advance.

We are further proposing that the item or service furnished as a beneficiary engagement incentive must not be tied to the receipt of items or services outside the MDPP services, and that the item or service must not be tied to the receipt of items or services from a particular provider, supplier, or coach. These provisions provide safeguards against the furnishing of in-kind beneficiary engagement incentives to steer beneficiaries toward certain providers, suppliers, or coaches for services outside MDPP services.

We note that in some circumstances, an item or service may be linked to an MDPP supplier and be offered to the MDPP supplier's MDPP beneficiaries as part of the CDC-approved curriculum that must be furnished during the MDPP services period, rather than being offered to steer the MDPP beneficiary to a particular provider, supplier, or coach. In these situations, we believe the item or service may be furnished as a beneficiary engagement incentive without violating the requirement that the item or service not be tied to the receipt of the items or services from a particular provider, supplier, or coach. For instance, where an MDPP supplier offers a gym membership as a beneficiary engagement incentive, we understand that the gym membership must be tied to a particular supplier of services so that the beneficiary can use the membership. However, in this case, the gym membership would be linked to the MDPP supplier that, in compliance with the curriculum that must be furnished during the MDPP

services period, is teaching MDPP beneficiaries how to utilize a physical fitness regime to meet the MDPP goal of reducing an MDPP beneficiary's risk of developing diabetes, rather than being furnished to steer the MDPP beneficiary to a particular supplier. Therefore, we believe that gym memberships may be furnished as a beneficiary engagement incentive without violating the requirement that the item or service not be tied to the receipt of items or services from a particular provider, supplier, or coach as long as the gym membership is reasonably connected to the CDC-approved curriculum and not being furnished to steer the MDPP beneficiary to a particular supplier.

We are proposing that, in general, the availability of the items or services furnished as beneficiary engagement incentives must not be advertised or promoted as in-kind beneficiary engagement incentives available to an MDPP beneficiary receiving MDPP services from the MDPP supplier. However, an MDPP beneficiary may be made aware of the availability of the items or services at the time the MDPP beneficiary could reasonably benefit from them during the engagement incentive period. This condition provides a safeguard against the advertisement of in-kind patient engagement incentives to beneficiaries based on their perceived ability to meet the performance goals of attendance and weight loss as described at proposed §414.84(a) and associated with the MDPP performance payments proposed at §414.84(b). The proposed payment structure for MDPP services largely relies on the achievement of these performance goals. Therefore, advertising patient engagement incentives to encourage participation of MDPP-eligible beneficiaries most likely to meet the attendance and weight loss performance goals could produce financial gain for MDPP suppliers that is not related to the quality and efficacy of the MDPP supplier's MDPP services.

In addition, prohibiting the advertisement or promotion of in-kind beneficiary engagement incentives available to an MDPP beneficiary receiving MDPP services from the MDPP supplier except that an MDPP beneficiary may be made aware of the availability of the items or services at the time the MDPP beneficiary could reasonably benefit from them during the engagement incentive period provides a safeguard against using the incentive to steer a beneficiary toward a particular MDPP supplier. Beneficiaries would not be made aware of the availability of beneficiary engagement incentives until the MDPP beneficiary was in an engagement incentive period, which would begin when an MDPP supplier furnished its first MDPP service to the beneficiary. At that point in time, the beneficiary would have already selected that MDPP supplier to furnish his or her MDPP services so the incentive could not be used to steer the beneficiary to that MDPP supplier. We note that we do not intend for beneficiary engagement incentives proposed for the MDPP expanded model to alter an MDPP supplier's market share for an MDPP or non-MDPP item or service.

Finally, we are proposing that the cost of the items or services offered as in-kind beneficiary engagement incentives must not be shifted to another Federal health care program, as defined at section 1128B(f) of the Act. This requirement affirms that the cost of any beneficiary engagement incentive offered by an MDPP supplier is the sole responsibility of the MDPP supplier, and the furnishing of a beneficiary engagement incentive, for instance, must not result in increased payments to the MDPP supplier by Federal health care programs for other items or services.

These proposals for the general conditions for in-kind beneficiary engagement incentives are included at proposed §424.210(b). We are inviting public comments on these proposed

general conditions for furnishing beneficiary engagement incentives. In addition, we are inviting public comments on additional or alternative program integrity safeguards.

### iii. Technology Furnished to a MDPP Beneficiary

In some cases, items or services involving technology may be useful as beneficiary engagement incentives because they can advance a clinical goal of the MDPP expanded model by engaging an MDPP beneficiary in managing his or her health. However, we believe specific enhanced safeguards are necessary for these items and services to prevent abuse.

First, we are proposing that items or services involving technology furnished by an MDPP supplier to its MDPP beneficiary may not, in the aggregate, exceed \$1,000 in retail value for any one MDPP beneficiary. We believe that this proposed limit is appropriate, in conjunction with our proposed enhanced requirements for items of technology with a retail value greater than \$100 as discussed subsequently in this section. The proposed \$1,000 limitation would allow sufficient MDPP supplier flexibility to furnish items or services involving technology as beneficiary engagement incentives to improve the likelihood of the beneficiary's achievement and maintenance of the required minimum weight loss. The proposed limitation would not allow the furnishing of items of technology that in the aggregate constitute an excessively high value to the beneficiary that could increase the risk that the items of technology would not be in compliance with all of the proposed requirements for beneficiary engagement incentives.

For example, under this proposal, an MDPP beneficiary who begins receiving MDPP services from an MDPP supplier and who, after receiving MDPP services from that MDPP supplier, is furnished items or services of technology with a total retail value of \$1,000 may not receive additional items or services of technology from that MDPP supplier. Therefore, an



MDPP beneficiary may receive from a MDPP supplier a tablet valued at \$700 that is preloaded with weight loss and fitness tracking apps that would support the beneficiary's weight loss goals under the MDPP expanded model and also receive from the same MDPP supplier a fitness tracking watch valued at \$200 that uploads and monitors fitness data to the tablet, but he or she could not then receive additional items of technology from the MDPP supplier with an aggregate retail value greater than \$100 as this would exceed the \$1,000 limit.

In addition, if the same MDPP beneficiary chooses to receive MDPP services from another MDPP supplier, the subsequent supplier is under no obligation to determine the value of any items or services of technology furnished to the MDPP beneficiary by other MDPP suppliers, and may furnish items or services of technology to the MDPP beneficiary so long as those items or services furnished by the subsequent supplier are the minimum necessary to advance a clinical goal for the MDPP beneficiary, are furnished during the engagement incentive period, and do not, in aggregate, exceed \$1,000 in retail value. We note that, while items of technology must be furnished to the MDPP beneficiary during an engagement incentive period, the \$1,000 limit for items of technology that may be furnished to any one MDPP beneficiary by any one MDPP supplier is not otherwise affected by the engagement incentive period. For example, if an MDPP beneficiary begins and ends multiple engagement incentive periods with the same MDPP supplier as described in section III.K.2.f.i. of this proposed rule, the \$1,000 limit for items of technology would not "reset" at the beginning of a new engagement incentive period with that MDPP supplier.

We are further proposing that items or services involving technology furnished to an MDPP beneficiary must be the minimum necessary to advance a clinical goal for MDPP beneficiaries as discussed in section III.K.2.f.iv. of this proposed rule.

We are proposing enhanced requirements for items of technology exceeding \$100 in retail value as an additional safeguard against misuse of these items as beneficiary engagement incentives. We believe it would be inappropriate for MDPP suppliers to furnish items of technology with a retail value of over \$100 for beneficiaries' permanent use because the high value of these items could unduly influence the beneficiary to continue to receive MDPP services from that supplier, or to receive items or services from the supplier other than MDPP services. Therefore, we are proposing that items of technology with a retail value of over \$100 would remain the property of the MDPP supplier and be retrieved from the MDPP beneficiary at the end of the engagement incentive period. We do not believe that this requirement would substantially increase the administrative burden on MDPP suppliers because a central facilitator of the success of an MDPP beneficiary in meeting MDPP performance goals is the MDPP supplier's ability to maintain contact with the MDPP beneficiary and engage him or her in MDPP services. We note that items of technology with a retail value of \$100 or less could be furnished as beneficiary engagement incentives and would remain the property of the beneficiary. In the case of these items of a technology with a lower retail value, we believe the administrative burden of retrieving these items would outweigh the program integrity benefits of retrieval.

We are further proposing that the MDPP supplier must document all technology retrieval attempts, including the ultimate date of retrieval. However, because we understand that MDPP suppliers may not always be able to retrieve these items, such as when a beneficiary dies or moves to another geographic area, documented, diligent, good faith attempts to retrieve items of technology would be deemed to meet the retrieval requirement.

Our proposals for enhanced requirements for technology furnished to MDPP beneficiaries as beneficiary engagement incentives under the MDPP expanded model are included at proposed §424.210(c). We are inviting public comments on our proposed requirements for beneficiary engagement incentives that involve technology and welcome comments on additional or alternative program integrity safeguards for this type of beneficiary engagement incentive, including whether the financial thresholds proposed in this section are reasonable, necessary, and appropriate.

#### iv. Clinical Goals of the MDPP Expanded Model

As established at §410.79(b) in the CY 2017 PFS final rule, MDPP services furnished to MDPP beneficiaries must follow a CDC-approved curriculum, which outlines required and recommended topics for structured health behavior change sessions offered as MDPP services with the goal of preventing diabetes through long-lasting health behavior change. MDPP suppliers seeking recognition under the CDC's DPRP must furnish either the CDC-preferred curriculum, based on the current evidence base, or may develop their own curriculum. MDPP suppliers who wish to develop their own curriculum must submit it to the CDC for approval. This requirement ensures that all curricula furnished to MDPP beneficiaries meet the DPRP's curriculum content requirements and are based on evidence from efficacy and effectiveness trials consistent with the current evidence base. To be consistent with the current evidence base, all curricula offered by MDPP suppliers must furnish MDPP services focused on the overarching goal of preventing type 2 diabetes in persons at high risk for diabetes because they have prediabetes. This requires MDPP suppliers to emphasize the need to make lasting health behavior changes, rather than simply completing a one-time set of MDPP services that result in the required minimum weight loss during the MDPP services period. MDPP services must also

emphasize long-term improvements in nutrition and physical activity that contribute to beneficiaries sustaining weight loss. Therefore, we believe that in-kind patient engagement incentives may appropriately be furnished to support and motivate MDPP beneficiaries in achieving dietary and health behavior change and to teach MDPP beneficiaries to problem-solve strategies to overcome challenges to maintaining weight loss and healthy behaviors, as well as to assist MDPP beneficiaries in meeting the attendance and weight loss performance goals of the MDPP expanded model.

Therefore, we are proposing that the following would be the clinical goals of the MDPP expanded model, which may be advanced through beneficiary engagement incentives:

- Beneficiary attendance at MDPP core sessions, core maintenance sessions, or ongoing maintenance sessions during the MDPP services period.
- Beneficiary weight loss.
- Long-term dietary change for the beneficiary.
- Beneficiary adherence to long-term health behavior changes.

We note that under this proposal, the MDPP supplier may not furnish multiple free meals or meal replacement services to an MDPP beneficiary over a substantial portion of the engagement incentive period because such a practice would not advance a clinical goal for an MDPP beneficiary by engaging him or her in better managing his or her own health.

When a beneficiary engagement incentive does not qualify as a preventive care item or service, our proposals for the clinical goals of the MDPP expanded model that a beneficiary engagement incentive must be intended to advance are included at proposed §424.210(d). We are inviting public comments on our proposed clinical goals of the MDPP, as well as whether the advancement of additional or different clinical goals through beneficiary engagement incentives

may better advance the overarching goals of the MDPP expanded model, while maintaining appropriate program integrity safeguards.

v. Documentation of Beneficiary Engagement Incentives

As a program safeguard against misuse of beneficiary engagement incentives under the MDPP expanded model, we are proposing that, in addition to the documentation requirements for MDPP suppliers at proposed §424.205(g), MDPP suppliers must maintain documentation of items and services furnished as beneficiary engagement incentives that individually exceed \$25 in retail value. We recognize that an MDPP beneficiary could receive many incentives that are each of low dollar value but in the aggregate constitute an excessively high value to the beneficiary. Therefore, we believe it is important to incorporate a documentation threshold at a modest level for all beneficiary incentives in order to monitor compliance with the proposed conditions for furnishing these items and services. Moreover, we believe the proposed \$25 retail value threshold strikes an appropriate balance between beneficiary and program protections and MDPP supplier administrative burden.

In addition, we are proposing to require that the documentation must be established contemporaneously with the furnishing of the items and services and must include at least the date the incentive was furnished; the identity of the beneficiary to whom the item or service was furnished; the agent of the supplier who furnished the item or service if applicable; a description of the item or service; the retail value of the beneficiary engagement incentive; and documentation establishing that the item or service was furnished to the MDPP beneficiary during the engagement incentive period.

In addition to the proposed requirements in the previous paragraph, we are further proposing that the documentation regarding items or services furnished to the MDPP beneficiary

for use on an ongoing basis during the engagement incentive period, including items of technology exceeding \$100 in retail value, must also include contemporaneous documentation establishing that the MDPP beneficiary is in the engagement incentive period throughout the time period that the MDPP beneficiary possesses or has access to the item or service furnished by the MDPP supplier. For example, if an MDPP supplier furnishes a gym membership to an MDPP beneficiary, the MDPP supplier must maintain contemporaneous documentation establishing that the MDPP beneficiary is in the engagement incentive period throughout the time period that the MDPP beneficiary has access to the gym via the membership furnished by the MDPP supplier.

In addition to the above requirements, we are further proposing that the documentation regarding items of technology exceeding \$100 in retail value that MSPP suppliers are required to retrieve from the MDPP beneficiary must also include contemporaneous documentation of any attempts to retrieve the item of technology furnished by the MDPP supplier from the MDPP beneficiary as required at proposed §424.210(c)(3)(ii). We reiterate that under our proposal documented, diligent, good faith attempts to retrieve items of technology would be deemed to meet the retrieval requirement.

Finally, we are proposing that the MDPP supplier must retain and provide access to the required documentation in accordance with proposed §424.205(g).

Table 35 summarizes the proposed documentation requirements for beneficiary engagement incentives under the MDPP expanded model.

**TABLE 35: Proposed Beneficiary Engagement Incentive Documentation Requirements**

Beneficiary Engagement Incentive	Documentation Requirement
Item or service with retail value greater than \$25	<ul style="list-style-type: none"> <li>• Contemporaneous documentation that includes at least:                             <ul style="list-style-type: none"> <li>▪ The date the incentive was furnished.</li> <li>▪ The identity of the MDPP beneficiary to whom the item or service was furnished.</li> <li>▪ Documentation establishing that the item or service was furnished to the MDPP beneficiary during the engagement incentive period.</li> <li>▪ The agent of the supplier who furnished the item or service, if applicable.</li> <li>▪ A description of the item or service.</li> <li>▪ The retail value of the item or service.</li> </ul> </li> <li>• Documentation regarding items or services that are furnished to the MDPP beneficiary for use on an ongoing basis during the engagement incentive period, including items of technology exceeding \$100 in retail value, must also include contemporaneous documentation establishing that the MDPP beneficiary is in the engagement incentive period throughout the time period that the MDPP beneficiary possesses or has access to the item or service furnished by the MDPP supplier.</li> <li>• The documentation regarding items of technology exceeding \$100 in retail value must also include contemporaneous documentation of any attempt to retrieve the technology.*</li> <li>• The MDPP supplier must retain and provide access to the documentation.</li> </ul>

\* = Items of technology with a retail value greater than \$100 remain the property of the MDPP supplier and must be retrieved from the MDPP beneficiary at the end of the engagement incentive period.

Our proposals for the documentation requirements for beneficiary engagement incentives under the MDPP expanded model are included at proposed §424.210(e). We are inviting public comments on our proposed documentation requirements, including whether additional or different documentation requirements may provide better program integrity safeguards.

vi. Compliance with Fraud and Abuse Laws

Certain arrangements between MDPP suppliers and beneficiaries may implicate the civil monetary penalty (CMP) law (sections 1128A(a)(5), (b)(1) and (b)(2) of the Act), or the Federal Anti-kickback statute (section 1128B(b)(1) and (2) of the Act). In many cases, arrangements that

implicate these laws can be structured to comply with them by using existing safe harbors and exceptions. Section 1115A(d)(1) of the Act authorizes the Secretary to waive certain specified fraud and abuse laws as may be necessary solely for purposes of testing of models under section 1115A(b) of the Act. A waiver is not needed for an arrangement that does not implicate the fraud and abuse laws or that implicates the fraud and abuse laws, but either fits within an existing exception or safe harbor, as applicable, or does not otherwise violate the law. Accordingly, pursuant to section 1115A(d)(1) of the Act, the Secretary will consider whether waivers of certain fraud and abuse laws are necessary for the MDPP expanded model. Such waivers, if any, would be promulgated separately from this proposed regulation by OIG (as to sections 1128A and 1128B of the Act), to which the respective authorities have been delegated.

The requirements in the final rule for the MDPP expanded model will bear on the need for and scope of any fraud and abuse waivers that might be granted for the model. Because of the close nexus between the final regulations governing the structure and operations of the MDPP expanded model and the development of any fraud and abuse waivers necessary to carry out the provisions of the model, CMS and OIG may, when considering the need for or scope of any waivers, consider comments submitted in response to this proposed rule and the provisions of the final rule.

### 3. Virtual DPP and the MDPP Expanded Model

The CDC's DPRP standards allow evidence-based DPP curricula to be furnished through a variety of modes, including through remote technologies. Similar to the description noted in section III.K.2.c.iv.3 with respect to virtual make-up sessions, virtual DPP refers to any modality, or method of furnishing MDPP services, that is not in person. This includes, but is not limited to:



(1) Furnishing services online where the behavior change program is furnished 100 percent online, with participants accessing course resources and lifestyle coach via a computer, laptop, tablet, smart phone, or other device with internet access. This modality requires an internet connection to participate in all aspects of the DPP;

(2) Furnishing services online with other means of support by a coach (for example, telecommunications, video conferencing). This modality requires an internet connection for some aspects of the DPP, but not all; and

(3) Distance learning, where a coach is present in one location and participants are calling, video-conferencing, or otherwise using telecommunications technology to access the coach from another location. This modality does not require any internet connection for any of the aspects of the DPP.

These types of delivery modes are hereafter referred to as “virtual,” and DPP furnished *exclusively* through these modes with no in-person delivery is hereafter referred to as “virtual DPP.”

We acknowledge that the public comments in response to the MDPP expanded model in the CY 2017 PFS proposed rule supported the inclusion of virtual DPP in the MDPP expanded model. Many commenters stated that this proposal would increase access to MDPP services, referenced emerging evidence that suggests virtual DPP may be as effective as DPP furnished in a community setting, and stated that virtual delivery may be preferable to some beneficiaries. In the CY 2017 PFS final rule, we deferred policies pertinent to virtual DPP to future rulemaking.

While we propose to allow a limited number of virtual make-up sessions in the MDPP expanded model (discussed in section III.K.2.c.iv.3), we do not propose to include virtual DPP services (that is, DPP furnished *exclusively* through remote technologies with no in-person

delivery) . We considered including virtual DPP services in the MDPP expanded model, however, the DPP model test that was used to make the statutorily required determination for expansion did not include virtual DPP services. Instead, we are considering a separate model under CMS's Innovation Center authority to test and evaluate virtual DPP services. Our intention is that any separate model test of virtual DPP services would run in parallel with the MDPP Expanded Model. Consistent with our regular practice for Innovation Center models, we would release details on the model test for virtual DPP services separately.

We note that some DPP suppliers currently offer DPP services through a combination of in-person and virtual delivery. We only propose to allow this combination of delivery subject to the requirements on virtual make-up sessions discussed in section III.K.2.c.iv.3. The combined-delivery DPP services that are currently offered are intended to offer a participant DPP services through both online and in-person methods. The MDPP expanded model, in contrast, is intended to offer participants in-person DPP services primarily, but allows a limited number of virtual make-up sessions on an individual basis. As discussed in section III.K.2.c.iv.3., there is substantial research on the effectiveness of DPP furnished virtually, and emerging evidence on DPP delivered virtually suggests that virtual delivery can show similarly successful participant weight loss and health benefits to DPP delivered in other settings, including among Medicare-age participants. However, since the DPP model test only included in-person delivery, we propose to limit the number of virtually-delivered make-up sessions to the limits discussed in section III.K.2.c.iv.3.

An organization may furnish separate DPPs where some participants receive only in-person DPP services, others receive only virtual DPP services, and others receive a combination program where some sessions are offered in person and others virtually. If an organization that

offers multiple distinct DPPs through different delivery modes enrolls as an MDPP supplier, we propose that only DPP services furnished in person will be paid in the MDPP expanded model, with the exception of virtual make-up sessions as discussed in section III.K.2.c.iv.3 of this proposed rule.

We invite public comments on these policies.

#### 4. Evaluation

We intend to evaluate the MDPP expanded model using a combination of encounter and claims data to analyze the long-term utilization of services by beneficiaries who have received the MDPP benefit. As discussed in the CY 2017 PFS final rule, we will continue to assess whether the MDPP expanded model is expected to improve the quality of care without increasing spending, reduce spending without reducing the quality of care, or improve the quality of care and reduce spending, and we will terminate or modify the MDPP expanded model if the expanded model is not expected to meet these criteria.

Among other possible questions we might explore, our analysis will specifically look at long-term utilization and expenditures that might suggest subsequent treatment of diabetes. We intend to use beneficiary-level encounter data and program data furnished by CDC and will match these data to Medicare claims using the crosswalk finalized at §424.59(b)(3) of the CY 2017 PFS final rule (proposed to be redesignated and amended at §424.205(d)(13)). As with other Innovation Center model evaluation reports (which are currently published online at <https://innovation.cms.gov/Data-and-Reports/index.html>), we intend to publish the MDPP evaluation annual reports publicly on a CMS website. We refer readers to the supplier requirements discussed under section III.K.2.e.iv.(7) of this proposed rule for the proposal

regarding supplier compliance with this requirement, as well as specifications on the timing and format of the crosswalk.

#### L. Request for Information on CMS Flexibilities and Efficiencies

CMS is committed to transforming the health care delivery system--and the Medicare program--by putting an additional focus on patient-centered care and working with providers, physicians, and patients to improve outcomes. We seek to reduce burdens for hospitals, physicians, and patients, improve the quality of care, decrease costs, and ensure that patients and their providers and physicians are making the best health care choices possible. These are the reasons we are including this Request for Information in this proposed rule.

As we work to maintain flexibility and efficiency throughout the Medicare program, we would like to start a national conversation about improvements that can be made to the health care delivery system that reduce unnecessary burdens for clinicians, other providers, and patients and their families. We aim to increase quality of care, lower costs improve program integrity, and make the health care system more effective, simple and accessible.

We would like to take this opportunity to invite the public to submit their ideas for regulatory, subregulatory, policy, practice, and procedural changes to better accomplish these goals. Ideas could include payment system redesign, elimination or streamlining of reporting, monitoring and documentation requirements, aligning Medicare requirements and processes with those from Medicaid and other payers, operational flexibility, feedback mechanisms and data sharing that would enhance patient care, support of the physician-patient relationship in care delivery, and facilitation of individual preferences. Responses to this Request for Information could also include recommendations regarding when and how CMS issues regulations and policies and how CMS can simplify rules and policies for beneficiaries, clinicians, physicians, providers, and suppliers. Where practicable, data and specific examples would be helpful. If the proposals involve novel legal questions, analysis regarding CMS' authority is welcome for

CMS' consideration. We are particularly interested in ideas for incentivizing organizations and the full range of relevant professionals and paraprofessionals to provide screening, assessment and evidence-based treatment for individuals with opioid use disorder and other substance use disorders, including reimbursement methodologies, care coordination, systems and services integration, use of paraprofessionals including community paramedics and other strategies. We are requesting commenters to provide clear and concise proposals that include data and specific examples that could be implemented within the law.

We note that this is a Request for Information only. Respondents are encouraged to provide complete but concise responses. This Request for Information is issued solely for information and planning purposes; it does not constitute a Request for Proposal (RFP), applications, proposal abstracts, or quotations. This Request for Information does not commit the U.S. Government to contract for any supplies or services or make a grant award. Further, CMS is not seeking proposals through this Request for Information and will not accept unsolicited proposals. Responders are advised that the U.S. Government will not pay for any information or administrative costs incurred in response to this Request for Information; all costs associated with responding to this Request for Information will be solely at the interested party's expense. We note that not responding to this Request for Information does not preclude participation in any future procurement, if conducted. It is the responsibility of the potential responders to monitor this Request for Information announcement for additional information pertaining to this request. In addition, we note that CMS will not respond to questions about the policy issues raised in this Request for Information. CMS will not respond to comment submissions in response to this Request for Information in the FY 2018 PFS final rule. Rather, CMS will actively consider all input as we develop future regulatory proposals or future

subregulatory policy guidance. CMS may or may not choose to contact individual responders. Such communications would be for the sole purpose of clarifying statements in the responders' written responses. Contractor support personnel may be used to review responses to this Request for Information. Responses to this notice are not offers and cannot be accepted by the Government to form a binding contract or issue a grant. Information obtained as a result of this Request for Information may be used by the Government for program planning on a nonattribution basis. Respondents should not include any information that might be considered proprietary or confidential. This Request for Information should not be construed as a commitment or authorization to incur cost for which reimbursement would be required or sought. All submissions become U.S. Government property and will not be returned. CMS may publically post the public comments received, or a summary of those public comments.

#### **IV. Collection of Information Requirements**

Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. chapter 35), we are required to publish a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval.

To fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our burden estimates.
- The quality, utility, and clarity of the information to be collected.

- Our effort to minimize the information collection burden on the affected public, including the use of automated collection techniques.

We are soliciting public comment on each of the required issues under section 3506(c)(2)(A) of the PRA for the following information collection requirements (ICRs): (1) The Medicare Diabetes Prevention Program (MDPP) Expanded Model, (2) the Physician Quality Reporting System (PQRS), (3) appropriate use criteria for advanced diagnostic imaging services, and (4) the Medicare Shared Savings Program.

A. Wage Estimates

To derive average costs, we used data from the U.S. Bureau of Labor Statistics’ May 2016 National Occupational Employment and Wage Estimates for all salary estimates ([http://www.bls.gov/oes/current/oes\\_nat.htm](http://www.bls.gov/oes/current/oes_nat.htm)). In this regard, Table 36 presents the mean hourly wage, the cost of fringe benefits and overhead (calculated at 100 percent of salary), and the adjusted hourly wage.

**TABLE 36: National Occupational Employment and Wage Estimates**

Occupation Title	Occupation Code	Mean Hourly Wage (\$/hr)	Fringe Benefits and Overhead Costs (\$/hr)	Adjusted Hourly Wage (\$/hr)
Family and General Practitioner	29-1062	96.54	96.54	193.08

As indicated, we are adjusting our employee hourly wage estimates by a factor of 100 percent. This is necessarily a rough adjustment, both because fringe benefits and overhead costs vary significantly from employer to employer, and because methods of estimating these costs vary widely from study to study. Nonetheless, there is no practical alternative and we believe that doubling the hourly wage to estimate total cost is a reasonably accurate estimation method.

B. Proposed Information Collection Requirements (ICRs)

1. ICRs Regarding the Medicare Diabetes Prevention Program (MDPP) Expanded Model



In §§410.79, 414.84, 424.200, 424.205, 424.210, 424.502, 424.516, 424.518 and 424.55 of this proposed rule, we discuss our proposals to further implement the Medicare Diabetes Prevention Program (MDPP) Expanded Model, which is aimed at preventing the onset of type 2 diabetes among Medicare beneficiaries with prediabetes. Section 1115A(d)(3) of the Act exempts Innovation Center model tests and expansions, which include the MDPP expanded model, from the provisions of the PRA. Specifically, this section provides that the provisions of the PRA shall not apply to the testing and evaluation of Innovation Center models or expansions of such models.

## 2. ICRs Regarding the Physician Quality Reporting System (PQRS) (§414.90)

While this rule proposes to revise our PQRS reporting criteria for the 2016 reporting period to avoid the 2018 payment adjustment, we are not proposing to accept any additional data for the 2016 reporting period. In this regard this rule does not set out any new or revised burden or requirements that would trigger the requirements of the PRA.

## 3. ICRs Regarding Appropriate Use Criteria for Advanced Diagnostic Imaging Services (§414.94)

This rule proposes to revise §414.94(i)(3) by reiterating the availability of a significant hardship exception for ordering professionals who demonstrate a significant hardship consistent with the criteria listed under §495.102(d)(4)(i), (d)(4)(iii), (d)(4)(iv)(A) or (d)(4)(iv)(B). Consistent with a final rule that published on November 14, 2016 (81 FR 79865 through 79866) the hardship exception process involves the completion of an application which imposes no burden beyond the provision of identifying information and attesting to the applicable information. In this regard, the application is not “information” as defined under 5 CFR 1320.3(h), and therefore, is exempt from requirements of the PRA.

Consistent with section 1834(q)(4)(A) of the Act (as amended by section 218(b) of the PAMA), §414.94(j) proposes to require that ordering professionals consult specified applicable AUC through a qualified clinical decision support mechanism (CDSM) for applicable imaging services ordered on or after January 1, 2019. We propose a one-time burden associated with a possible 6-month voluntary consulting period beginning sometime in 2018, as well as a mandatory annual burden beginning January 1, 2019. Because general practitioners are the largest group of practitioners who order applicable imaging services and would be required to consult AUC under this program we use “family and general practitioner” for our estimates below.

During the 6-month voluntary participation period, we estimate 3,410,000 responses in the form of consultations based on market research from current applicants for the qualification of their CDSMs for advanced diagnostic imaging services. Based on feedback from CDSMs with experience in AUC consultation as well as standards recommended by the Office of the National Coordinator (ONC) and the Healthcare Information Management Systems Society (HIMSS), we estimate it would take 2 minutes at \$193.08/hr for a family and general practitioner to use a qualified CDSM to consult specified applicable AUC. Per consultation, we estimate 2 minutes (0.033 hr) at a cost of \$6.37 (0.033 hr x \$193.08/hr). In aggregate, we estimate a one-time burden of 112,530 hours (0.033 hr x 3,410,000 consultations) at a cost of \$21,727,292.40 (112,530 hr x \$193.08/hr).

Annually, we estimate 37,510 hours (112,530 hr/3 yr) at a cost of \$7,242,430.80 (\$21,727,292.40/3 yr). We are annualizing the one-time burden (by dividing our estimates by OMB’s 3-year approval period) since we do not anticipate any additional burden after the 6-month voluntary participation period ends.

Beginning January 1, 2019, we anticipate 43,181,818 responses in the form of consultations based on the aforementioned market research, as well as Medicare claims data for advanced diagnostic imaging services. As noted above, we estimate it would take 2 minutes (0.033 hr) at \$193.08/hr for a family and general practitioner to use a qualified CDSM to consult specified applicable AUC. In this regard, we estimate 0.033 hours per consultation at a cost of \$6.37 (0.033 hr x \$193.08/hr). In aggregate, we estimate an annual burden of 1,425,000 hours (0.033 hr x 43,181,818 consultations) at a cost of \$275,139,000 (1,425,000 hr x \$193.08/hr).

The consultation requirements and burden will be submitted to OMB for approval under control number 0938-New (CMS-10654).

Consistent with section 1834(q)(4)(B) of the Act, we are also proposing to implement a one-time 6-month voluntary reporting period beginning sometime in 2018, as well as a mandatory annual reporting requirement beginning January 1, 2019. Specifically, §414.94(k) proposes to require that furnishing professionals report on the Medicare claims for advanced diagnostic imaging services, paid for under an applicable payment system (as defined in §414.94(b)) and ordered on or after January 1, 2019, the following information: (1) identify which qualified CDSM was consulted by the ordering professional; (2) identify whether the service ordered would adhere to specified applicable AUC, would not adhere to specified applicable AUC, or whether specified applicable AUC was not applicable to the service ordered; and (3) identify the NPI of the ordering professional (if different from the furnishing professional). The proposed reporting requirement would not have any impact on any Medicare claim forms because the forms' currently approved data fields, instructions, and burden are not expected to change. Consequently, there is no need for review by OMB under the authority of the PRA.

The timing and implementation of the voluntary consultation and reporting period is dependent on the readiness of the Medicare claims systems to accept and process claims including AUC consultation information. Currently, 99 percent of all Medicare claims are submitted electronically as a result of The Administrative Simplification Compliance Act amendment to section 1862(a) of the Act, which prescribes that no payment may be made under Part B of the Medicare Program for any expenses incurred for items or services for which a claim is received in a non-electronic form. Consequently, absent an applicable exception, paper claims received by Medicare will not be paid. Continued developments in the deployment of CDSMs has produced research<sup>28</sup> and best practices<sup>29,30,31</sup> supporting our position that any such changes made to respondent IT systems would be a usual and customary business practice whose burden is exempt from the requirements of the PRA under 5 CFR 1320.3(b).

4. ICRs Regarding the Medicare Shared Savings Program (Part 425)

Section 1899(e) of the Act provides that chapter 35 of title 44 of the U.S. Code, which includes such provisions as the PRA, shall not apply to the Shared Savings Program.

C. Summary of Annual Burden Estimates for Proposed Requirements

**TABLE 37: Proposed Annual Requirements and Burden**

Regulation Section(s)	OMB Control Number	Respondents	Responses	Burden per Response (hours)	Total Annual Burden (hours)	Labor Cost of Reporting (\$/hr)	Total Cost (\$)*
§414.94(j) (voluntary consultations)	0938-New	3,410,000	1,136,666.67 (3,410,000/3)	0.033	37,510	193.08	7,242,431
§414.94(j) (mandatory)		43,181,818	43,181,818	0.033	1,425,000	193.08	275,139,000

<sup>28</sup> CDC Health Information Innovation Consortium, May 17 2016, available at [https://www.cdc.gov/ophss/chiic/forums/2016-05-17\\_index.html](https://www.cdc.gov/ophss/chiic/forums/2016-05-17_index.html).

<sup>29</sup> ONC eCQI resource for process improvement: [bit.ly/oncecqicds](http://bit.ly/oncecqicds).

<sup>30</sup> CMS CDS tipsheet: [bit.ly/cmscdstips](http://bit.ly/cmscdstips).

<sup>31</sup> HIMSS CDS Guidebook Series: [www.himss.org/cdsguide](http://www.himss.org/cdsguide).

Regulation Section(s)	OMB Control Number	Respondents	Responses	Burden per Response (hours)	Total Annual Burden (hours)	Labor Cost of Reporting (\$/hr)	Total Cost (\$)*
consultations)							
Total	--	46,591,818	44,318,485	0.033	1,462,510	193.08	282,381,431

\*With respect to the PRA, this rule would not impose any non-labor costs.

**D. Submission of PRA-Related Comments**

We have submitted a copy of this proposed rule to OMB for its review of the rule’s information collection and recordkeeping requirements. These requirements are not effective until they have been approved by the OMB.

To obtain copies of the supporting statement and any related forms for the proposed collections discussed above, please visit CMS’ Web site at Web site address at <https://www.cms.gov/Regulations-andGuidance/Legislation/PaperworkReductionActof1995/PRAListing.html>, or call the Reports Clearance Office at 410–786–1326.

We invite public comments on these potential information collection requirements. If you wish to comment, please submit your comments electronically as specified in the ADDRESSES section of this proposed rule and identify the rule (CMS-1676-P) and where applicable the ICR’s CFR citation, CMS ID number, and OMB control number.

See the DATES and ADDRESSES sections of this proposed rule for further information.

**V. Response to Comments**

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the "DATES" section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

## **VI. Regulatory Impact Analysis**

### **A. Statement of Need**

This proposed rule makes payment and policy changes under the Medicare PFS and makes required statutory changes under the MACRA, ABLE, PAMA, and the Consolidated Appropriations Act of 2016. This final rule also makes changes to payment policy and other related policies for Medicare Part B, Part D, and Medicare Advantage.

### **B. Overall Impact**

We examined the impact of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), Executive Order 13563 on Improving Regulation and Regulatory Review (February 2, 2013), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96-354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104-4), Executive Order 13132 on Federalism (August 4, 1999), the Congressional Review Act (5 U.S.C. 804(2)), and Executive Order 13771 on Reducing Regulation and Controlling Regulatory Costs (January 30, 2017).

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). We estimate, as discussed in this section, that the PFS provisions included in this final rule would redistribute more than \$100 million in 1 year. Therefore, we estimate that this rulemaking is “economically significant” as measured by the \$100 million threshold, and hence also a major rule under the Congressional Review Act. Accordingly, we prepared an RIA that,

to the best of our ability, presents the costs and benefits of the rulemaking. The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals, practitioners and most other providers and suppliers are small entities, either by nonprofit status or by having annual revenues that qualify for small business status under the Small Business Administration standards. (For details see the SBA's website at <http://www.sba.gov/content/table-small-business-size-standards> (refer to the 620000 series)). Individuals and states are not included in the definition of a small entity.

The RFA requires that we analyze regulatory options for small businesses and other entities. We prepare a regulatory flexibility analysis unless we certify that a rule would not have a significant economic impact on a substantial number of small entities. The analysis must include a justification concerning the reason action is being taken, the kinds and number of small entities the rule affects, and an explanation of any meaningful options that achieve the objectives with less significant adverse economic impact on the small entities.

Approximately 95 percent of practitioners, other providers, and suppliers are considered to be small entities, based upon the SBA standards. There are over 1 million physicians, other practitioners, and medical suppliers that receive Medicare payment under the PFS. Because many of the affected entities are small entities, the analysis and discussion provided in this section, as well as elsewhere in this final rule is intended to comply with the RFA requirements regarding significant impact on a substantial number of small entities.

For example, the effects of changes to payment rates for practitioners, other providers, and suppliers are discussed in VI.C. of this proposed rule. Alternative options considered to the proposed payment rates are discussed generally in section VI.F of this proposed rule, while



specific alternatives for individual codes are discussed throughout this rule, especially in section II.H.

In addition, section 1102(b) of the Act requires us to prepare an RIA if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area for Medicare payment regulations and has fewer than 100 beds. We did not prepare an analysis for section 1102(b) of the Act because we determined, and the Secretary certified, that this final rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits on state, local, or tribal governments or on the private sector before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2017, that threshold is approximately \$148 million. This proposed rule will impose no mandates on state, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it issues a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on state and local governments, preempts state law, or otherwise has Federalism implications. Since this regulation does not impose any costs on state or local governments, the requirements of Executive Order 13132 are not applicable.

Executive Order 13771, entitled Reducing Regulation and Controlling Regulatory Costs (82 FR 9339), was issued on January 30, 2017. This proposed rule is subject to the requirements of E.O. 13771 because, if finalized as proposed, it is expected to result in regulatory costs.

We prepared the following analysis, which together with the information provided in the rest of this preamble, meets all assessment requirements. The analysis explains the rationale for and purposes of this proposed rule; details the costs and benefits of the rule; analyzes alternatives; and presents the measures we would use to minimize the burden on small entities. As indicated elsewhere in this proposed rule, we are implementing a variety of changes to our regulations, payments, or payment policies to ensure that our payment systems reflect changes in medical practice and the relative value of services, and implementing statutory provisions. We provide information for each of the policy changes in the relevant sections of this proposed rule. We are unaware of any relevant federal rules that duplicate, overlap, or conflict with this proposed rule. The relevant sections of this proposed rule contain a description of significant alternatives if applicable.

### C. Changes in Relative Value Unit (RVU) Impacts

#### 1. Resource-Based Work, PE, and MP RVUs

Section 1848(c)(2)(B)(ii)(II) of the Act requires that increases or decreases in RVUs may not cause the amount of expenditures for the year to differ by more than \$20 million from what expenditures would have been in the absence of these changes. If this threshold is exceeded, we make adjustments to preserve budget neutrality.

Our estimates of changes in Medicare expenditures for PFS services compare payment rates for CY 2017 with proposed payment rates for CY 2018 using CY 2016 Medicare utilization. The payment impacts in this proposed rule reflect averages by specialty based on

Medicare utilization. The payment impact for an individual practitioner could vary from the average and would depend on the mix of services he or she furnishes. The average percentage change in total revenues would be less than the impact displayed here because practitioners and other entities generally furnish services to both Medicare and non-Medicare patients. In addition, practitioners and other entities may receive substantial Medicare revenues for services under other Medicare payment systems. For instance, independent laboratories receive approximately 83 percent of their Medicare revenues from clinical laboratory services that are paid under the Clinical Laboratory Fee Schedule.

The annual update to the PFS conversion factor (CF) was previously calculated based on a statutory formula; for details about this formula, we refer readers to the CY 2015 PFS final rule with comment period (79 FR 67741 through 67742). Section 101(a) of the MACRA repealed the previous statutory update formula and amended section 1848(d) of the Act to specify the update adjustment factors for calendar years 2015 and beyond. For CY 2018, the specified update is 0.5 percent before applying other adjustments.

Section 220(d) of the PAMA added a new paragraph at section 1848(c)(2)(O) of the Act to establish an annual target for reductions in PFS expenditures resulting from adjustments to relative values of misvalued codes. Under section 1848(c)(2)(O)(ii) of the Act, if the net reduction in expenditures for the year is equal to or greater than the target for the year, reduced expenditures attributable to such adjustments shall be redistributed in a budget-neutral manner within the PFS in accordance with the existing budget neutrality requirement under section 1848(c)(2)(B)(ii)(II) of the Act. Section 1848(c)(2)(O)(iii) of the Act specifies that, if the estimated net reduction in PFS expenditures for the year is less than the target for the year, an amount equal to the target recapture amount shall not be taken into account when applying the

budget neutrality requirements specified in section 1848(c)(2)(B)(ii)(II) of the Act. We estimate the CY 2018 net reduction in expenditures resulting from adjustments to relative values of misvalued codes to be 0.31 percent. Since this amount does not meet the 0.5 percent target established by the Achieving a Better Life Experience Act of 2014 (ABLE) (Division B of Pub. L. 113-295, enacted December 19, 2014), payments under the fee schedule must be reduced by the difference between the target for the year and the estimated net reduction in expenditures, known as the target recapture amount. As a result, we estimate that the CY 2018 target recapture amount will produce a reduction to the conversion factor of -0.19 percent.

To calculate the proposed conversion factor for this year, we multiplied the product of the current year conversion factor and the update adjustment factor by the target recapture amount and the budget neutrality adjustment described in the preceding paragraphs. We estimate the CY 2018 PFS conversion factor to be 35.9903, which reflects the budget neutrality adjustment, the 0.5 percent update adjustment factor specified under section 1848(d)(18) of the Act, and the -0.31 percent target recapture amount required under section 1848(c)(2)(O)(iv) of the Act and described above. We estimate the CY 2018 anesthesia conversion factor to be 22.0353, which reflects the same overall PFS adjustments, as well as an additional adjustment due to an update to the malpractice risk factor for the anesthesia specialty.

**TABLE 38: Calculation of the Proposed CY 2018 PFS Conversion Factor**

<b>Conversion Factor in effect in CY 2017</b>		<b>35.8887</b>
Update Factor	0.50 percent (1.0050)	
CY 2018 RVU Budget Neutrality Adjustment	-0.03 percent (0.9997)	
CY 2018 Target Recapture Amount	-0.19 percent (0.9981)	
<b>CY 2018 Conversion Factor</b>		<b>35.9903</b>

**TABLE 39: Calculation of the Proposed CY 2018 Anesthesia Conversion Factor**

<b>CY 2017 National Average Anesthesia Conversion Factor</b>		<b>22.0454</b>
Update Factor	0.50 percent (1.0050)	
CY 2018 RVU Budget Neutrality Adjustment	-0.03 percent (0.9997)	
CY 2018 Target Recapture Amount	-0.19 percent (0.9981)	
CY 2018 Anesthesia Fee Schedule Practice Expense and Malpractice Adjustment	-0.33 percent (0.9967)	
<b>CY 2018 Conversion Factor</b>		<b>22.0353</b>

Table 40 shows the payment impact on PFS services of the proposals contained in this proposed rule. To the extent that there are year-to-year changes in the volume and mix of services provided by practitioners, the actual impact on total Medicare revenues would be different from those shown in Table 40 (CY 2018 PFS Estimated Impact on Total Allowed Charges by Specialty). The following is an explanation of the information represented in Table 40.

- Column A (Specialty): Identifies the specialty for which data are shown.
- Column B (Allowed Charges): The aggregate estimated PFS allowed charges for the specialty based on CY 2016 utilization and CY 2017 rates. That is, allowed charges are the PFS amounts for covered services and include coinsurance and deductibles (which are the financial responsibility of the beneficiary). These amounts have been summed across all services furnished by physicians, practitioners, and suppliers within a specialty to arrive at the total allowed charges for the specialty.

- Column C (Impact of Work RVU Changes): This column shows the estimated CY 2018 impact on total allowed charges of the changes in the work RVUs, including the impact of changes due to potentially misvalued codes.
- Column D (Impact of PE RVU Changes): This column shows the estimated CY 2018 impact on total allowed charges of the changes in the PE RVUs.
- Column E (Impact of MP RVU Changes): This column shows the estimated CY 2018 impact on total allowed charges of the changes in the MP RVUs, which are primarily driven by the required five-year review and update of MP RVUs.
- Column F (Combined Impact): This column shows the estimated CY 2018 combined impact on total allowed charges of all the changes in the previous columns. Column F may not equal the sum of columns C, D, and E due to rounding.

**TABLE 40: CY 2018 PFS Estimated Impact on Total Allowed Charges by Specialty\***

(A) Specialty	(B) Allowed Charges (mil)	(C) Impact of Work RVU Changes	(D) Impact of PE RVU Changes	(E) Impact of MP RVU Changes	(F) Combined Impact**
TOTAL	\$92,628	0%	0%	0%	0%
ALLERGY/IMMUNOLOGY	\$245	0%	-3%	0%	-3%
ANESTHESIOLOGY	\$2,009	-1%	0%	0%	0%
AUDIOLOGIST	\$66	0%	0%	-1%	-1%
CARDIAC SURGERY	\$311	0%	0%	-1%	-2%
CARDIOLOGY	\$6,671	0%	-1%	-1%	-2%
CHIROPRACTOR	\$772	0%	1%	0%	1%
CLINICAL PSYCHOLOGIST	\$756	0%	2%	0%	2%
CLINICAL SOCIAL WORKER	\$664	0%	3%	0%	3%
COLON AND RECTAL SURGERY	\$166	0%	0%	-1%	-1%
CRITICAL CARE	\$332	0%	0%	0%	0%
DERMATOLOGY	\$3,475	0%	0%	-1%	-1%
DIAGNOSTIC TESTING FACILITY	\$765	0%	-6%	0%	-6%
EMERGENCY MEDICINE	\$3,176	0%	0%	-1%	-1%
ENDOCRINOLOGY	\$477	0%	0%	0%	0%
FAMILY PRACTICE	\$6,307	0%	0%	0%	0%
GASTROENTEROLOGY	\$1,792	0%	0%	-1%	-1%
GENERAL PRACTICE	\$452	0%	0%	0%	0%
GENERAL SURGERY	\$2,154	0%	0%	0%	-1%
GERIATRICS	\$211	0%	0%	0%	1%
HAND SURGERY	\$200	0%	0%	0%	1%
HEMATOLOGY/ONCOLOGY	\$1,802	0%	0%	0%	0%
INDEPENDENT LABORATORY	\$684	0%	-1%	0%	-2%
INFECTIOUS DISEASE	\$651	0%	0%	1%	1%
INTERNAL MEDICINE	\$11,022	0%	0%	0%	0%
INTERVENTIONAL PAIN MGMT	\$830	0%	0%	0%	0%
INTERVENTIONAL RADIOLOGY	\$357	0%	-1%	0%	-1%
MULTISPECIALTY CLINIC/OTHER PHYS	\$139	0%	0%	0%	0%
NEPHROLOGY	\$2,257	0%	0%	0%	0%
NEUROLOGY	\$1,545	0%	0%	0%	0%
NEUROSURGERY	\$805	0%	0%	-1%	-1%
NUCLEAR MEDICINE	\$50	0%	0%	0%	0%
NURSE ANES / ANES ASST	\$1,238	-1%	0%	1%	-1%
NURSE PRACTITIONER	\$3,541	0%	0%	0%	0%
OBSTETRICS/GYNECOLOGY	\$658	0%	0%	-1%	-1%
OPHTHALMOLOGY	\$5,480	0%	0%	0%	0%
OPTOMETRY	\$1,259	0%	0%	0%	0%
ORAL/MAXILLOFACIAL SURGERY	\$57	0%	-2%	0%	-2%
ORTHOPEDIC SURGERY	\$3,784	0%	0%	0%	0%
OTHER	\$28	0%	0%	0%	0%
OTOLARNGOLOGY	\$1,232	0%	-1%	0%	-2%
PATHOLOGY	\$1,147	0%	0%	0%	-1%

(A) Specialty	(B) Allowed Charges (mil)	(C) Impact of Work RVU Changes	(D) Impact of PE RVU Changes	(E) Impact of MP RVU Changes	(F) Combined Impact**
PEDIATRICS	\$63	0%	0%	0%	0%
PHYSICAL MEDICINE	\$1,105	0%	0%	0%	1%
PHYSICAL/OCCUPATIONAL THERAPY	\$3,780	1%	1%	0%	1%
PHYSICIAN ASSISTANT	\$2,232	0%	0%	0%	0%
PLASTIC SURGERY	\$379	0%	0%	0%	0%
PODIATRY	\$1,973	0%	1%	1%	1%
PORTABLE X-RAY SUPPLIER	\$100	0%	-1%	0%	-1%
PSYCHIATRY	\$1,233	0%	1%	0%	1%
PULMONARY DISEASE	\$1,753	0%	0%	0%	0%
RADIATION ONCOLOGY AND RADIATION THERAPY CENTERS	\$1,784	0%	1%	1%	1%
RADIOLOGY	\$4,863	0%	-1%	0%	-1%
RHEUMATOLOGY	\$553	0%	0%	0%	0%
THORACIC SURGERY	\$356	0%	0%	-1%	-1%
UROLOGY	\$1,772	0%	-1%	0%	-1%
VASCULAR SURGERY	\$1,115	0%	-1%	0%	-2%

\*\* Column F may not equal the sum of columns C, D, and E due to rounding.

## 2. CY 2018 PFS Impact Discussion

### a. Changes in RVUs

The most widespread specialty impacts of the final RVU changes are generally related to the changes to RVUs for specific services resulting from the Misvalued Code Initiative, including finalized RVUs for new and revised codes. The estimated impacts for some specialties, including behavioral health specialists, physical and occupational therapists, and radiation oncology, reflect increases relative to other physician specialties. These increases can largely be attributed to proposed increases in value for particular services following the American Medical Association Relative Value Update Committee and CMS review, the proposed change in allocation of indirect practice expense RVUs for office-based, face-to-face behavioral health services, and proposed changes based on updated professional liability premium data.



The estimated impacts for several specialties, including diagnostic testing facilities, allergy/immunology, otolaryngology, oral/maxillofacial surgery, and independent laboratories, reflect decreases in payments relative to payment to other physician specialties as a result of proposed revaluation of individual procedures reviewed by the American Medical Association Relative Value Update Committee and CMS, proposed changes based on updated professional liability premium data, proposed decreases in relative payment as a result of proposed updates to prices for particular medical supplies, and continued implementation of previously finalized code-level reductions that are being phased-in over several years. For independent laboratories, it is important to note that these entities receive approximately 83 percent of their Medicare revenues from services that are paid under the Clinical Laboratory Fee Schedule. As a result, the estimated 2 percent reduction for CY 2018 is only applicable to approximately 17 percent of the Medicare payment to these entities

We often receive comments regarding the changes in RVUs displayed on the specialty impact table, including comments received in response to the proposed rates. We remind stakeholders that although the estimated impacts are displayed at the specialty level, typically the changes are driven by the valuation of a relatively small number of new and/or potentially misvalued codes. The percentages in the table are based upon aggregate estimated PFS allowed charges summed across all services furnished by physicians, practitioners, and suppliers within a specialty to arrive at the total allowed charges for the specialty, and compared to the same summed total from the previous calendar year. They are therefore averages, and may not necessarily be representative of what is happening to the particular services furnished by a single practitioner within any given specialty.

b. Impact

Column F of Table 40 displays the estimated CY 2018 impact on total allowed charges, by specialty, of all the RVU changes. A table showing the estimated impact on total payments for selected high volume procedures of all of the changes is available under “downloads” on the CY 2018 PFS proposed rule website at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/>. We selected these procedures for sake of illustration from among the most commonly furnished by a broad spectrum of specialties. The change in both facility rates and the nonfacility rates are shown. For an explanation of facility and nonfacility PE, we refer readers to Addendum A on the CMS website at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/>.

#### D. Effect of Changes in Telehealth List

As discussed in section II.D. of this proposed rule, we are proposing to add several new codes to the list of Medicare telehealth services. Although we expect these changes to have the potential to increase access to care in rural areas, based on recent telehealth utilization of services already on the list, including services similar to the proposed additions, we estimate no significant impact on PFS expenditures from the proposed additions. For example, for services already on the list, they are furnished via telehealth, on average, less than 0.1 percent of the time they are reported overall.

#### E: Effect of Changes to Payment to Provider-Based Departments (PBDs) of Hospitals Paid under the PFS

As discussed in section II.G of this proposed rule, for CY 2018, we are proposing a PFS Relativity Adjuster of 25 percent, meaning that nonexcepted items and services furnished by nonexcepted PBDs would be paid under the PFS at a rate that is 25 percent of the OPPS rate. We

estimate that this change will result in total Medicare Part B savings of \$25 million for CY 2018 relative to maintaining the CY 2017 PFS Relativity Adjuster for CY 2018.

#### F. Other Provisions of the Proposed Regulation

##### 1. New Care Coordination Services and Payment for RHCs and FQHCs

As discussed in section III.A of this proposed rule, we are proposing the establishment of two new G codes for use by RHCs and FQHCs. The first new G code would be a General Care Management code for RHCs and FQHCs with the payment amount set at the average of the 3 national non-facility PFS payment rates for the CCM and general BHI codes. The second new G code for RHCs and FQHCs would be a Psychiatric CoCM code with the payment amount set at the average of the 2 national non-facility PFS payment rates for psychiatric CoCM services. The payment rate for each code would be updated annually, based on the national non-facility PFS payment rates for each code contained in the G code.

The proposed methodology for payment of care coordination services is consistent with the RHC and FQHC payment principles of not paying for services based on time increments. It does not create additional reporting burden and is expected to promote beneficiary access to comprehensive care management services furnished by RHCs and FQHCs.

Establishment of the RHC and FQHC General Care Management code, which includes all levels of CCM and general BHI services, is projected to increase Medicare spending by \$600,000 in CY 2018 and by \$7.4 million over 10 years. This estimate is based on the proposed per service allowed charge increase (from approximately \$42.71 to \$61.37) applied to historical 2016 CCM and BHI volume in RHCs and FQHCs. This volume was adjusted with an assumed 10 percent behavioral volume increase to reflect the increase in allowed charges per service.

Establishment of the RHC and FQHC Psychiatric CoCM code, which includes all levels of psychiatric CoCM services, is projected to increase Medicare spending by approximately \$100,000 in CY2018 and \$3.7 million over 10 years. Because psychiatric CoCM is not billable currently by RHCs or FQHCs and is also new to practitioners billing under the PFS, this estimate is based on first quarter 2017 PFS psychiatric CoCM claims of 0.03 percent of psychiatric E/M visits, adjusted to an ultimate average rate of 0.16 percent based on the pattern of increase in CCM services in the PFS found in the first two years of implementation. This rate was then applied to the number of 2016 RHC and FQHC mental health visits to get an estimate of CoCM volume, and then projected forward on a per-capita basis. PFS price updates were applied to the initial approximate \$135 psychiatric CoCM payment amount to project future costs.

The combined increase in Medicare spending for both new G codes is estimated to be approximately \$600,000 in 2018, and approximately \$11.1 million over 10 years. While these services are expected to increase quality and improve efficiency over time, the programs are still new and the data is not available yet to demonstrate any cost savings. Therefore, no healthcare cost reductions were assumed as a result of increased care management.

**TABLE 42: Calendar Years 2018-2027 Projected Spending Impact of New General Care Management and Psychiatric CoCM Codes for RHCs and FQHCs (Millions) <sup>32</sup>**

CY	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	2018-2027
General Care Management	0.6	0.7	0.7	0.7	0.7	0.8	0.8	0.8	0.8	0.8	7.4
Psychiatric CoCM	0.1	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	0.4	3.7
Total	0.8	1.0	1.1	1.1	1.1	1.1	1.2	1.2	1.2	1.3	11.1

<sup>32</sup> - Figures may not sum to totals due to rounding.

As discussed in section III.A. of this proposed rule, we considered 3 other options (for example, allowing any of the 7 codes to be separately added to a claim, bundling all 7 codes into one G code, and developing 3 separate G codes – one each for CCM, BHI, and CoCM services). We estimate that there would be no significant difference in the costs among the options because all of the options considered include the same services paid at the same rate and no data is available to estimate a different rate of billing for each code.

2. Payment for DME Infusion Drugs

As discussed in section III.B. of this proposed rule, we proposed to conform the regulation text at §414.904(e)(2) to section 5004 of the Cures Act, which transitioned payment for DME infusion drugs from AWP-based pricing to the ASP-pricing methodology on January 1, 2017. Table 43 shows the effect of changes in drug payments to DME suppliers. We estimate adoption of the ASP+6 pricing methodology will result in total Medicare Part B savings ranging over the 10-year period from \$40 million in FY 2017 to \$110 million in FY 2026 with a 10-year total Medicare Part B savings of \$960 million.

**TABLE 43: Impact of Cures Section 5004 on Payment for Infusion Drugs Furnished Through an Item of DMS (in millions)**

FY	2017	2018	2019	2020	2021	2022	2023	2024	2025	2026	5-yr impact 2017-2021	10-yr impact 2017-2026
Benefits	(50)	(110)	(130)	(130)	(130)	(130)	(150)	(150)	(150)	(150)	(550)	(1,280)
Premium Offset	10	30	30	30	30	30	40	40	40	40	130	320
Total Part B	(40)	(80)	(100)	(100)	(100)	(100)	(110)	(110)	(110)	(110)	(420)	(960)

3. Appropriate Use Criteria for Advanced Diagnostic Imaging Services

We are proposing and requesting public comment on the appropriate use criteria (AUC) consulting and reporting requirements and the effective date on which these requirements will begin. We are also proposing modifications to the significant hardship exception to better align

these exceptions under the AUC program with those under existing quality programs. In the COI section of this document, we have estimated the proposed consulting requirement to result in an annual burden of 1,425,000 hours at a cost of \$275,139,000. Under these proposals, claims for advanced diagnostic imaging services would not be denied in CY 2018, and thus, these proposals would not impact CY 2018 physician payments under the PFS. The Congressional Budget Office estimates that section 218 of the PAMA would save approximately 200 million dollars over 10 years from FY 2014 through 2024, which could be the result of identification of outlier ordering professionals. Because we have not yet proposed a mechanism or calculation for outlier ordering professional identification and prior authorization, we are unable to quantify that impact at this time. We will provide an impact statement when applicable in future rulemaking.

#### 4. Physician Quality Reporting System Criteria for Satisfactory Reporting for Individual EPs

##### a. Burden Estimate for PQRS Reporting

We previously discussed the burden estimate for PQRS regarding the program year 2016 reporting criteria, which applies to the 2018 payment adjustment in the CY 2016 PFS final rule (see 80 FR 71362 through 71367). The burden estimates for reporting that data have not changed since these data for program year 2016 PQRS have already been reported; therefore, there are no added burden estimates for the proposed policy change in this rule in section III.F.

##### b. Burden Savings Estimated Based on PQRS Measures Reduction Proposed Policy

Amending the policy to reduce the amount of measures needed to satisfactorily report to avoid the 2018 payment adjustment from 9 measures across 3 NQS domains to 6 measures (see section III.F. of this proposed rule) would increase the amount of satisfactory reporters for the 2016 reporting period, which would decrease those subject to the 2018 payment adjustment. Using data from the 2015 reporting period as the basis for our estimates, there were roughly

525,000 eligible professionals who failed the PQRS reporting requirements for the 2015 reporting period and received a downward payment adjustment in 2017 (see [https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/PQRS/Downloads/2015\\_PQRS\\_Experience\\_Report.pdf](https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/PQRS/Downloads/2015_PQRS_Experience_Report.pdf)). We estimate that, based on 2015 results, approximately 4.5 percent of EPs that received a downward payment adjustment would be found successful and therefore would avoid the payment penalty. This equates to an estimated 23,625 EPs that would no longer be subject to the 2018 payment adjustment based on PQRS data for the 2015 reporting period.

Based on the estimated average payment adjustment of \$937.02 in program year 2015, which was negative 2 percent based on 2015 PFS charges, an estimated  $(\$937.02 \times 23,625 = \$22,137,097.50)$  would be the amount EPs would receive as a result of not being subject to the 2018 payment adjustment due to the proposed measure reduction policy in this rule for PQRS program year 2016, which applies to the 2018 payment adjustment.

#### 5. Medicare Shared Savings Program

We are proposing certain modifications to our rules regarding ACO assignment and financial calculations, quality measures and quality validation audits, TIN overlaps, and application requirements. Specifically we are proposing: (1) Modifications to how services furnished by FQHCs and RHCs are used for purposes of beneficiary assignment to an ACO as a result of the 21<sup>st</sup> Century Cures Act, including reducing reporting burden for ACOs that include FQHCs and RHCs; (2) modifications to the assignment methodology to include new chronic care management and behavioral health integration codes in our definition of primary care services; (3) a policy to improve the quality validation audit process and, absent unusual circumstances, to use the results to proportionally modify an ACO's overall quality score; (4) a policy to address

substantive changes to quality measures made under the Quality Payment Program; (5) revisions to our application requirements to reduce burden for ACO applicants seeking to participate in the Shared Savings Program and for ACOs applying to use the SNF 3-Day Rule Waiver; (6) changes to our program rules to address compliance with our ACO participant TIN overlap policies, specifically, to address situations in which overlapping ACO participant TINs begin billing for services that are used in beneficiary assignment during a benchmark or performance year; and (7) a policy to use final beneficiary identifiable non-claims based payments in establishing benchmarks and performing financial reconciliation.

Each of these proposed policies is generally expected to have a minimal impact on affected ACOs. We do not anticipate any overall impact for these proposed policies because potential individual ACO impacts are more likely to offset one another rather than build to a substantial total in terms of costs or savings.

#### 6. Value-Based Payment Modifier and the Physician Feedback Program

Section 1848(p) of the Act requires that we establish a value-based payment modifier (VM) and apply it to specific physicians and groups of physicians the Secretary determines appropriate starting January 1, 2015, and to all physicians and groups of physicians by January 1, 2017. Section 1848(p)(4)(C) of the Act requires the VM to be budget neutral. Budget-neutrality means that, in aggregate, the increased payments to high performing physicians and groups equal the reduced payments to low performing physicians and groups, as well as those physicians and groups that failed to meet the criteria to avoid the PQRS payment adjustment as a group or as individuals.

In the CY 2016 PFS final rule with comment period (80 FR 71277 and 71279), we established that, beginning with the CY 2018 payment adjustment period, the VM will apply to



nonphysician EPs who are physician assistants (PAs), nurse practitioners (NPs), clinical nurse specialists (CNSs), and certified registered nurse anesthetists (CRNAs) in groups with 2 or more EPs and to PAs, NPs, CNSs, and CRNAs who are solo practitioners.

In CY 2018, the VM will be waived for groups and solo practitioners, as identified by their TIN, if at least one EP who billed for Medicare PFS items and services under the TIN during 2016 participated in the Pioneer ACO Model, the Comprehensive Primary Care initiative, Next Generation ACO Model, the Oncology Care Model, and the Comprehensive ESRD Care Initiative in 2016 (80 FR 71286 through 71288).

In the CY 2016 PFS final rule with comment period (80 FR 71280), we adopted a two-category approach for the CY 2018 VM based on participation in the PQRS by groups and solo practitioners. For the purposes of the CY 2018 VM, Category 1 represents those groups and solo practitioners subject to the VM who met the criteria to avoid the 2018 PQRS payment adjustment (a) as a group practice participating in the PQRS GPRO, (b) groups that have at least 50 percent of the group's EPs meet the criteria to avoid the 2018 PQRS payment adjustment for CY 2018 as individuals, (c) solo practitioners that meet the criteria to avoid the CY 2018 PQRS payment adjustment as individuals, and (d) groups and solo practitioners that participated in a Shared Savings Program ACO, if the ACO in which they participate successfully reports quality data as required by the Shared Savings Program. Category 2 represents those groups and solo practitioners that are subject to the CY 2018 VM payment adjustment and do not fall within Category 1.

In section III.I. of this proposed rule, we are proposing to reduce the CY 2018 VM payment adjustment amount for groups and solo practitioners in Category 2. We proposed to reduce the automatic payment adjustment from -4.0 percent to -2.0 percent for Physicians, PAs,

NPs, CNSs, and CRNAs in groups with 10 or more EPs and at least one physician and from -2.0 percent to -1.0 percent for Physicians, PAs, NPs, CNSs, and CRNAs in groups of 2 or more EPs, PAs, NPs, CNSs, and CRNAs in groups comprised solely of non-physician EPs and physician and non-physician solo practitioners.

Additionally, in section III.I. in this proposed rule, we are proposing that, under quality-tiering, which is the methodology for evaluating performance on quality and cost measures for the VM, there will be no downward adjustments for groups or solo practitioners in Category 1 for the VM for CY 2018. We are also proposing to reduce the maximum upward adjustment under the quality-tiering methodology in CY 2018 for physicians, PAs, NPs, CNSs, and CRNAs in groups with 10 or more EPs and at least one physician that are Category 1 from four times an adjustment factor (+4.0x) to two times an adjustment factor (+2.0x) for those classified as high quality/low cost and from two times an adjustment factor (+2.0x) to one times an adjustment factor (+1.0x) for those classified as either average quality/low cost or high quality/average cost. This proposal aligns the upward adjustment for groups of 10 or more EPs with those previously finalized for smaller groups and solo practitioners, as well as groups comprised solely of non-physician EPs and provides a smoother transition to MIPS by bringing the incentives in line with those in the first year of the MIPS.

Under the quality-tiering methodology, each group and solo practitioner's quality and cost composites will continue to be classified into high, average, and low categories depending upon whether the composites are at least one standard deviation above or below the mean and statistically different from the mean. We will compare their quality of care composite classification with the cost composite classification to determine their VM adjustment for the CY 2018 payment adjustment period according to the amounts in Table 44.

**TABLE 44: Proposed CY 2018 VM Amounts under the Quality-Tiering Approach for Physicians, Pas, NPs, CNSs, and CRNAs who are in Groups or Solo Practitioners**

<b>Cost/Quality</b>	<b>Low quality</b>	<b>Average quality</b>	<b>High quality</b>
<b>Low cost</b>	+0.0%	+1.0x*	+2.0x*
<b>Average cost</b>	+0.0%	+0.0%	+1.0x*
<b>High cost</b>	+0.0%	+0.0%	+0.0%

\*Groups and solo practitioners eligible for an additional +1.0x if reporting measures and average beneficiary risk score is in the top 25 percent of all beneficiary risk scores, where ‘x’ represents the upward payment adjustment factor.

Under the quality-tiering methodology, for groups and solo practitioners that participated in a Shared Savings ACO that successfully reports quality data for CY 2016, the cost composite will be classified as “Average” and the quality of care composite will continue to be based on ACO-level quality measures. We will compare their quality of care composite classification with the “Average” cost composite classification to determine their VM adjustment for the CY 2018 payment adjustment period. For groups and solo practitioners that participate in a Shared Savings Program ACO that did not successfully report quality data for CY 2016 and are Category 1 as a result of quality data reported to the PQRS outside of the ACO, the quality and cost composites will continue to be classified as “Average”.

To ensure budget neutrality, we first aggregate the automatic downward payment adjustments of -1.0 percent or -2.0 percent for groups and solo practitioners subject to the VM that fall within Category 2. Using the aggregate downward payment adjustment amount, we then calculate the upward payment adjustment factor (x). Additionally, as we have done when calculating the upward payment adjustment factor for the 2017 VM, we will also incorporate adjustments made for estimated changes in physician behavior (that is, changes in the volume and/or intensity of services delivered and shifting of services to TINs that receive higher VM

adjustments) and estimated impact of pending PQRS and VM informal reviews. These calculations will be done after the performance period has ended and announced around the start of the payment adjustment year after the informal review period ends.

At the time of this proposed rule, we have not completed the analysis of the impact of the VM in CY 2018 on physicians and non-physicians in groups of 2 or more EPs and physician and non-physician solo practitioners based on performance in 2016. However, preliminary estimates indicate that the implementation of the proposed policies discussed above, would reduce the adjustment factor to below 10 percent. In the CY 2018 PFS final rule, we will present the number of groups and solo practitioners that will be subject to the VM in CY 2018.

#### 7. MACRA Patient relationship Categories and Codes

We are soliciting comments on these HCPCS codes. Our intention is to collect the codes beginning January 2018, and our plan not to tie the collection of the codes with payment until we are sure clinicians have gained ample experience and education in using these modifiers. Therefore, there is no impact to CY 2018 physician payments under the PFS. There may be a burden associated with clinicians and their administrative staff having to learn which codes to use and how to submit them properly.

#### 8. Effects of Proposals Relating to the Medicare Diabetes Prevention Program Expanded Model

In section III.K of the preamble of this proposed rule, we discuss our proposals to further implement the MDPP expanded model under the authority of section 1115A of the Act, which authorizes the Innovation Center to test innovative payment and service delivery models to reduce program expenditures while preserving or enhancing the quality of care furnished to Medicare, Medicaid and CHIP beneficiaries. The MDPP expanded model was established in the November 15, 2016 MDPP final rule as an additional preventive service with a model effective

date of January 1, 2018. Many of the policies for the MDPP expanded model were deferred to future rulemaking and, therefore, are being proposed in this rule. On March 14, 2016, the Office of the Actuary (OACT) published a certification memorandum setting out the conditions for expansion of the Medicare Diabetes Prevention Program (MDPP). Prior to its implementation, OACT is required to review the parameters of the MDPP expansion and provide an updated certification. This regulatory impact assessment is not an updated certification; rather, it is based on estimates of the proposed rule.

Diabetes affects more than 25 percent of Americans aged 65 or older and its prevalence is projected to increase approximately two-fold for all U.S. adults (ages 18-79) by 2050 if current trends continue.<sup>33</sup> Furthermore, the risk of progression to type 2 diabetes in an individual with pre-diabetes is 5-10 percent per year, or 5-20 times higher than in individuals with normal blood glucose.<sup>34</sup> We estimate that Medicare spent \$42 billion more in the single year of 2016 on fee-for-service, non-dual eligible, over age 65 beneficiaries with diabetes and related comorbidities than it would have spent if those beneficiaries did not have diabetes, including \$20 billion more for Part A, \$17 billion more for Part B, and \$5 billion more for Part D.<sup>35</sup> The goal of the MDPP expanded model is to reduce the incidence rate of type 2 diabetes among Medicare beneficiaries with prediabetes through a structured behavioral change program where the primary outcome is

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<sup>33</sup> Centers for Medicare & Medicaid Services, “Chronic Conditions Among Medicare Beneficiaries, Chartbook: 2012 Edition,” *Centers for Medicare & Medicaid Services*, 2012, <https://www.cms.gov/research-statistics-data-and-systems/statistics-trends-and-reports/chronic-conditions/downloads/2012chartbook.pdf>.

James Boyle, et al., “Projection of the Year 2050 Burden of Diabetes in the US Adult Population: Dynamic Modeling of Incidence, Mortality, and Pre-Diabetes Prevalence,” *Population Health Metrics* 8, no. 29 (2010): 1–12.

<sup>34</sup> X Zhang et al., “A1C Level and Future Risk of Diabetes: A Systematic Review,” *Diabetes Care* 33, no. 7 (2010): 1665–1673.

<sup>35</sup> Erkan Erdem and Holly Korda, “Medicare Fee-For-Service Spending for Diabetes: Examining Aging and Comorbidities,” *Diabetes & Metabolism* 5, no. 3 (2014); The Boards of Trustees: Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, “2016 Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds,” *Centers for Medicare & Medicaid Services*, 2016, <https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/ReportsTrustFu2016.pdf>; and CMS estimates.

weight loss. Weight loss is a key indicator of success among persons enrolled in a Diabetes Prevention Program due to the strong association between weight loss and reduction in the risk of type 2 diabetes. In reducing the incidence rate of type 2 diabetes we expect to reduce Medicare spending while improving quality of care for eligible beneficiaries. In this proposed rule, we are proposing a value-based payment structure for the MDPP Expanded Model. Instead of traditional fee-for-service payment, our proposed payment structure shifts risk from Medicare to the rendering supplier by making payments for MDPP services to MDPP suppliers based on the achievement of performance goals.

a. Anticipated Effects

(1) Effects on Beneficiaries

The MDPP expanded model is expected to have a positive impact on beneficiaries' health that will generally lead to reduced beneficiary spending on Part A, Part B, and Part D health care services over time due to a reduced need for Part A, Part B, and Part D services. As a new preventive service, the MDPP services are available to eligible Medicare beneficiaries without cost-sharing. The CDC estimates that approximately 50 percent of adults aged 65 and over living in the United States have prediabetes<sup>36</sup> and that awareness of the condition among those who have it is relatively low—approximately 30 percent for the general population. Therefore, we anticipate that up to 7 million Medicare beneficiaries who are aware of their prediabetes would be eligible for the MDPP services at the start of the MDPP expanded model. This estimate does not take into account any increased beneficiary awareness of their prediabetes due to the availability of MDPP services. We also expect there to be pent-up demand, with the number of beneficiaries utilizing the MDPP services greater in the initial few years (roughly

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<sup>36</sup> <https://www.cdc.gov/diabetes/pubs/statsreport14/national-diabetes-report-web.pdf>.

65,000 to 110,000 per year) but then leveling off afterwards (to a base demand of roughly 50,000 participants per year).

To arrive at our participation estimate we developed projections for pent-up demand and ongoing demand. To develop the projection for pent-up demand we first analyzed data from the CDC National Diabetes Prevention Recognition Program (DPRP). Specifically, we analyzed State-by-State DPRP in-person utilization for ages 65 or older in 2015. Because the Health Care Innovation Award (HCIA) MDPP model test was still serving beneficiaries during this period, and the HCIA DPP suppliers are also part of the DPRP, we used its enrollment data to inform what Medicare beneficiary participation may look like when Medicare pays for MDPP. Given that HCIA participation seemed to drive most of the DPRP participation in an HCIA supplier's region, we determined that a well-defined HCIA region would be a reasonable proxy for the rest of the nation. We found the state with the highest HCIA saturation, and calculated the percentage of fee for service beneficiaries that received services from a DPRP DPP. This percentage was applied to all fee for service beneficiaries nationwide in order to get a national pent-up demand estimate. We added this pent-up demand to a stable level of demand based on the number of new beneficiaries utilizing the obesity management benefit each year. Given the limited nationwide Medicare DPP participation data, there is a great amount of uncertainty in these estimates.

We believe that the eligibility criteria for continued participation in the set of MDPP services incentivizes beneficiaries to lose 5-percent body weight from baseline. Beneficiaries are incentivized to lose weight because continued eligibility for the services benefit after the first 12 months is contingent upon achieving 5-percent weight loss and the set of MDPP services is a once per lifetime set of services. In addition to prevention of type 2 diabetes, we believe participating beneficiaries would likely receive other possible health benefits including

prevention of obesity for those who are overweight upon receiving MDPP services, prevention of sleep apnoea, and reduced risk for heart disease, coronary artery disease and stroke.<sup>37</sup>

Furthermore, we believe the MDPP expanded model could improve mental health and wellbeing by affording beneficiaries social interaction with their peers during sessions and could lead to reduced social isolation. <sup>38</sup> The prevention of type 2 diabetes and these other potential health benefits of MDPP services may result in reduced beneficiary expenditures for health care services over time as services will not be needed to treat health conditions that are avoided.

## (2) Effects on the Market

Currently, more than 1,200 organizations nationally are providing DPP services with some level of recognition through the CDC. Service delivery is primarily to individuals with private or employer-sponsored insurance, as well as some Medicare Advantage plans. The

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<sup>37</sup> Orchard, T. J., et al. (2005). "The effect of metformin and intensive lifestyle intervention on the metabolic syndrome: the Diabetes Prevention Program randomized trial." *Ann Intern Med* **142**(8): 611-619; Orchard, T. J., et al. (2013). "Long-term effects of the Diabetes Prevention Program interventions on cardiovascular risk factors: a report from the DPP Outcomes Study." *Diabet Med* **30**(1): 46-55; Li, G., et al. (2014). "Cardiovascular mortality, all-cause mortality, and diabetes incidence after lifestyle intervention for people with impaired glucose tolerance in the Da Qing Diabetes Prevention Study: a 23-year follow-up study." *Lancet Diabetes Endocrinol* **2**(6): 474-480; Mudaliar, U., et al. (2016). "Cardiometabolic Risk Factor Changes Observed in Diabetes Prevention Programs in US Settings: A Systematic Review and Meta-analysis." *PLoS Med* **13**(7): e1002095; Kuna, S. T., et al. (2013). "Long-term effect of weight loss on obstructive sleep apnea severity in obese patients with type 2 diabetes." *Sleep* **36**(5): 641-649a; Mitchell, L. J., et al. (2014). "Weight loss from lifestyle interventions and severity of sleep apnoea: a systematic review and meta-analysis." *Sleep Med* **15**(10): 1173-1183; Thomasouli, M. A., et al. (2013). "The impact of diet and lifestyle management strategies for obstructive sleep apnoea in adults: a systematic review and meta-analysis of randomised controlled trials." *Sleep Breath* **17**(3): 925-935; **U.S. Department of Health and Human Services. 2008 Physical Activity Guidelines for Americans. Washington (DC): U.S. Department of Health and Human Services; 2008. ODPHP Publication No. U0036. Available at: <http://www.health.gov/paguidelines>; U.S. Department of Health and Human Services and U.S. Department of Agriculture. 2015 – 2020 Dietary Guidelines for Americans. 8<sup>th</sup> Edition. December 2015. Available at <http://health.gov/dietaryguidelines/2015/guidelines/>.**

<sup>38</sup> Florez, H., et al. (2012). "Impact of lifestyle intervention and metformin on health-related quality of life: the diabetes prevention program randomized trial." *J Gen Intern Med* **27**(12): 1594-1601; Ackermann, R. T., et al. (2009). "Changes in health state utilities with changes in body mass in the Diabetes Prevention Program." *Obesity (Silver Spring)* **17**(12): 2176-2181; Weinhold, K. R., et al. (2015). "A Randomized Controlled Trial Translating the Diabetes Prevention Program to a University Worksite, Ohio, 2012-2014." *Preventing Chronic Disease* **12**: E210.



majority of existing DPP organizations are not enrolled in the Medicare program. We anticipate that the addition of MDPP services as new preventive services in Medicare would result in growth in the market, including growth in the number of individuals served per year by existing DPP suppliers, as well as the introduction of new suppliers into the market. There are burdens associated with obtaining CDC recognition and enrolling into Medicare as an MDPP supplier. There is also burden associated with submitting claims to Medicare for payment. Below we have provided an estimate of the financial burden to suppliers.

(3) Burden Related to Information Collection Requirements

(a) Wage Estimates

To derive average costs for use throughout the subsequent sections, we used data from the U.S. Bureau of Labor Statistics’ May 2015 National Occupational Employment and Wage Estimates for all salary estimates ([https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm)). Table 45 presents the mean hourly wage, the cost of fringe benefits and overhead (calculated at 100 percent of salary), and the adjusted hourly wage.

**TABLE 45: National Occupational Employment and Wage Estimates**

Occupation Title	Occupation Code	Mean hourly wage (\$/hr)	Fringe benefits and Overhead (\$/hr)	Adjusted hourly wage (\$/hr)
Medical records and health information technician	29-2071	19.93	19.93	39.84
Office and administrative support worker	43-9000	16.31	16.31	32.62
Billing and posting Clerk	43-3011	\$18.09	\$18.09	\$36.18

(b) Interim Preliminary Recognition

Our proposals under proposed §424.205 would provide that an entity is eligible to enroll in Medicare as an MDPP supplier if it has MDPP interim preliminary recognition, as determined

by CMS. In order to receive MDPP interim preliminary recognition, we are proposing that the entity must have pending CDC recognition and must submit a full 12 months of data on at least one completed cohort of participants to CDC. In order to receive pending recognition from CDC, organizations are required to submit an application for recognition to CDC and agree to CDC's curriculum, duration and intensity requirements. CMMI plans to engage CDC's services to assist CMMI in administering its interim preliminary recognition standard, if finalized. CMMI would make the final determination of which entities qualify to receive interim preliminary recognition.

The burden associated with the preceding requirements is the time for MDPP staff to: submit an application for pending recognition to CDC and then collect and submit a full 12 months of data (including session attendance, body weight documentation, physical activity minutes documentation, and weight loss achieved) on at least one completed cohort of participants to CDC for the purposes of being evaluated for interim preliminary recognition.

We estimate that it will take a medical records and health information technician 12 hours, at \$38.88/hour to collect and report these data for one cohort of participants, and an office or administrative worker 1 hour, at \$31.54/hour, to complete the CDC application for pending recognition. The estimated cost per supplier to achieve interim preliminary recognition is \$498.10.

#### (c) Supplier Standards

Our proposals under proposed revised §424.59 (proposed in this rule to be redesignated at §424.205) would require that an MDPP supplier must certify in its enrollment application, which is a new Medicare enrollment application that we are creating specific to MDPP suppliers, and that it meets a set of standards. As this new enrollment application is being created specifically

for the MDPP expanded model, we have determined that it is exempt from the Paperwork Reduction Act in accordance with section 1115A(d)(3) of the Act. We estimate that it will take an office or administrative support worker 3 hours, at \$31.54/hour, to complete the MDPP supplier enrollment application using the internet-based Provider Enrollment, Chain and Ownership System (PECOS). In general, provider enrollment fees for Medicare are \$560 in 2017. We also note that CMS provides hardship exceptions to the application fee with a written request that describes the need for the hardship exception. CMS determines such exceptions on a case-by-case basis. The estimated cost to complete the MDPP supplier enrollment application, without a hardship exception, is \$843.86. If a provider is granted a hardship exception from the enrollment fee, then the estimated cost to complete the enrollment process is \$283.86.

We also note that access to the HIPAA Eligibility Transaction System (HETS), which a supplier could use to check factors of eligibility for the MDPP services, including the beneficiary's Part B eligibility and whether the beneficiary has received coverage for end-stage renal disease (ESRD) is free to suppliers, as long as they are active Medicare fee-for-service providers or suppliers in PECOS.

Suppliers also would be required to maintain documentation of all beneficiary contact regarding complaints or questions, as specified in proposed §424.205(d)(11), and maintain and submit to CMS a crosswalk file which indicates how participant identifications for the purposes of CDC performance data correspond to Medicare Beneficiary Identifiers (that is, beneficiary health insurance claims numbers) for each beneficiary receiving MDPP services. We estimate that creating and maintaining documentation of beneficiary contact regarding complaints or questions will take an office or administrative support worker 1 hour, at \$31.54/hour, per complaint or question request to create and maintain documentation of the request. We have no

way to estimate how many complaints or questions MDPP suppliers will receive from beneficiaries, and we expect that may differ based on many factors, so have not included an overall cost in this burden estimate. Further, we estimate that it will take an office and administrative support worker approximately 4 hours, at \$31.54/hour, to create and submit the crosswalk file for a cohort of 100 beneficiaries participating in the MDPP services, for a total cost of \$126.16 per cohort of 100 beneficiaries. The crosswalk is proposed to be submitted quarterly. Therefore, for a year of delivering the set of MDPP services the estimated total cost to create and submit the crosswalk file would be \$504.64 per cohort of 100 beneficiaries. We believe the incremental costs to meet this requirement would decrease with the addition of beneficiaries to a cohort, because the work and time to establish the file and submit it would be the same for a cohort of 100 and a cohort of 1000. What would be different is the collection of the information from the beneficiaries, and the addition of these data points to the file. We estimate that, for every additional 100 beneficiaries added to the file, the office and administrative support worker would add 1 hour, at \$31.54/hour. We estimate the total incremental cost over 1 year for each additional 100 beneficiaries above the cohort of 100 beneficiaries is \$126.16.

Our proposals under proposed §424.205 also would require that suppliers meet a set of standards that includes maintaining a physical facility on an appropriate site and maintain a primary business telephone that is operating at the appropriate site. Because we have no way to estimate how many beneficiaries each MDPP supplier may provide the set of MDPP services to, and we expect this will differ based on many factors, including but not limited to the size of the supplier, the number of coaches the supplier employs, the physical space the supplier uses to furnish MDPP services, and the supplier's geographic location, we have not included an overall

cost for these requirements in this burden estimate.

(d) Payment for MDPP Services

Our proposals under proposed §414.84 specify the proposed payments MDPP suppliers may be eligible to receive for furnishing MDPP services and meeting performance targets related to beneficiary weight loss and/or attendance. MDPP suppliers would be paid by CMS by submitting claims for MDPP beneficiaries using claim form CMS-1500 (<https://www.cms.gov/Medicare/CMS-Forms/CMS-Forms/Downloads/CMS1500.pdf>), and as a condition for payment, claims submitted by MDPP suppliers must be for services furnished to eligible beneficiaries in accordance with §414.84(b) and (c). Our proposal under proposed §424.205 would require MDPP suppliers to include an attestation that the MDPP beneficiary for which it is submitting a claim has met the performance goals laid out in proposed §424.205. Section 424.205 also proposes to require MDPP suppliers to report the NPI of the coach on MDPP claims as a program integrity safeguard. To meet these requirements for submitting claims, we estimate that it would take a billing and posting clerk 10 minutes per beneficiary to fill out the claim form and submit it to CMS at \$33.70/hour. Based on this time and wage, we estimate the total cost per beneficiary per claim to be \$5.62. As mentioned previously, we have no way to estimate how many beneficiaries to whom each MDPP supplier may furnish MDPP services. Therefore, we have not included an estimate of the overall cost of submitting claims in the burden estimate.

(4) Effects on the Medicare Program

(a) Estimated 10-Year Impact of MDPP

The set of MDPP services is an optional set of services for beneficiaries who meet the eligibility requirements described elsewhere in the proposed rule. MDPP services will be

furnished by a new provider type in Medicare. The CDC recognizes DPPs nationwide; these programs effectively deliver lifestyle-changing services that reduce the incidence of type 2 diabetes. The number of CDC-recognized DPPs is growing rapidly, increasing by nearly 90 percent from September 2015 to March 2017. The historical participation rate suggests that the vast majority of these providers are not serving a significant volume of new participants, aside from those served in the DPP model test.

This estimate is based on the initial methodology used for the estimate of the MDPP expanded model as set out in the certification memorandum, but with differences in several program features including the payment parameters. It also includes the impact of improved longevity among those who participate in the MDPP expanded model. This cost of improved longevity was ignored for certification purposes, as noted in that memorandum.

The model is dependent on the number of eligible participants, the annual take-up rate, and the savings per participant, all of which are uncertain. The methodology determines gross savings as the result of an assumed reduction in the number of beneficiaries transitioning from prediabetes to diabetes and a marginal cost difference between the individuals with diabetes and those that are prediabetic. The Office of the Actuary assumed that the initial savings per beneficiary for avoiding diabetes is \$3,000 per year. The progression rate from prediabetes to diabetes absent the intervention is expected to be roughly 5 percent per year. Based on observed results, we assume that the set of MDPP services will reduce the progression rate among those receiving the services by 50 percent in the first year and that the reduction will be 5 percent less in each subsequent year until leveling off at a rate of 10 percent. The program costs in this estimate include payments to MDPP suppliers in the initial year of the MDPP services period and in the 2 maintenance years. Based on the results of the DPP model test regarding the

number of sessions attended and the weight loss achieved, we estimate the average expected Medicare payment per participant to be approximately \$320 in the first year and \$75 in each of the following 2 years. Overall, the payments under the expanded model would occur in the first 3 years following the beneficiary’s first MDPP services, but the expected reduction in medical costs would occur over a long period following the intervention. For the leading cohort of 2018, we would expect savings in excess of costs by 2019 (the second year), with cumulative savings by 2022 (after 4 years). Yearly net savings reduce slightly each subsequent year but do not result in a cost to Medicare during the 10-year projection window.

Table 46 shows the 10-year impact of the MDPP expanded model, net of payments to MDPP providers but gross of any other model costs, based on our expected enrollment per year. The 10-year impact is a savings to Medicare of \$186 million. The estimate is expected to cross into a cumulative savings to Medicare in the sixth year of the MDPP expanded model.

**TABLE 46: Estimated 10-Year Impact of MDPP on Net Claims Costs, Payments to Providers, and Net Savings for CYs 2018 through 2027**  
(In millions, negative values indicate savings)

Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	Total
<b>Net Claim Costs</b>	-\$5	-\$16	-\$29	-\$41	-\$52	-\$60	-\$66	-\$70	-\$72	-\$72	-\$484
<b>Provider Payments</b>	\$21	\$41	\$40	\$31	\$28	\$26	\$27	\$28	\$28	\$29	\$298
<b>Net Savings</b>	\$16	\$25	\$11	-\$10	-\$25	-\$34	-\$40	-\$43	-\$44	-\$43	-\$186
<b>Cumulative Net Savings</b>	\$16	\$41	\$52	\$42	\$17	-\$17	-\$56	-\$99	-\$143	-\$186	

(b) Sensitivity Testing

MDPP is a new Medicare expanded model that was tested in the DPP model test using a small percentage of the population. As a result, the estimated impact from the expanded MDPP model is very uncertain. In particular, it is unknown how many beneficiaries will be interested in participating in MDPP and how quickly MDPP suppliers available will be able to serve those individuals. To understand how various participation scenarios would affect the financial results,

we have prepared the estimates under two other participation scenarios. The first shows the results if half of the beneficiaries shown in the best estimate participate, and the second uses twice as many beneficiaries. The details are shown in Tables 47 and 48.

**TABLE 47: Scenario Test of MDPP 10-Year Impact of Half the Expected Participants on Net Claims Costs, Payments to Providers, and Net Savings for CYs 2018 through 2027**

Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	Total
<b>Net Claim Costs</b>	-\$2	-\$8	-\$15	-\$21	-\$26	-\$30	-\$33	-\$35	-\$36	-\$36	-\$242
<b>Provider Payments</b>	\$10	\$20	\$20	\$16	\$14	\$13	\$13	\$14	\$14	\$14	\$149
<b>Net Savings</b>	\$8	\$13	\$5	-\$5	-\$12	-\$17	-\$20	-\$21	-\$22	-\$22	-\$93

**TABLE 48: Scenario Test of MDPP 10-Year Impact of Double the Expected Participants on Net Claims Costs, Payments to Providers, and Net Savings for CYs 2018 through 2027**

Year	2018	2019	2020	2021	2022	2023	2024	2025	2026	2027	Total
<b>Net Claim Costs</b>	-\$9	-\$31	-\$58	-\$83	-\$104	-\$121	-\$133	-\$140	-\$144	-\$145	-\$969
<b>Provider Payments</b>	\$41	\$82	\$80	\$63	\$55	\$52	\$54	\$55	\$56	\$58	\$596
<b>Net Savings</b>	\$32	\$50	\$22	-\$20	-\$49	-\$68	-\$79	-\$85	-\$88	-\$87	-\$372

b. Alternatives Considered for MDPP

Section III.K. of the preamble of this proposed rule includes a range of proposed policies necessary to implement the MDPP expanded model, including benefit structure, payment, supplier enrollment, and supplier standards. Throughout section III.K., we present descriptions of the relevant statutory provisions; identify those policies when discretion has been exercised in our proposals, present rationale for our proposed policies; and discuss alternative to our proposals that were considered.

We considered alternatives to the MDPP services period that would significantly impact the potential payment. Specifically, we considered limiting the MDPP to a 12-month MDPP services period without any ongoing maintenance sessions available in months 13 through 36. It is estimated that the average payment to suppliers for the maintenance years is \$75 per year per



beneficiary. We also considered limiting the ongoing maintenance sessions to 12 months, culminating in a total MDPP service period of up to 2 years as opposed to up to 3 years. Either of these alternatives would reduce the total potential payment to MDPP suppliers by 52 percent or 28 percent, respectively, from a maximum of \$810 for meeting all attendance and weight loss achievement goals under our proposals. We did not propose these alternatives because weight loss is difficult to achieve and can be more difficult to sustain. Our proposal to allow for up to 2 years of ongoing maintenance sessions for those beneficiaries who have achieved a minimum 5 percent weight loss from baseline during months 1 to 12 of the MDPP services period will allow for reinforcement of the lifestyle changes needed to maintain weight loss. Finally, a 3-year diabetes prevention program is supported by evidence from the NIH DPP clinical trial.

In this proposed rule, we also considered linking additional outcomes beyond attendance and weight loss to payment in the value-based payment methodology. Specifically, we considered linking hemoglobin A1c level to MDPP payments. However, we did not adopt this alternative because the MDPP expanded model is certified based on the DPP model test, which demonstrated that weight loss was associated with reductions in Medicare expenditures. Although elevated hemoglobin A1c levels were included as part of the beneficiary eligibility criteria in the DPP model test, hemoglobin A1c levels were not evaluated post-intervention in the DPP model test. Therefore, the proposed MDPP payment structure would incentivize MDPP suppliers to prioritize the achievement of beneficiary weight loss by furnishing MDPP services, providing a balance between value-based payments related to weight loss and session attendance.

In conclusion, we estimate that the 10-year impact of the MDPP expanded model, net of payments to MDPP providers but gross of any other program costs, based on our expected

enrollment per year would be a savings to Medicare of \$186 million. The estimate is expected to cross into a cumulative savings to Medicare in the sixth year of the MDPP expanded model.

#### F. Alternatives Considered

This proposed rule contains a range of policies, including some provisions related to specific statutory provisions. The preceding preamble provides descriptions of the statutory provisions that are addressed, identifies those policies when discretion has been exercised, presents rationale for our final policies and, where relevant, alternatives that were considered. For purposes of the payment impact on PFS services of the policies contained in this proposed rule, we presented the estimated impact on total allowed charges by specialty. The alternatives we considered, as discussed in the preceding preamble sections, will result in different proposed payment rates, and therefore, result in different estimates than those shown in Table 40 (CY 2018 PFS Estimated Impact on Total Allowed Charges by Specialty).

#### G. Impact on Beneficiaries

There are a number of changes in this proposed rule that would have an effect on beneficiaries. In general, we believe that many of these changes, including those intended to improve accuracy in payment through revisions to the inputs used to calculate payments under the PFS, would have a positive impact and improve the quality and value of care provided to Medicare beneficiaries.

Most of the aforementioned proposed policy changes could result in a change in beneficiary liability as relates to coinsurance (which is 20 percent of the fee schedule amount, if applicable for the particular provision after the beneficiary has met the deductible). To illustrate this point, as shown in our public use file Impact on Payment for Selected Procedures available on the CMS website at <http://www.cms.gov/Medicare/Medicare-Fee-for-Service->

Payment/PhysicianFeeSched/, the CY 2017 national payment amount in the nonfacility setting for CPT code 99203 (Office/outpatient visit, new) was \$109.46, which means that in CY 2017, a beneficiary would be responsible for 20 percent of this amount, or \$21.89. Based on this proposed rule, using the CY 2018 CF, the CY 2018 national payment amount in the nonfacility setting for CPT code 99203, as shown in the Impact on Payment for Selected Procedures table, is \$109.77, which means that, in CY 2018, the final beneficiary coinsurance for this service would be \$21.95.

#### H. Estimating Regulatory Familiarization Costs

If regulations impose administrative costs on private entities, such as the time needed to read and interpret this proposed rule, we should estimate the cost associated with regulatory review. Due to the uncertainty involved with accurately quantifying the number of entities that will review the rule, we assume that the total number of unique commenters on last year's proposed rule will be the number of reviewers of this proposed rule. We acknowledge that this assumption may understate or overstate the costs of reviewing this rule. It is possible that not all commenters reviewed last year's rule in detail, and it is also possible that some reviewers chose not to comment on the proposed rule. For these reasons we thought that the number of past commenters would be a fair estimate of the number of reviewers of this rule. We welcome any comments on the approach in estimating the number of entities which will review this proposed rule.

We also recognize that different types of entities are in many cases affected by mutually exclusive sections of this proposed rule, and therefore for the purposes of our estimate we assume that each reviewer reads approximately 50 percent of the rule. We seek comments on this assumption.

Using the wage information from the BLS for medical and health service managers (Code 11-9111), we estimate that the cost of reviewing this rule is \$105.16 per hour, including overhead and fringe benefits [https://www.bls.gov/oes/current/oes\\_nat.htm](https://www.bls.gov/oes/current/oes_nat.htm). Assuming an average reading speed, we estimate that it would take approximately 8.0 hours for the staff to review half of this proposed rule. For each facility that reviews the rule, the estimated cost is \$841 (8.0 hours x \$105.16). Therefore, we estimate that the total cost of reviewing this regulation is \$4,981,243 (\$841 x 5,943 reviewers).

I. Accounting Statement

As required by OMB Circular A-4 (available at <http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf>), in Tables 49 and 50 (Accounting Statements), we have prepared an accounting statement. This estimate includes growth in incurred benefits from CY 2017 to CY 2018 based on the FY 2018 President’s Budget baseline.

**TABLE 49: Accounting Statement: Classification of Estimated Expenditures**

CATEGORY	TRANSFERS
CY 2018 Annualized Monetized Transfers	Estimated increase in expenditures of \$0.3 billion for PFS CF update.
From Whom To Whom?	Federal Government to physicians, other practitioners and providers and suppliers who receive payment under Medicare.

**TABLE 50: Accounting Statement: Classification of Estimated Costs, Transfer, and Savings**

CATEGORY	TRANSFER
CY 2018 Annualized Monetized Transfers of beneficiary cost coinsurance.	\$0.1 billion
From Whom to Whom?	Federal Government to Beneficiaries.

**TABLE 51: Estimated Costs and Cost Savings**

CATEGORY	Costs	Cost Savings
ICR Burden	\$282 million	
MDPP		\$186 million
Regulatory Familiarization	\$5 million	

## J. Conclusion

The analysis in the previous sections, together with the remainder of this preamble, provided an initial Regulatory Flexibility Analysis. The previous analysis, together with the preceding portion of this preamble, provides a Regulatory Impact Analysis. In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

**List of Subjects**

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medical devices, Medicare, Reporting and recordkeeping requirements, Rural areas, X rays.

42 CFR Part 410

Health facilities, Health professions, Kidney diseases, Laboratories, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 414

Administrative practice and procedure, Biologics, Drugs, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 425

Administrative practice and procedure, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

**PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED**

1. The authority citation for part 405 continues to read as follows:

**Authority:** Secs. 205(a), 1102, 1861, 1862(a), 1869, 1871, 1874, 1881, and 1886(k) of the Social Security Act (42 U.S.C. 405(a), 1302, 1395x, 1395y(a), 1395ff, 1395hh, 1395kk, 1395rr and 1395ww(k)), and sec. 353 of the Public Health Service Act (42 U.S.C. 263a).

2. Section 405.2413 is amended by revising paragraph (a)(5) to read as follows:

**§405.2413 Services and supplies incident to a physician's services.**

(a) \* \* \*

(5) Furnished under the direct supervision of a physician, except that services and supplies furnished incident to Transitional Care Management, General Care Management, and the Psychiatric Collaborative Care model, can be furnished under general supervision of a physician when these services or supplies are furnished by auxiliary personnel, as defined in §410.26(a)(1) of this chapter.

\* \* \* \* \*

3. Section 405.2415 is amended by revising paragraph (a)(5) to read as follows:

**§405.2415 Incident to services and direct supervision.**

(a) \* \* \*

(5) Furnished under the direct supervision of a nurse practitioner, physician assistant, or certified nurse-midwife, except that services and supplies furnished incident to Transitional Care Management, General Care Management, and the Psychiatric Collaborative Care model, can be furnished under general supervision of a nurse practitioner, physician assistant, or certified

nurse-midwife, when these services or supplies are furnished by auxiliary personnel, as defined in §410.26(a)(1) of this chapter.

\* \* \* \* \*

**PART 410—SUPPLEMENTARY MEDICAL INSURANCE (SMI) BENEFITS**

4. The authority citation for part 410 is revised to read as follows:

**Authority:** Secs. 1102, 1834, 1871, 1881, and 1893 of the Social Security Act (42 U.S.C. 1302, 1395m, 1395hh, 1395rr, and 1395ddd).

5. Section 410.79 is amended by—

- a. Revising the section heading and paragraph (a);
- b. Under paragraph (b):
  - i. Revising the definition of “Baseline weight”;
  - ii. Removing the definition “Coach”;
  - iii. Revising the definition of “Core maintenance session”;
  - iv. Adding in alphabetical order a definition for “Core maintenance session interval;”
  - v. Revising the definition of “Core session”;
  - vi. Removing the definitions of “Maintenance of weight loss” and “Maintenance session bundle”;
  - vii. Adding in alphabetical order definitions for “Make-up session” and “MDPP beneficiary”;
  - viii. Removing the definitions of “MDPP core benefit” and “MDPP eligible beneficiary”;
  - ix. Revising the definition of “MDPP services”;
  - x. Adding in alphabetical order definitions for “MDPP services period” and “MDPP session”;



- xi. Revising the definitions of “MDPP supplier” and “Medicare Diabetes Prevention Program (MDPP)”;
  - xii. Adding in alphabetical order a definition for “Ongoing maintenance session interval”;
  - xiii. Revising the definition of “Ongoing maintenance sessions”; and
  - xiv. Adding in alphabetical order definitions for “Set of MDPP services” and “Virtual make-up session”; and
- c. Revising paragraphs (c) and (d).

The revisions and additions read as follows:

**§410.79 Medicare Diabetes Prevention Program expanded model: Conditions of coverage.**

(a) Medicare Diabetes Prevention Program (MDPP) services will be available beginning on April 1, 2018.

(b) \* \* \*

Baseline weight means the MDPP beneficiary’s body weight recorded during that beneficiary’s first core session.

\* \* \* \* \*

Core maintenance session means an MDPP service that--

- (i) Is furnished by an MDPP supplier to an MDPP beneficiary during a core maintenance session interval;
- (ii) Is approximately 1 hour in length; and
- (iii) Adheres to a CDC-approved DPP curriculum for maintenance sessions.

Core maintenance session interval means one of the two consecutive 3-month time periods during months 7 through 12 of the MDPP services period, during which an MDPP supplier offers an MDPP beneficiary at least one core maintenance session per month.

Core session means an MDPP service that—

(i) Is furnished by an MDPP supplier to an MDPP beneficiary during months 1 through 6 of the MDPP services period;

(ii) Is approximately 1 hour in length; and

(iii) Adheres to a CDC-approved DPP curriculum for core sessions.

\* \* \* \* \*

Make-up session means a core session, a core maintenance session, or an ongoing maintenance session furnished to an MDPP beneficiary when the MDPP beneficiary misses a regularly scheduled core session, core maintenance session, or ongoing maintenance session.

MDPP beneficiary means a Medicare beneficiary who meets the criteria specified in paragraph (c)(1)(i) of this section, who has initiated the MDPP services period by attending the first core session, and for whom the MDPP services period has not ended as specified in paragraph (c)(3) of this section.

MDPP services means structured health behavior change sessions that are furnished under the MDPP expanded model with the goal of preventing diabetes among Medicare beneficiaries with prediabetes, and that follow a CDC-approved curriculum. The sessions provide practical training in long-term dietary change, increased physical activity, and problem-solving strategies for overcoming challenges to maintaining weight loss and a healthy lifestyle.

MDPP services period means the time period, beginning on the date an MDPP beneficiary attends his or her first core session, over which the set of MDPP services is furnished to the MDPP beneficiary, to include the core services period described in paragraph (c)(2)(i) and,

subject to paragraph (c)(3) of this section, one or more ongoing maintenance session intervals during the ongoing services period described in paragraph (c)(2)(ii) of this section.

MDPP session means a core session, a core maintenance session, or an ongoing maintenance session.

MDPP supplier means an entity that is enrolled in Medicare to furnish MDPP services as provided in §424.205 of this chapter.

Medicare Diabetes Prevention Program (MDPP) refers to a model test expanded under section 1115A(c) of the Act that makes MDPP services available to MDPP beneficiaries.

\* \* \* \* \*

Ongoing maintenance session means an MDPP service that—

- (i) Is furnished by an MDPP supplier to an MDPP beneficiary during an ongoing maintenance session interval;
- (ii) Is approximately 1 hour in length; and
- (iii) Adheres to a CDC-approved DPP curriculum for maintenance sessions.

Ongoing maintenance session interval means one of the up to eight consecutive 3-month time periods during the ongoing services period described in paragraph (c)(2)(ii) of this section, during which an MDPP supplier offers at least one ongoing maintenance session to an MDPP beneficiary per month.

\* \* \* \* \*

Set of MDPP services means the series of MDPP sessions, composed of core sessions, core maintenance sessions, and subject to paragraph (c)(3) of this section, ongoing maintenance sessions, offered over the course of the MDPP services period.

Virtual make-up session means a make-up session that is not furnished in person and that is furnished in a manner consistent with the DPRP standards for virtual sessions.

(c) Coverage for MDPP services.—

(1) Beneficiary eligibility. (i) A Medicare beneficiary is eligible for MDPP services offered during the core services period described in paragraph (c)(2)(i) of this section if the beneficiary meets all of the following criteria:

(A) Is enrolled under Medicare Part B;

(B) Attended the first core session within the most recent 12-month time period and, prior to attending this first core session, had not previously received the set of MDPP services in his or her lifetime;

(C) Has, on the date of attendance at the first core session, a body mass index (BMI) of at least 25 if not self-identified as Asian or a BMI of at least 23 if self-identified as Asian;

(D) Has received, within the 12-month time period prior to the date of attendance at the first core session, a hemoglobin A1c test with a value of between 5.7 and 6.4 percent, a fasting plasma glucose test with a value of between 110 and 125 mg/dL, or a 2-hour plasma glucose test (oral glucose tolerance test) with a value of between 140 and 199 mg/dL;

(E) Has, as of the date of attendance at the first core session, no previous diagnosis of diabetes, other than gestational diabetes; and

(F) Does not have end-stage renal disease (ESRD).

(ii) An MDPP beneficiary is eligible for the first ongoing maintenance session interval only if the beneficiary:

(A) Attends at least one in-person core maintenance session during the final core maintenance session interval; and

(B) Achieves or maintains the required minimum weight loss at a minimum of one in-person core maintenance session during the final core maintenance session interval.

(iii) An MDPP beneficiary is eligible for a subsequent ongoing maintenance session interval only if the beneficiary:

(A) Attends at least three ongoing maintenance sessions during the previous ongoing maintenance session interval, including at least one in-person ongoing maintenance session; and

(B) Maintains the required minimum weight loss at a minimum of one in-person ongoing maintenance session furnished during the previous ongoing maintenance session interval.

(iv) Weight measurements used to determine the achievement or maintenance of the required minimum weight loss must be taken in person by an MDPP supplier during an MDPP session.

(2) MDPP services period. An MDPP beneficiary's MDPP services period is composed of the following periods and intervals:

(i) The core services period, which is the first 12 months of the MDPP services period, and consists of:

(A) At least 16 core sessions offered at least one week apart during months 1 through 6 of the MDPP services period; and

(B) Two 3-month core maintenance session intervals offered during months 7 through 12 of the MDPP services period.

(ii) Subject to paragraph (c)(3) of this section, the ongoing services period, which consists of up to eight 3-month ongoing maintenance session intervals offered during months 13 through 36 of the MDPP services period.

(3) Limitations on the MDPP services period. (i) The MDPP services period ends upon completion of the core services period described in paragraph (c)(2)(i) of this section, unless the MDPP beneficiary qualifies for the first ongoing maintenance session interval, in accordance with paragraph (c)(1)(ii) of this section.

(ii) If the MDPP beneficiary qualifies for the first ongoing maintenance session interval as described in paragraph (c)(3)(i) of this section, the MDPP services period ends upon completion of this first ongoing maintenance session interval or any subsequent ongoing maintenance session interval, unless the beneficiary meets the eligibility requirements under paragraph (c)(1)(iii) of this section.

(iii) Unless sooner ended in accordance with this paragraph (c)(3), the MDPP services period ends automatically upon the completion of the eighth ongoing maintenance session interval.

(d) Make-up sessions. (1) An MDPP supplier may offer a make-up session to an MDPP beneficiary who missed a regularly scheduled session. If an MDPP supplier offers one or more make-up sessions to an MDPP beneficiary, each such session must be furnished in accordance with the following requirements:

(i) The curriculum furnished during the make-up session must address the same CDC-approved DPP curriculum topic as the regularly scheduled session that the beneficiary missed;

(ii) The MDPP supplier may furnish to the beneficiary a maximum of one make-up session on the same day as a regularly scheduled session; and

(iii) The MDPP supplier may furnish to the beneficiary a maximum of one make-up session per week.

(2) An MDPP supplier may offer virtual make-up sessions only if consistent with the requirements in paragraph (d)(1) of this section. Virtual make-up sessions are also subject to the following requirements:

(i) Virtual make-up sessions must be furnished in a manner consistent with the DPRP standards for virtual sessions;

(ii) An MDPP supplier may only offer virtual make-up sessions based on an individual MDPP beneficiary's request; and

(iii) An MDPP supplier may offer to an MDPP beneficiary:

(A) No more than 4 virtual make-up sessions within the core services period described in paragraph (c)(2)(i) of this section, of which no more than 2 virtual make-up sessions are core maintenance sessions; and

(B) No more than 3 virtual make-up sessions that are ongoing maintenance sessions during any rolling 12-month time period.

(3) Make-up sessions furnished in accordance with paragraph (d)(1) of this section that an MDPP beneficiary attends in person are counted toward meeting the attendance requirements described in paragraph (c)(1) of this section and toward achieving the performance goals described in §414.84(b) of this chapter as if the MDPP beneficiary attended a regularly scheduled session. Virtual make-up sessions furnished in accordance with paragraph (d)(2) of this section are also counted toward such attendance requirements and performance goals, subject to the following limitations:

(i) The MDPP beneficiary receives no more than 4 virtual make-up sessions within the core services period described in paragraph (c)(2)(i) of this section, of which no more than 2 virtual make-up sessions may be core maintenance sessions; and

(ii) The MDPP beneficiary receives no more than 3 virtual make-up sessions that are ongoing maintenance sessions during any rolling 12-month period.

#### **PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES**

6. The authority citation for part 414 continues to read as follows:

**Authority:** Secs. 1102, 1871, and 1881(b)(1) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr(b)(1)).

7. Section 414.84 is added to read as follows:

#### **§414.84 Payment for MDPP services.**

(a) Definitions. In addition to the definitions specified at §§ 410.79 (b) and 424.205(a) of this chapter, the following definitions apply to this section.

Bridge payment means a one-time payment to an MDPP supplier for furnishing its first MDDP session to an MDPP beneficiary who has previously received one or more MDPP services from a different MDPP supplier.

Performance goal means an attendance or weight-loss goal that an MDPP beneficiary must achieve during the MDPP services period for an MDPP supplier to be paid a performance payment.

Performance payment means a payment made to an MDPP supplier for furnishing certain MDPP services to an MDPP beneficiary when the MDPP beneficiary achieves the applicable performance goal.

(b) Performance payment. CMS makes one or more types of performance payments to an MDPP supplier as specified in this paragraph. Each type of performance payment is made only if the beneficiary achieves the applicable performance goal and only once per MDPP beneficiary. A performance payment is made only on an assignment-related basis in accordance



with §424.55 of this chapter, and MDPP suppliers must accept the Medicare allowed charge as payment in full and may not bill or collect from the beneficiary any amount. CMS will make a performance payment only to an MDPP supplier that complies with all applicable enrollment and program requirements and only for MDPP services that are furnished by an eligible coach, on or after his or her coach eligibility start date and, if applicable, before his or her coach eligibility end date. As a condition of payment, the MDPP supplier must report the NPI of the coach who furnished each session on the claim for the MDPP session. The seven types of performance payments are as follows:

(1) Performance Goal 1: Attends the first core session that initiates the MDPP services period. CMS makes a performance payment to an MDPP supplier if an MDPP beneficiary attends the first core session, which initiates the MDPP services period, and that first core session was furnished by that supplier. An MDPP supplier who has been paid this performance payment for an MDPP beneficiary is not eligible to be paid a bridge payment described in paragraph (c) of this section for that MDPP beneficiary. The amount of this performance payment is determined as follows:

(i) For a first core session furnished April 1 through December 31, 2018, the amount of the performance payment is \$25.

(ii) For a first core session furnished during a calendar year subsequent to CY 2018. The performance payment amount specified in this paragraph for the prior year, adjusted as specified in paragraph (d) of this section.

(2) Performance Goal 2: Attends four core sessions. CMS makes a performance payment to an MDPP supplier if an MDPP beneficiary achieves attendance at the beneficiary's

fourth core session upon attendance at a core session furnished by that supplier. The amount of this performance payment is determined as follows:

(i) For a fourth core session furnished April 1 through December 31, 2018, the amount of the performance payment is \$30.

(ii) For a fourth core session furnished during a calendar year subsequent to CY 2018, the performance payment amount specified in this paragraph for the prior year, adjusted as specified in paragraph (d) of this section.

(3) Performance Goal 3: Attends nine core sessions. CMS makes a performance payment to an MDPP supplier if an MDPP beneficiary achieves attendance at the ninth core session upon the beneficiary's attendance at a core session furnished by that supplier. The amount of this performance payment is determined as follows:

(i) For a ninth core session furnished April 1 through December 31, 2018, the amount of the performance payment is \$50.

(ii) For a ninth core session furnished during a calendar year subsequent to CY 2018, the performance payment amount specified in this paragraph for the prior year, adjusted as specified in paragraph (d) of this section.

(4) Performance Goal 4: Attends three core maintenance sessions during a core maintenance session interval. CMS makes a performance payment to an MDPP supplier if an MDPP beneficiary attends three core maintenance sessions in a core maintenance session interval and achieves attendance at that third core maintenance session upon attendance at a core maintenance session furnished by that supplier. CMS makes this performance payment to an MDPP supplier only once per MDPP beneficiary per core maintenance session interval. The amount of this performance payment is determined as follows:

(i) If the beneficiary also achieves or maintains the required minimum weight loss as measured in-person during a core maintenance session furnished during the applicable core maintenance session interval:

(A) For a third core maintenance session furnished April 1 through December 31, 2018, the amount of the performance payment is \$60.

(B) For a third core maintenance session furnished during a calendar year subsequent to CY 2018., the performance payment amount specified in this paragraph for the prior year, adjusted as specified in paragraph (d) of this section.

(ii) If the beneficiary does not achieve or maintain the required minimum weight loss as measured in-person during a core maintenance session furnished during the applicable core maintenance session interval:

(A) For a third core maintenance session furnished April 1 through December 31, 2018, the amount of the performance payment is \$10.

(B) For a third core maintenance session furnished during a calendar year subsequent to CY 2018, the performance payment amount specified in this paragraph for the prior year, adjusted as specified in paragraph (d) of this section.

(5) Performance Goal 5: Attends three ongoing maintenance sessions and maintains the required minimum weight loss within an ongoing maintenance session interval. CMS makes a payment to an MDPP supplier if an MDPP beneficiary attends three ongoing maintenance sessions during an ongoing maintenance session interval, achieves attendance at that third ongoing maintenance session upon attendance at an ongoing maintenance session furnished by that supplier, and achieves or maintains the required minimum weight loss as measured in-person during an ongoing maintenance session furnished during the applicable ongoing maintenance

session interval. CMS makes this performance payment to an MDPP supplier only once per MDPP beneficiary per ongoing maintenance session interval. The amount of this performance payment is determined as follows:

(i) For a third ongoing maintenance session furnished April 1 through December 31, 2018, the amount of the performance payment is \$50.

(ii) For a third ongoing maintenance session furnished during a calendar year subsequent to CY 2018, the performance payment amount specified in this paragraph for the prior year, adjusted as specified in paragraph (d) of this section.

(6) Performance Goal 6: Achieves the required minimum weight loss. CMS makes a performance payment to an MDPP supplier for an MDPP beneficiary who achieves the required minimum weight loss as measured in-person during a core session or core maintenance session furnished by that supplier. The amount of this performance payment is determined as follows:

(i) For a core session or core maintenance session, as applicable, furnished April 1 through December 31, 2018, the amount of the performance payment is \$160.

(ii) For a core session or core maintenance session, as applicable, furnished during a calendar year subsequent to CY 2018, the performance payment amount specified in this paragraph for the prior year, adjusted as specified in paragraph (d) of this section.

(7) Performance Goal 7: Achieves 9-percent weight loss. CMS makes a performance payment to an MDPP supplier for an MDPP beneficiary who achieves at least a 9-percent weight loss as measured in-person during a core session, core maintenance session, or ongoing maintenance session furnished by that supplier. The amount of this performance payment is determined as follows:

(i) For a core session, core maintenance session, or ongoing maintenance session, as applicable, furnished April 1 through December 31, 2018, the amount of the performance payment is \$25.

(ii) For a core session, core maintenance session, or ongoing maintenance session, as applicable, furnished during a calendar year subsequent to CY 2018, the performance payment amount specified in this paragraph for the prior year, adjusted as specified in paragraph (d) of this section.

(c) Bridge payment. CMS makes a bridge payment to an MDPP supplier only for a core session, core maintenance session, or ongoing maintenance session furnished to an MDPP beneficiary who has previously received MDPP services from a different MDPP supplier. An MDPP supplier who has previously been paid either a bridge payment or a performance payment for an MDPP beneficiary is not eligible to be paid a bridge payment for that beneficiary. A bridge payment is made only on an assignment-related basis in accordance with §424.55 of this chapter, and MDPP suppliers must accept the Medicare allowed charge as payment in full and may not bill or collect from the beneficiary any amount. CMS will make a bridge payment only to an MDPP supplier that complies with all applicable enrollment and program requirements, and only for MDPP services furnished by an eligible coach, on or after his or her coach eligibility start date and, if applicable, before his or her coach eligibility end date. As a condition of payment, the MDPP supplier must report the NPI of the coach who furnished the session on the claim for the MDPP session. The amount of the bridge payment is determined as follows:

(1) For a core session, core maintenance session, or ongoing maintenance session furnished April 1 through December 31, 2018, the amount of the bridge payment is \$25.

(2) For a core session, core maintenance session, or ongoing maintenance session furnished during a calendar year subsequent to CY 2018, the bridge payment amount specified in this paragraph for the prior year, adjusted as specified in paragraph (d) of this section.

(d) Updating performance payments and the bridge payment. The performance payments and bridge payment will be adjusted each calendar year by the percent change in the Consumer Price Index for All Urban Consumers (CPI-U) (U.S. city average) for the 12-month period ending June 30<sup>th</sup> of the year preceding the update year. The percent change update will be calculated based on the level of precision of the index as published by the Bureau of Labor Statistics and applied based on one decimal place of precision. The annual MDPP services payment update will be published by CMS transmittal.

8. Section 414.90 is amended by revising paragraphs (j)(8)(i)(A)(1)(i), (j)(8)(ii)(A)(1)(i), (j)(8)(ii)(A)(2), (j)(8)(iii) and (iv), (j)(9)(ii) through (vi) and (viii), (k)(3) introductory text subject heading, and (k)(5)(i) and by adding (k)(5)(ii) to read as follows:

**§414.90 Physician Quality Reporting System (PQRS).**

\* \* \* \* \*

(j) \* \* \*

(8) \* \* \*

(i) \* \* \*

(A) \* \* \*

(1)(i) Report at least 6 measures AND report each measure for at least 50 percent of the eligible professional's Medicare Part B Fee-for-Service patients seen during the reporting period to which the measure applies. If less than 6 measures apply to the eligible professional, the eligible professional must report on each measure that is applicable, AND report each measure

for at least 50 percent of the Medicare Part B Fee-for-Service patients seen during the reporting period to which the measure applies. Measures with a 0 percent performance rate will not be counted (unless they are inverse measures where a lower rate reflects better performance).

\* \* \* \* \*

(ii) \* \* \*

(A) \* \* \*

(1)(i) Report at least 6 measures AND report each measure for at least 50 percent of the eligible professional's Medicare Part B Fee-for-Service patients seen during the reporting period to which the measure applies. If less than 6 measures apply to the eligible professional, the eligible professional must report on each measure that is applicable, AND report each measure for at least 50 percent of the Medicare Part B Fee-for-Service patients seen during the reporting period to which the measure applies.

\* \* \* \* \*

(2) Measures with a 0 percent performance rate or measures groups containing a measure with a 0 percent performance rate will not be counted (unless they are inverse measures where a lower rate reflects better performance).

\* \* \* \* \*

(iii) Via EHR direct product. For the 12-month 2018 PQRS payment adjustment reporting period, report 6 measures. If an eligible professional's direct EHR product or EHR data submission vendor product does not contain patient data for at least 6 measures, then the eligible professional must report all of the measures for which there is Medicare patient data. An eligible professional must report on at least 1 measure for which there is Medicare patient data.

(iv) Via EHR data submission vendor. For the 12-month 2018 PQRS payment adjustment reporting period, report at least 6 measures. If an eligible professional's direct EHR product or EHR data submission vendor product does not contain patient data for at least 6 measures, then the eligible professional must report all of the measures for which there is Medicare patient data. An eligible professional must report on at least 1 measure for which there is Medicare patient data.

(9) \* \* \*

(ii) Via qualified registry. For a group practice of 2 or more eligible professionals, for the 12-month 2018 PQRS payment adjustment reporting period, report at least 6 measures AND report each measure for at least 50 percent of the group practice's Medicare Part B Fee-for-Service patients seen during the reporting period to which the measure applies. If less than 6 measures apply to the group practice, the group practice must report on each measure that is applicable, AND report each measure for at least 50 percent of the Medicare Part B Fee-for-Service patients seen during the reporting period to which the measure applies. Measures with a 0 percent performance rate would not be counted (unless they are inverse measures where a lower rate reflects better performance).

(iii) Via EHR direct product. For a group practice of 2 or more eligible professionals, for the 12-month 2018 PQRS payment adjustment reporting period, report 6 measures. If the group practice's direct EHR product or EHR data submission vendor product does not contain patient data for at least 6 measures, then the group practice must report all of the measures for which there is Medicare patient data. A group practice must report on at least 1 measure for which there is Medicare patient data.



(iv) Via EHR data submission vendor. For a group practice of 2 or more eligible professionals, for the 12-month 2018 PQRS payment adjustment reporting period, report 6 measures. If the group practice's direct EHR product or EHR data submission vendor product does not contain patient data for at least 6 measures, then the group practice must report all of the measures for which there is Medicare patient data. A group practice must report on at least 1 measure for which there is Medicare patient data.

(v) Via a certified survey vendor in addition to a qualified registry. For a group practice of 2 or more eligible professionals that elects to report via a certified survey vendor in addition to a qualified registry for the 12-month 2018 PQRS payment adjustment reporting period, the group practice must have all CAHPS for PQRS survey measures reported on its behalf via a CMS-certified survey vendor. In addition, the group practice must report at least 3 additional measures using the qualified registry AND report each measure for at least 50 percent of the group practice's Medicare Part B Fee-for-Service patients seen during the reporting period to which the measure applies. If less than 3 measures apply to the group practice, the group practice must report on each measure that is applicable, AND report each measure for at least 50 percent of the Medicare Part B Fee-for-Service patients seen during the reporting period to which the measure applies. Measures with a 0 percent performance rate would not be counted (unless they are inverse measures where a lower rate reflects better performance).

(vi) Via a certified survey vendor in addition to a direct EHR product or EHR data submission vendor. For a group practice of 2 or more eligible professionals that elects to report via a certified survey vendor in addition to a direct EHR product or EHR data submission vendor for the 12-month 2018 PQRS payment adjustment reporting period, the group practice must have all CAHPS for PQRS survey measures reported on its behalf via a CMS-certified survey vendor.

In addition, the group practice must report at least 3 additional measures using the direct EHR product or EHR data submission vendor product. If less than 3 measures apply to the group practice, the group practice must report all of the measures for which there is patient data. Of the additional 3 measures that must be reported in conjunction with reporting the CAHPS for PQRS survey measures, a group practice must report on at least 1 measure for which there is Medicare patient data.

\* \* \* \* \*

(viii) If the CAHPS for PQRS survey is applicable to the practice, group practices comprised of 100 or more eligible professionals that register to participate in the GPRO may administer the CAHPS for PQRS survey, regardless of the GPRO reporting mechanism selected.

(k) \* \* \*

(3) Satisfactory participation criteria for individual eligible professionals for the 2016 PQRS payment adjustment. \* \* \*

\* \* \* \* \*

(5) \* \* \*

(i) Individual eligible professional. For the applicable 12-month reporting period, report at least 6 measures available for reporting under a QCDR AND report each measure for at least 50 percent of the eligible professional's patients seen during the reporting period to which the measure applies. If less than 6 measures apply to the eligible professional, the eligible professional must report on each measure that is applicable, AND report each measure for at least 50 percent of the eligible professional's patients.

(ii) Group practices. For the applicable 12-month reporting period, report at least 6 measures available for reporting under a QCDR AND report each measure for at least 50 percent

of the group practice's patients seen during the reporting period to which the measure applies. If less than 6 measures apply to the group practice, the group practice must report on each measure that is applicable, AND report each measure for at least 50 percent of the group practice's patients. If a group practice reports the CAHPS for PQRS survey measures, apply reduced criteria as follows: 3 measures, as applicable.

\* \* \* \* \*

9. Section 414.94 is amended by revising paragraph (i)(3) and adding paragraphs (j) and (k) to read as follows:

**§414.94 Appropriate use criteria for advanced diagnostic imaging services.**

\* \* \* \* \*

(i) \* \* \*

(3) The significant hardship exception applies to ordering professionals who:

(i) Are granted re-weighting of the advancing care information performance category to zero percent of the final score for the year under MIPS pursuant to §414.1380(c)(2) due to circumstances that include the criteria listed in §495.102(d)(4)(i) and (iii) and (d)(4)(iv)(A) and (B) of this chapter. The AUC significant hardship exception is available for the same period the re-weight is applied for purposes of the MIPS payment adjustments, or

(ii) Demonstrate a significant hardship consistent with the criteria listed in §495.102(d)(4)(i) and (iii) and (d)(4)(iv)(A) or (B) of this chapter. The AUC significant hardship exception may be available for a period no longer than 12 months.

(j) Consulting. Ordering Professionals must consult specified applicable AUC through qualified CDSMs for applicable imaging services furnished in an applicable setting, paid for under an applicable payment system and ordered on or after January 1, 2019.

(k) Reporting. Furnishing Professionals must report the following information on Medicare claims for advanced diagnostic imaging services furnished in an applicable setting, paid for under an applicable payment system defined in §414.94(b), and ordered on or after January 1, 2019:

(1) The qualified CDSM consulted by the ordering professional.

(2) Information indicating:

(i) Whether the service ordered would adhere to specified applicable AUC;

(ii) Whether the service ordered would not adhere to specified applicable AUC, or

(iii) Whether the specified applicable AUC consulted was not applicable to the service ordered.

(3) The NPI of the ordering professional who consulted specified applicable AUC as required in paragraph (j) of this section, if different from the furnishing professional.

10. Section 414.904 is amended by revising paragraph (e)(2) to read as follows:

**§414.904 Average sales price as the basis for payment.**

\* \* \* \* \*

(e) \* \* \*

(2) Infusion drugs furnished through a covered item of durable medical equipment. The payment limit for an infusion drug furnished before January 1, 2017, through a covered item of durable medical equipment is calculated using 95 percent of the average wholesale price in effect on October 1, 2003.

\* \* \* \* \*

11. Section 414.1270 is amended by revising paragraph (d)(1) to read as follows:

**§414.1270 Determination and calculation of the Value-Based Payment Modifier adjustments.**

\* \* \* \* \*

(d) \* \* \*

(1) A downward payment adjustment of –1.0 percent will be applied to a solo practitioner, a group with two to nine eligible professionals, and a group consisting only of nonphysician eligible professionals subject to the value-based payment modifier and no physicians; and a downward payment adjustment of –2.0 percent will be applied to a group with 10 or more eligible professionals and at least one physician if, during the applicable performance period as defined in §414.1215, the following apply:

(i) For groups:

(A) Such group does not meet the criteria as a group to avoid the PQRS payment adjustment for CY 2018 as specified by CMS; and

(B) Fifty percent of the eligible professionals in such group do not meet the criteria as individuals to avoid the PQRS payment adjustment for CY 2018 as specified by CMS.

(ii) For solo practitioners, such solo practitioner does not meet the criteria as an individual to avoid the PQRS payment adjustment for CY 2018 as specified by CMS.

\* \* \* \* \*

12. Section 414.1275 is amended by revising paragraphs (c)(4) and (d)(3)(i) and (ii) to read as follows:

**§414.1275 Value-based payment modifier quality-tiering scoring methodology.**

\* \* \* \* \*

(c) \* \* \*

(4) The following value-based payment modifier percentages apply to the CY 2018 payment adjustment period, for physicians, physician assistants, nurse practitioners, clinical nurse specialists, and certified registered nurse anesthetists who are solo practitioners or who are in groups of any size:

**CY 2018 Value-Based Payment Modifier Amounts for the Quality-Tiering Approach for Physicians, Physician Assistants, Nurse Practitioners, Clinical Nurse Specialists, and Certified Registered Nurse Anesthetists**

<b>Cost/quality</b>	<b>Low quality</b>	<b>Average quality</b>	<b>High quality</b>
Low Cost	+0.0%	+1.0x*	+2.0x*
Average Cost	+0.0%	+0.0%	+1.0x*
High Cost	+0.0%	+0.0%	+0.0%

\*Eligible for an additional +1.0x if reporting Physician Quality Reporting System quality measures and average beneficiary risk score is in the top 25 percent of all beneficiary risk scores, where 'x' represents the upward payment adjustment factor.

(d) \* \* \*

(3) \* \* \*

(i) Classified as high quality/low cost receive an upward adjustment of +3x (rather than +2x); and

(ii) Classified as either high quality/average cost or average quality/low cost receive an upward adjustment of +2x (rather than +1x).

**PART 424—CONDITIONS FOR MEDICARE PAYMENT**

13. The authority citation for part 424 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

14. Section 424.55 is amended by adding paragraph (d) to read as follows:

**§424.55 Payment to the supplier.**

\* \* \* \* \*

(d) For purposes of claims for services submitted by an MDDP supplier (as defined at §410.79(b)), Medicare deems such claims to have been assigned by the beneficiary (or the person authorized to request payment on the beneficiary's behalf) and the assignment accepted by the MDDP supplier.

**§ 424.59 [Removed]**

15. Remove § 424.59.

16. Subpart I, consisting of §§ 424.200 through 424.210, is added to read as follows:

**Subpart I— Requirements for Medicare Diabetes Prevention Program Suppliers and Beneficiary Engagement Incentives under the Medicare Diabetes Prevention Program Expanded Model**

Sec.

424.200 Scope.

424.205 Requirements for Medicare Diabetes Prevention Program suppliers.

424.210 Beneficiary engagement incentives under the Medicare Diabetes Prevention Program expanded model.

**Subpart I— Requirements for Medicare Diabetes Prevention Program Suppliers and Beneficiary Engagement Incentives under the Medicare Diabetes Prevention Program Expanded Model**

**§424.200 Scope.**

This subpart specifies the requirements for Medicare Diabetes Prevention Program suppliers and beneficiary engagement incentives under the Medicare Diabetes Prevention Program expanded model.

**§424.205 Requirements for Medicare Diabetes Prevention Program suppliers.**

(a) Definitions. In addition to the definitions specified at §§ 410.79(b) and 414.84(a) of this subchapter, the following definitions apply to this section:

Administrative location means a physical location associated with the MDPP supplier's operations, from where coaches are dispatched or based, and where MDPP services may or may not be furnished.

Coach means an individual who furnishes MDPP services on behalf of an MDPP supplier as an employee, contractor, or volunteer.

Coach eligibility end date means the end date indicated by the MDPP supplier in submitting a change to the supplier's MDPP enrollment application in accordance with paragraph (d)(5) of this section that removed the coach's information, or the date the supplier itself was revoked from or withdrew its Medicare enrollment as an MDPP supplier.

Coach eligibility start date, means the start date indicated by the MDPP supplier when submitting an eligible the coach's information on the MDPP enrollment application.

Community setting means a location where the MDPP supplier furnishes MDPP services outside of their administrative locations. A community setting is a location open to the public not primarily associated with the supplier. Community settings may include, for example, church basements or multipurpose rooms in recreation centers.

Eligible coach means an individual who CMS has screened and has determined can provide MDPP services on behalf of an MDPP supplier in accordance with paragraph (e) of this section.

Ineligible coach means an individual whom CMS has screened and has determined cannot provide MDPP services on behalf of an MDPP supplier in accordance with paragraph (e) of this section..

MDPP interim preliminary recognition means a status that CMS has granted to an entity in accordance with paragraph (c) of this section.



(b) Conditions for MDPP supplier enrollment. An entity may enroll as an MDPP supplier only if it satisfies the following requirements and all other applicable Medicare enrollment requirements:

(1) Has either an MDPP preliminary recognition, as defined in paragraph (c)(1) of this section or a full CDC DPRP recognition.

(2) Maintains an active and valid TIN and NPI at the organizational level.

(3) Has passed screening requirements as follows:

(i) Upon initial enrollment, at a “high” categorical risk in accordance with §424.518(c)(2); and

(ii) Upon revalidation, at a “moderate” categorical risk in accordance with §424.518(b)(2).

(4) Maintains, and submits to CMS through the CMS-approved enrollment application, a roster of all coaches who will be furnishing MDPP services on the entity’s behalf that includes each coach’s first and last names, middle initial (if applicable), date of birth, Social Security Number (SSN), active and valid NPI, coach eligibility start date, and coach eligibility end date (if applicable). This roster must be updated in accordance with paragraph (d)(5) of this section.

(5) Meets and certifies in its CMS-approved enrollment application that it meets and will continue to meet the supplier enrollment standards described in paragraph (d) of this section.

(6) Revalidates its Medicare enrollment every 3 years after the effective date of enrollment.

(c) MDPP preliminary recognition. (1) For the purposes of this section, an MDPP preliminary recognition may include either:

(i) Any preliminary recognition established by CDC for the purposes of the DPRP; or

(ii) An MDPP interim preliminary recognition.

(A) MDPP interim preliminary recognition application period. Entities may apply to CDC for CMS' MDPP interim preliminary by submitting information at the time and in the form and manner specified by CMS.

(B) MDPP Interim preliminary recognition requirements. An entity may qualify for MDPP interim preliminary recognition if--

(1) The entity has pending CDC recognition.

(2) The entity submits a full 12 months of performance data to CDC on at least one completed cohort. The 12 month data submission includes at least 5 participants who attended at least 3 sessions in the first 6 months and whose time from first session attended to last session of the lifestyle change program was at least 9 months, at least 60 percent of whom attended at least 9 sessions in months 1 through 6, and at least 60 percent of whom attended at least 3 sessions in months 7 through 12.

(2) [Reserved]

(d) Medicare Diabetes Prevention Program supplier standards. An MDPP supplier must meet and must certify in its CMS-approved enrollment application that it meets and will continue to meet the following standards.

(1) The MDPP supplier must have and maintain MDPP preliminary recognition, as defined under paragraph (c)(1) of this section, or a full CDC DPRP recognition.

(2) The MDPP supplier must not currently have its billing privileges terminated for-cause or be excluded by a State Medicaid agency.

(3) The MDPP supplier must not include on the roster of coaches, described in paragraph (b)(4) of this section and updated in accordance with paragraph (d)(5) of this section, nor permit

MDPP services to be furnished by any individual coach who meets any of ineligibility criteria outlined in paragraph (e)(1) of this section.

(4) The MDPP supplier must maintain at least one administrative location. All administrative locations maintained by the MDPP supplier must be located at an appropriate site and be reported on the CMS-approved enrollment application. An appropriate site for such an administrative location would include all of the following characteristics:

(i) Signage posted on the exterior of the building. Such signage may include, for example, the MDPP supplier's legal business name or DBA, as well as hours of operation.

(ii) Open for business during stated operational hours.

(iii) Employees, staff, or volunteers present during operational hours; and

(iv) Not a private residence.

(5) The MDPP supplier must update its enrollment application within 30 days of any changes of ownership, changes to the coach roster (including due to coach ineligibility or because the coach is no longer an employee, contractor, or volunteer of the MDPP supplier), and final adverse action history, and report all other changes, including but not limited to changes in the MDPP supplier's administrative location(s), to CMS within 90 days of the reportable event.

(6) The MDPP supplier must maintain a primary business telephone that operates either at administrative locations described in paragraph (d)(4) of this section or directly where services are furnished, if services are furnished in community settings. The associated telephone number must be listed with the either the legal or doing business as name of the supplier in public view, including on websites, flyers, and materials.

(7) The MDPP supplier must not knowingly sell to or allow another individual or entity to use its supplier billing number.

(8) Subject to paragraph (d)(8)(i) of this section, the MDPP supplier must not deny an MDPP beneficiary access to MDPP services during the MDPP services period described in §410.79(c)(2) of this chapter, including on the basis of the beneficiary's weight, health status, or achievement of performance goals.

(i) Suppliers may deny an MDPP beneficiary access to MDPP services during the MDPP services period only under one of the following conditions:

(A) The MDPP beneficiary no longer meets the eligibility criteria for MDPP services under §410.79(c)(1) of this chapter.

(B) The MDPP supplier lacks the self-determined capacity to furnish MDPP services to additional MDPP beneficiaries.

(C) The MDPP supplier determines that the MDPP beneficiary significantly disrupts the session for other MDPP beneficiaries or becomes abusive.

(ii) MDPP suppliers must maintain a record of the number of MDPP beneficiaries turned away for the reasons outlined in paragraphs (d)(8)(i)(B) and (C) of this section, to include the date each such beneficiary was turned away. For beneficiaries turned away for reasons described in paragraph (d)(8)(i)(C) of this section, the MDPP supplier must document details of the occurrence(s), including date(s) of the behavior, any remediation efforts taken by the MDPP supplier, and final action (for example, dismissal from an MDPP session or denial from future sessions) in the beneficiary's MDPP records.

(9) The MDPP supplier and other individuals or entities performing functions or services related to MDPP services on the MDPP supplier's behalf must not unduly coerce an MDPP beneficiary's decision to change or not to change to a different MDPP supplier, including through the use of pressure, intimidation, or bribery.

(10) Except as allowed under paragraph (d)(8) of this section, the MDPP supplier must offer an MDPP beneficiary no fewer than all of the following:

(i) Sixteen in-person core sessions no more frequently than weekly for the first 6 months of the MDPP services period, which begin on the date of attendance at the first such core session.

(ii) One in-person core maintenance session each month during months 7 through 12 (6 months total) of the MDPP services period.

(iii) One in-person ongoing maintenance session each month for months 13 through 36 of the MDPP services period, as long as the beneficiary maintains eligibility to receive such services in accordance with §410.79(c)(1)(ii) and (iii) of this chapter.

(11) Before the initial core session is furnished, the MDPP supplier must disclose detailed information about the set of MDPP services to each MDPP beneficiary to whom it wishes to begin furnishing MDPP services. Such information must include all of the following:

(i) Eligibility requirements under §410.79(c)(1) of this chapter, including the once-per-lifetime nature of MDPP services.

(ii) The MDPP supplier standards as outlined in this section.

(12) The MDPP supplier must answer MDPP beneficiaries' questions about MDPP services and respond to MDPP-related complaints within a reasonable timeframe. An MDPP supplier must implement a complaint resolution protocol and maintain documentation of all beneficiary contact regarding such complaints, including the name and Medicare Beneficiary Identifier of the beneficiary, a summary of the complaint, related correspondences, notes of actions taken, and the names and/or NPIs of individuals who took such actions on behalf of the MDPP supplier. Failure to maintain a complaint resolution protocol or to retain information

regarding MDPP related complaints in accordance with paragraph (g) of this section may be considered evidence that the MPPP supplier standards have not been met. This information must be kept at each administrative location and made available to CMS or its contractors upon request.

(13) The MDPP supplier must maintain a crosswalk file which indicates how beneficiary identifications for the purposes of CDC performance data requirements correspond to corresponding beneficiary health insurance claims numbers or Medicare Beneficiary Identifiers for each MDPP beneficiary receiving MDPP services from the MDPP supplier. The MDPP supplier must submit the crosswalk file to CMS or its contractor.

(14) The MDPP supplier must submit performance data for MDPP beneficiaries who attend ongoing maintenance sessions with data elements consistent with the CDC's DPRP standards for data elements required for the core services period.

(15) The MDPP supplier must allow CMS or its agents to conduct onsite inspections or recordkeeping reviews in order to ascertain the MDPP supplier's compliance with these standards, and must adhere to the documentation requirements as outlined in paragraph (g) of this section.

(e) Coach eligibility—(1) Criteria. To furnish MDPP services to a beneficiary, an MDPP coach must not:

(i) Currently have Medicare billing privileges revoked and be currently subject to the reenrollment bar.

(ii) Currently have its Medicaid billing privileges terminated for-cause or be excluded by a State Medicaid agency.

(iii) Currently be excluded from any other Federal health care program, as defined in 42 CFR 1001.2, in accordance with section 1128, 1128A, 1156, 1842, 1862, 1867 or 1892 of the Act.

(iv) Currently be debarred, suspended, or otherwise excluded from participating in any other Federal procurement or nonprocurement program or activity in accordance with the Federal Acquisition Streamlining Act implementing regulations and the Department of Health and Human Services nonprocurement common rule at 45 CFR part 76.

(v) Have, in the previous 10 years, one of the following State or Federal felony convictions:

(A) Crimes against persons, such as murder, rape, assault, and other similar crimes for which the individual was convicted, as defined under 42 CFR 1001.2, had a guilty plea or adjudicated pretrial diversion.

(B) Financial crimes, such as extortion, embezzlement, income tax evasion, insurance fraud and other similar crimes for which the individual was convicted, as defined under 42 CFR 1001.2, had a guilty plea or adjudicated pretrial diversion.

(C) Any felony that placed the Medicare or its beneficiaries at immediate risk, such as a malpractice suit that results in the individual being convicted, as defined under 42 CFR 1001.2, had a guilty plea or adjudicated pretrial diversion of criminal neglect or misconduct.

(D) Any felonies for which the individual was convicted, as defined under 42 CFR 1001.2, had a guilty plea or adjudicated pretrial diversion that would result in mandatory exclusion under section 1128(a) of the Act.

(2) CMS determination of coach eligibility. CMS will screen each individual identified on the roster of coaches included with the supplier's enrollment application described in

paragraph (b)(4) of this section and updated in accordance with paragraph (d)(5) of this section to verify that the individual coach does not meet any of the conditions specified in paragraph (e)(1) of this section and that the coach can provide MDPP services on behalf of an MDPP supplier. For each individual coach successfully screened by CMS, his or her eligibility start date becomes effective and remains effective until an MDPP supplier or CMS takes action that results in an eligibility end date.

(f) Effective date for billing privileges. (1) For MDPP suppliers initially enrolling and for newly established administrative locations that result in a new enrollment record or Provider Transaction Access Number, the effective date for Medicare billing privileges for MDPP suppliers is –

(i) The later of --

(A) The date of filing of a Medicare enrollment application that was subsequently approved by a Medicare contractor;

(B) The date of filing of a corrective action plan that was subsequently approved by a Medicare contractor; or

(C) The date that the supplier first began furnishing services at a new administrative location that resulted in a new enrollment record or Provider Transaction Access Number

(ii) Under no circumstances should the effective date of billing privileges for any MDPP supplier be prior to April 1, 2018

(2) For any newly established administrative locations that do not result in a new enrollment record or Provider Transaction Access Number, the existing billing privilege effective date for their Provider Transaction Access Number will apply, but not earlier than April 1, 2018.



(g) Documentation retention and provision requirements. An MDPP supplier must maintain all documentation related to participation in the MDPP in accordance with all applicable Federal and State laws. The MDPP supplier must provide to CMS, a contractor acting on CMS' behalf, the Office of the Inspector General, and the Comptroller General or their designee(s) scheduled and unscheduled access to the MDPP supplier's records, including, but not limited to, all books, contracts, records, documents, and other evidence sufficient to enable the audit, evaluation, inspection, or investigation of the MDPP supplier's compliance with the MDPP expanded model's requirements, including the MDPP expanded model requirements for in-kind beneficiary incentive engagements in §424.210 of this chapter in the event that the MDPP supplier chooses to offer such incentives to any MDPP beneficiary.

(1) The documentation for the first core session must be established contemporaneous with the furnishing of MDPP services and must include at least all of the following:

(i) Organizational information, including MDPP supplier name, CDC DPRP number, and NPI.

(ii) Basic beneficiary information for each MDPP beneficiary in attendance, including but not limited to beneficiary name, HICN, age.

(iii) Evidence that each such beneficiary satisfied the eligibility requirements under §410.79(c) at the time of service.

(2) The documentation for each MDPP session attended must be established contemporaneous with the furnishing of MDPP services and must include at least all of the following:

(i) Documentation of the type of session, whether a core session, a core maintenance session, an ongoing maintenance session, an in-person make-up session, or a virtual make-up session.

(ii) Identification of which CDC-approved DPRP curriculum was associated with the session.

(iii) The NPI of the coach who furnished the session.

(iv) The date and place of service of the session.

(v) Each MDPP's beneficiary's weight and date weight taken, in a form and manner as specified by CMS.

(3) If an MDPP supplier chooses to offer in-kind beneficiary engagement incentives to MDPP beneficiaries as permitted under §424.210, the records maintained by the MDPP supplier in accordance with this section must also include the information required by §424.210(e).

(4) An MDPP supplier is required to maintain and handle any beneficiary Personally Identifiable Information (PII) and Protected Health Information (PHI) in compliance with HIPAA, other applicable state and federal privacy laws, and CMS standards.

(5) The MDPP supplier's records must include an attestation from the MDPP supplier that, as applicable, the MDPP beneficiary for which it is submitting a claim—

(i) Has attended their first, fourth or ninth core session, as applicable, if the claim submitted is for a performance payment under §414.84(b)(1), (2), or (3) of this chapter.

(ii) Has attended at least three core maintenance sessions, achieved required minimum weight loss, or both, as applicable, if the claim submitted is for a performance payment under §414.84(b)(4) of this chapter.

(iii) Has achieved the required minimum weight loss and attended at least three ongoing maintenance sessions within an ongoing maintenance session interval, if the claim submitted is for a performance payment under §414.84(b)(5) of this chapter, if the claim submitted is for a performance payment under §414.84(b)(6) of this chapter.

(iv) Has achieved required minimum weight loss as measured in-person during a core session or core maintenance session furnished by that supplier, if the claim submitted is for a performance payment under §414.84(b)(6) of this chapter.

(v) Has achieved at least a 9-percent weight loss percentage as measured in-person during a core session, core maintenance session, or ongoing maintenance session furnished by that supplier, if the claim submitted is for a performance payment under §414.84(b)(7) of this chapter.

(6) The MDPP supplier must maintain all records required under this section for a period of 10 years from the last day of the MDPP beneficiary's receipt of MDPP services provided by the MDPP supplier or from the date of completion of any audit, evaluation, inspection, or investigation, whichever is later, unless either of the following apply:

(i) CMS determines that there is a special need to retain a particular record or group of records for a longer period and notifies the MDPP supplier at least 30 calendar days before the normal disposition rate; or

(ii) There has been a dispute or allegation of fraud or similar fault against the MDPP supplier, in which case the records must be maintained for an additional 6 years from the date of any resulting final resolution of the dispute or allegation of fraud or similar fault, as defined at §405.902 of this chapter.

(h) Denial or revocation of MDPP supplier enrollment. (1) An MDPP supplier is subject to enrollment denial or revocation of its MDPP supplier enrollment for one or more of the following reasons:

(i) Failure to meet enrollment requirements. The MDPP supplier does not satisfy the conditions specified in paragraph (b) of this section.

(A) An enrollment denial under this paragraph (h)(1)(i) is considered an enrollment denial under §424.530(a)(1) of this chapter.

(B) A revocation under this paragraph (h)(1)(i) is considered a revocation under §424.535(a)(1) of this chapter.

(C) An MDPP supplier that does not satisfy the requirements in paragraph (b)(1) of this section may become eligible to bill for MDPP services again if it successfully achieves MDPP preliminary recognition or full CDC DPRP recognition, and successfully enrolls again in Medicare as an MDPP supplier after any applicable reenrollment bar has expired.

(ii) Failure to meet MDPP supplier standards. The MDPP supplier fails to meet the standards specified in paragraph (d) of this section.

(A) An enrollment denial under this paragraph (h)(1)(ii) is considered an enrollment denial under §424.530(a)(1) of this part.

(B) A revocation under this paragraph (h)(1)(ii) is considered a revocation under §424.535(a)(1) of this part.

(iii) Application of existing enrollment denial reasons. One of the enrollment denial reasons specified in §424.530(a) of this part applies.

(iv) Application of existing revocation reasons. One of the revocation reasons specified in §424.535(a) of this chapter applies.

(v) Use of an ineligible coach. (A) The MDPP supplier knowingly allows an ineligible coach to furnish MDPP services to Medicare beneficiaries. Knowingly means that the MDPP supplier received an enrollment denial or revocation notice based on failing to meet the standard specified in §424.205(d)(3), was provided notice by CMS or contractors working on its behalf of this coach's ineligibility including the reason(s) for ineligibility, submitted a corrective action plan (CAP) to remove the coach and become compliant therefore maintaining its enrollment, but continued to allow the coach to provide MDPP services in violation of the CAP.

(B) Revocation under this paragraph (h)(1)(v) is subject to the following requirements:

(1) The revocation becomes effective 30 days after CMS or the CMS contractor mails notice of its determination to the MDPP supplier.

(2) For the revocation authority under this paragraph, MDPP suppliers are barred from participating in the Medicare program from the date of the revocation, which begins 30 days after CMS or its contractor mails notice of the revocation, until the end of the reenrollment bar, which lasts a minimum of 1 year, but not greater than 3 years, depending on the severity of the basis for revocation.

(3) A revoked MDPP supplier must, within 60 calendar days after the effective date of revocation, submit all claims for items and services furnished before the date of the revocation letter.

(2) An MDPP supplier may appeal an enrollment denial or revocation decision in accordance with the procedures specified in part 498 of this chapter. References to suppliers in that section apply to MDPP suppliers.

**§424.210 Beneficiary engagement incentives under the Medicare Diabetes Prevention Program expanded model.**

(a) Definitions. In addition to the definitions specified at §410.79(b) and §424.205(a) of this chapter, the following definition applies to this section:

Engagement incentive period means the period of time during which an MDPP supplier may furnish in-kind beneficiary engagement incentives to a given MDPP beneficiary to whom the MDPP supplier is furnishing MDPP services. This period begins when an MDPP supplier furnishes any MDPP service to an MDPP eligible beneficiary and ends when one of the following occurs, whichever occurs first:

(i) The MDPP beneficiary's MDPP services period ends as described in §410.79(c)(3) of this chapter.

(ii) The MDPP supplier knows the MDPP beneficiary will no longer be receiving MDPP services from the MDPP supplier.

(iii) The MDPP supplier has not had direct contact, either in-person, by telephone, or via other telecommunications technology, with the MDPP beneficiary for more than 90 consecutive calendar days during the MDPP services period.

(b) General. An MDPP supplier may choose to furnish an item or service as an in-kind beneficiary engagement incentive to an MDPP beneficiary only during the engagement incentive period, subject to the following conditions:

(1) The item or service must be furnished directly to an MDPP beneficiary by an MDPP supplier or by an agent of the MDPP supplier, such as a coach, under the MDPP supplier's direction and control.

(2) The item or service must be reasonably connected to the CDC-approved DPP curriculum furnished to the MDPP beneficiary during a core session, a core maintenance session, or ongoing maintenance session furnished by the MDPP supplier.

(3) The item or service must be a preventive care item or service or an item or service that advances a clinical goal, as specified in paragraph (d) of this section, for an MDPP beneficiary by engaging him or her in better managing his or her own health.

(4) The item or service must not be tied to the receipt of services outside of the MDPP services

(5) The item or service must not be tied to the receipt of services from a particular provider, supplier, or coach.

(6) The availability of the item or service must not be advertised or promoted as an in-kind beneficiary engagement incentive available to an MDPP beneficiary receiving MDPP services from the MDPP supplier except that an MDPP beneficiary may be made aware of the availability of the item or service at the time the MDPP beneficiary could reasonably benefit from it during the engagement incentive period.

(7) The cost of the item or service must not be shifted to another Federal health care program, as defined at section 1128B(f) of the Act.

(c) Technology furnished to an MDPP beneficiary. In-kind beneficiary engagement incentives involving technology furnished by an MDPP supplier to an MDPP beneficiary are subject to the following conditions:

(1) Items or services involving technology may not, in the aggregate, exceed \$1,000 in retail value for any one MDPP beneficiary.

(2) Items or services involving technology must be the minimum necessary to advance a clinical goal, as listed in paragraph (d) of this section, for an MDPP beneficiary.

(3) Items involving technology exceeding \$100 in retail value must—

(i) Remain the property of the MDPP supplier; and

(ii) Be retrieved from the MDPP beneficiary at the end of the engagement incentive period. The MDPP supplier must document all retrieval attempts, including the ultimate date of retrieval in accordance with paragraph (e)(3) of this section. Documented diligent, good faith attempts to retrieve items of technology will be deemed to meet the retrieval requirement.

(d) Clinical goals of the MDPP expanded model. The following are the clinical goals for MDPP beneficiaries, that may be advanced through in-kind beneficiary engagement incentives:

(1) Attendance at core sessions, core maintenance sessions, or ongoing maintenance sessions.

(2) Weight loss.

(3) Long-term dietary change.

(4) Adherence to long-term health behavior changes.

(e) Documentation of beneficiary engagement incentives. In addition to the documentation requirements at §424.205(g), an MDPP supplier must maintain documentation of items and services furnished as in-kind beneficiary engagement incentives that exceed \$25 in retail value.

(1) The documentation must be established contemporaneous with the furnishing of the in-kind items and services and must include at least the following:

(i) The date the item or service is furnished.

(ii) The identity of the MDPP beneficiary to whom the item or service is furnished.

(iii) The agent of the MDPP supplier who furnished the item or service, if applicable.

(iv) A description of the item or service.

(v) The retail value of the item or service.



(vi) Documentation establishing that the item or service was furnished to the MDPP beneficiary during the engagement incentive period.

(2) Documentation regarding items or services that are furnished to the MDPP beneficiary for use on an ongoing basis during the engagement incentive period, including items of technology exceeding \$100 in retail value, must also include contemporaneous documentation establishing that the MDPP beneficiary is in the engagement incentive period throughout the time period that the MDPP beneficiary possesses or has access to the item or service furnished by the MDPP supplier.

(3) The documentation regarding items of technology exceeding \$100 in retail value must also include contemporaneous documentation of any attempt to retrieve technology as required by paragraph (c)(3)(ii) of this section.

(4) The MDPP supplier must retain and provide access to the documentation required in this section in accordance with §424.205(g).

17. Section 424.502 is amended by revising the definition for “Institutional provider” to read as follows.

**§424.502 Definitions.**

\* \* \* \* \*

Institutional provider means any provider or supplier that submits a paper Medicare enrollment application using the CMS-855A, CMS-855B (not including physician and nonphysician practitioner organizations), CMS-855S, any enrollment application designated for MDPP suppliers, or an associated Internet-based PECOS enrollment application.

\* \* \* \* \*

18. Section 424.516 is amended by revising paragraph (e) introductory text to read as follows.

**§424.516 Additional provider and supplier requirements for enrolling and maintaining active enrollment status in the Medicare program.**

\* \* \* \* \*

(e) Reporting requirements for all other providers and suppliers. Reporting requirements for all other providers and suppliers not identified in paragraphs (a) through (d) of this section, with the exception of MDPP suppliers whose reporting requirements are established in §424.205(d), must report to CMS the following information within the specified timeframes:

\* \* \* \* \*

**PART 425—MEDICARE SHARED SAVINGS PROGRAM**

19. The authority citation for part 425 continues to read as follows:

**Authority:** Secs. 1102, 1106, 1871, and 1899 of the Social Security Act (42 U.S.C. 1302, 1306 1395hh, and 1395jjjj).

20. Section 425.20 is amended by revising the definitions of “Primary care physician” and “Primary care services” to read as follows:

**§425.20 Definitions.**

\* \* \* \* \*

Primary care physician means:

(1) For performance years 2012 through 2015, a physician included in an attestation by the ACO as provided under §425.404 for services furnished in an FQHC or RHC, or a physician who has a primary care specialty designation of internal medicine, general practice, family practice, or geriatric medicine;

(2) For performance years 2016 through 2018, a physician included in an attestation by the ACO as provided under §425.404 for services furnished in an FQHC or RHC, or a physician who has a primary care specialty designation of internal medicine, general practice, family practice, geriatric medicine, or pediatric medicine; and

(3) For performance year 2019 and subsequent years, a physician who has a primary care specialty designation of internal medicine, general practice, family practice, geriatric medicine, or pediatric medicine.

Primary care services means the set of services identified by the HCPCS and revenue center codes designated under §425.400(c).

\* \* \* \* \*

22. Section 425.112 is amended--

a. In paragraph (a)(3)(i) by removing the phrase “Explain how it will require ACO participants” and adding in its place the phrase “Require ACO participants”;

b. In paragraph (a)(3)(ii) by removing the phrase “Explain how it will employ its internal assessments” and adding in its place the phrase “Employ its internal assessments”; and

c. By revising paragraph (b)(4)(ii).

The revision reads as follows:

**§425.112 Required processes and patient-centeredness criteria.**

\* \* \* \* \*

(b) \* \* \*

(4) \* \* \*

(ii) Have a written plan to:

(A) Implement an individualized care program that promotes improved outcomes for, at a minimum, the ACO's high-risk and multiple chronic condition patients.

(B) Identify additional target populations that would benefit from individualized care plans. Individualized care plans must take into account the community resources available to the individual.

(C) Encourage and promote use of enabling technologies for improving care coordination for beneficiaries. Enabling technologies may include one or more of the following:

- (1) Electronic health records and other health IT tools.
- (2) Telehealth services, including remote patient monitoring.
- (3) Electronic exchange of health information.
- (4) Other electronic tools to engage beneficiaries in their care.

(D) Partner with long-term and post-acute care providers, both inside and outside the ACO, to improve care coordination for its assigned beneficiaries.

23. Section 425.204 is amended by--

- a. Revising paragraph (c)(1) introductory text;
- b. Removing paragraph (c)(5)(iii);
- c. Redesignating paragraph (c)(5)(iv) as paragraph (c)(5)(iii); and
- d. Revising paragraph (d).

The revisions read as follows:

**§425.204 Content of the application.**

\* \* \* \* \*

(c) \* \* \*

(1) As part of its application, an ACO must certify that the ACO satisfies the requirements set forth in this part. Upon request, the ACO must submit the following supporting materials to demonstrate that it satisfies the requirements set forth in this part:

\* \* \* \* \*

(d) Distribution of savings. As part of its application to participate in the Shared Savings Program, an ACO must certify it has a mechanism and plan to receive and use payments for shared savings, including criteria for distributing shared savings among its ACO participants and ACO providers/suppliers.

\* \* \* \* \*

24. Section 425.306 is amended by revising paragraph (b)(2) to read as follows:

**§425.306 Participant agreement and exclusivity of ACO participants.**

\* \* \* \* \*

(b) \* \* \*

(2) Each ACO participant that submits claims for services used to determine the ACO's assigned population under subpart E of this part must be exclusive to one Shared Savings Program ACO. If, during a benchmark or performance year (including the 3-month claims runout for such benchmark or performance year), an ACO participant that participates in more than one ACO submits claims for services used in assignment under subpart E of this part, then:

(i) CMS will not consider any services billed through the TIN of the ACO participant when performing assignment under subpart E of this part for the benchmark or performance year.

(ii) The ACO may be subject to the pre-termination actions set forth in §425.216, termination under §425.218, or both.

25. Section 425.400 is amended by adding paragraph (a)(1)(iii) and revising paragraph (c) to read as follows:

**§425.400 General**

(a) \* \* \*

(1) \* \* \*

(iii) In determining final assignment for a benchmark or performance year, CMS will exclude any services furnished during the benchmark or performance year that are billed through the TIN of an ACO participant that is an ACO participant in more than one ACO.

\* \* \* \* \*

(c) Primary care services for purposes of assigning beneficiaries are identified by selected HCPCS/CPT codes, or revenue center codes.

(1) Primary care service codes are as follows:

(i) For performance years 2012 through 2015:

(A) CPT codes:

(1) 99201 through 99215.

(2) 99304 through 99340.

(3) 99341 through 99350.

(B) HCPCS codes G0402 (the code for the Welcome to Medicare visit) and G0438 and G0439 (codes for the annual wellness visits).

(C) Revenue center codes 0521, 0522, 0524, and 0525 submitted by FQHCs (for services furnished prior to January 1, 2011), or by RHCs.

(ii) For performance year 2016 as follows:

(A) CPT codes:

- (1) 99201 through 99215.
- (2) 99304 through 99340.
- (3) 99341 through 99350.
- (4) 99495, 99496, and 99490.

(B) HCPCS codes:

- (1) G0402 (the code for the Welcome to Medicare visit) and
- (2) G0438 and G0439 (codes for the annual wellness visits).
- (3) G0463 for services furnished in ETA hospitals.

(C) Revenue center codes 0521, 0522, 0524, and 0525 submitted by FQHCs (for services furnished prior to January 1, 2011), or by RHCs.

(iii) For performance year 2017 and 2018 as follows:

(A) CPT codes:

- (1) 99201 through 99215.
- (2) 99304 through 99318 (excluding claims including the POS 31 modifier).
- (3) 99319 through 99340.
- (4) 99341 through 99350.
- (5) 99495, 99496, and 99490.

(B) HCPCS Codes:

- (1) G0402 (the code for the Welcome to Medicare visit) and
- (2) G0438 and G0439 (codes for the annual wellness visits).
- (3) G0463 for services furnished in ETA hospitals.

(C) Revenue center codes 0521, 0522, 0524, and 0525 submitted by FQHCs (for services furnished prior to January 1, 2011), or by RHCs.

(iv) For performance year 2019 as follows:

(A) CPT codes:

(1) 99201 through 99215.

(2) 99304 through 99318 (excluding claims including the POS 31 modifier).

(3) 99319 through 99340.

(4) 99341 through 99350.

(5) 99487 and 99489.

(6) 99495, 99496, and 99490.

(B) HCPCS Codes:

(1) G0402 (the code for the Welcome to Medicare visit) and

(2) G0438 and G0439 (codes for the annual wellness visits).

(3) G0463 for services furnished in ETA hospitals.

(4) G0506 (code for chronic care management).

(5) G0502, G0503, G0504 and G0507 (codes for behavioral health integration).

26. Section 425.404 is amended—

a. In the introductory text by removing the phrase “with two special conditions:” and adding in its place the phrase “with special conditions:”; and

b. By revising paragraphs (a) and (b).

The revisions read as follows:

**§425.404 Special assignment conditions for ACOs including FQHCs and RHCs.**

\* \* \* \* \*

(a) For performance years 2012 through 2018 –



(1) Such ACOs are required to identify, through an attestation, physicians who directly provide primary care services in each FQHC or RHC that is an ACO participant and/or ACO provider/supplier in the ACO.

(2) Under the assignment methodology in §425.402, CMS treats a service reported on an FQHC/RHC claim as a primary care service —

(i) If the claim includes a HCPCS or revenue center code that meets the definition of primary care services under §425.20;

(ii) Performed by a primary care physician if the NPI of a physician identified in the attestation provided under paragraph (a)(1) of this section is reported on the claim for a primary care service (as described in paragraph (a)(2)(i) of this section) as the attending provider; and

(iii) Performed by a non-physician ACO professional if the NPI reported on the claim for a primary care service (as described in paragraph (a)(2)(i) of this section) as the attending provider is an ACO professional but is not identified in the attestation provided under paragraph (a)(1) of this section.

(b) For performance year 2019 and subsequent performance years, under the assignment methodology in §425.402, CMS treats a service reported on an FQHC/RHC claim as a primary care service performed by a primary care physician.

**§425.500 [Amended]**

27. Section 425.500 is amended--

a. In paragraph (e)(2) by removing the phrase “of this section is less than 90 percent, absent unusual circumstances,” and adding in its place the phrase “of this section is less than 80 percent, absent unusual circumstances,”; and

b. In paragraph (e)(3) by removing the phrase “determines there is a match rate of less than 90 percent, the ACO” and adding in its place the phrase “determines there is a match rate of less than 80 percent, the ACO”.

**§425.502 [Amended]**

28. Section 425.502 is amended in paragraph (a)(5) by removing the phrase “or causes patient harm.” and adding in its place the phrase “or causes patient harm, or when there is a determination under the Quality Payment Program that the measure has undergone a substantive change.”

29. Section §425.602 is amended by adding paragraphs (a)(1)(ii)(A) through (C) to read as follows:

**§425.602 Establishing, adjusting, and updating the benchmark for an ACO's first agreement period.**

- (a) \* \* \*
- (1) \* \* \*
- (ii) \* \* \*

(A) For agreement periods beginning before 2018, this calculation considers all individually beneficiary identifiable payments, including interim payments, made under a demonstration, pilot or time limited program.

(B) For agreement periods beginning in 2018 and subsequent years, this calculation considers individually beneficiary identifiable final payments made under a demonstration, pilot or time limited program.

(C) For the 2018 performance year and subsequent performance years in agreement periods beginning in 2015, 2016 and 2017, the benchmark is adjusted to reflect only individually

beneficiary identifiable final payments made under a demonstration, pilot or time limited program.

\* \* \* \* \*

30. Section §425.603 is amended by adding paragraphs (c)(1)(ii)(A) through (C) and (e)(2)(ii)(A) through (C) to read as follows:

**§425.603 Resetting, adjusting, and updating the benchmark for a subsequent agreement period.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) \* \* \*

(A) For agreement periods beginning before 2018, considers all individually beneficiary identifiable payments, including interim payments, made under a demonstration, pilot or time limited program.

(B) For agreement periods beginning in 2018 and subsequent years, considers individually beneficiary identifiable final payments made under a demonstration, pilot or time limited program.

(C) For the 2018 and 2019 performance years in agreement periods beginning in 2017, the benchmark is adjusted to reflect only individually beneficiary identifiable final payments made under a demonstration, pilot or time limited program.

\* \* \* \* \*

(e) \* \* \*

(2) \* \* \*

(ii) \* \* \*

(A) For agreement periods beginning before 2018, considers all individually beneficiary identifiable payments, including interim payments, made under a demonstration, pilot or time limited program.

(B) For agreement periods beginning in 2018 and subsequent years, considers individually beneficiary identifiable final payments made under a demonstration, pilot or time limited program.

(C) For the 2018 and 2019 performance years in agreement periods beginning in 2017, risk adjusted county fee-for-service expenditures are adjusted to reflect only individually beneficiary identifiable final payments made under a demonstration, pilot or time limited program.

\* \* \* \* \*

31. Section §425.604 is amended by adding paragraphs (a)(6)(ii)(A) and (B) to read as follows:

**§425.604 Calculation of savings under the one-sided model.**

(a) \* \* \*

(6) \* \* \*

(ii) \* \* \*

(A) For performance years beginning before 2018, these calculations will take into consideration all individually beneficiary identifiable payments, including interim payments, made under a demonstration, pilot or time limited program.

(B) For performance year 2018 and subsequent performance years, these calculations will take into consideration individually beneficiary identifiable final payments made under a demonstration, pilot or time limited program.

\* \* \* \* \*

32. Section §425.606 is amended by adding paragraphs (a)(6)(ii)(A) and (B) to read as follows:

**§425.606 Calculation of shared savings and losses under Track 2.**

(a) \* \* \*

(6) \* \* \*

(ii) \* \* \*

(A) For performance years beginning before 2018, these calculations will take into consideration all individually beneficiary identifiable payments, including interim payments, made under a demonstration, pilot or time limited program.

(B) For performance year 2018 and subsequent performance years, these calculations will take into consideration individually beneficiary identifiable final payments made under a demonstration, pilot or time limited program.

\* \* \* \* \*

33. Section §425.610 is amended by adding paragraphs (a)(6)(ii)(A) and (B) to read as follows:

**§425.610 Calculation of shared savings and losses under Track 3.**

(a) \* \* \*

(6) \* \* \*

(ii) \* \* \*

(A) For performance years beginning before 2018, these calculations will take into consideration all individually beneficiary identifiable payments, including interim payments, made under a demonstration, pilot or time limited program.

(B) For performance year 2018 and subsequent performance years, these calculations will take into consideration individually beneficiary identifiable final payments made under a demonstration, pilot or time limited program.

\* \* \* \* \*

**§425.612 [Amended]**

34. Section 425.612 is amended by removing paragraphs (a)(1)(i)(A)(4) and (a)(1)(i)(C).

**Dated:** June 28, 2017.

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**Seema Verma**

Administrator,  
Centers for Medicare & Medicaid Services.

**Dated:** June 28, 2017.

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**Thomas E. Price**

Secretary,  
Department of Health and Human Services.

CMS-1676-P

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