

CHANGE IS COMING: CMS WRVU UPDATES WILL IMPACT PHYSICIAN COMPENSATION MODELS

On December 1, 2020, the Centers for Medicare & Medicaid Services (“CMS”) issued a final rule (“Final Rule”) that imposes several modifications to the Medicare Physician Fee Schedule (“MPFS”) for Calendar Year (“CY”) 2021. Notably, the Final Rule will materially increase the Work Relative Value Units (“wRVUs”) that are allocated to several common evaluation and management services (“E/M Services”) typically associated with primary care and other office-based visits starting on January 1, 2021. The Final Rule also includes a decrease in the conversion factor used to calculate reimbursement for physician services in order to maintain budget neutrality. Since many health care organizations use wRVUs in their physician compensation models, they will need to move quickly to determine their approach for calculating compensation in 2021.

This alert focuses on how these changes are likely to impact productivity-based compensation plans and steps that providers can take now in response to these changes. For more information on the Final Rule, please see the CMS [fact sheet](#) and the [Final Rule](#).

FINAL WRVU ADJUSTMENTS

The wRVU adjustments are scheduled to go into effect in just over 3 weeks on January 1, 2021.^[1] Under the Final Rule, CMS is increasing the wRVUs attributable to several new and established office/outpatient E/M Services. The table below describes the wRVU changes in CY 2021 for existing E/M Services:

HCPCS Code	CY2020 wRVUs	CY2021 wRVUs	Percent Change
99201	0.48	N/A	-
99202	0.93	0.93	0.0%
99203	1.42	1.6	12.6%
99204	2.43	2.6	7.0%
99205	3.17	3.5	10.4%
99211	0.18	0.18	0.0%
99212	0.48	0.7	45.8%
99213	0.97	1.3	34.0%
99214	1.5	1.92	28.0%

99215	2.11	2.8	32.7%
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In addition to increasing the wRVUs attributable to certain existing E/M Services, CMS is establishing a new code for an office/outpatient E/M prolonged visit (G2212[2]) as well as a new modifier to account for the complexity of certain E/M office visits (G2211[3]). The wRVU values associated with these new codes are listed below:

- G2211 - 0.33 wRVUs
- G2212 - 0.61 wRVUs per instance

IMPACT ON PRODUCTIVITY-BASED COMPENSATION MODELS

The final changes will have a significant impact on health care organizations. While the most significant impact will be on employed physicians paid under productivity-based models, health care organizations should analyze all compensation plans that calculate compensation based on wRVUs, as well as any projected revenue impact resulting from the decrease to the Medicare conversion factor. Health care leaders should consider the following:

- **2021 MPFS wRVUs.** Many organizations use the most recent MPFS to calculate productivity-based models. Organizations using the 2021 MPFS may see a material increase in the number of wRVUs credited to their employed or contracted physicians (especially for specialties with significant office-based practices).
- **2021 MPFS Conversion Factor.** While an organization's employed or contracted physicians may generate more wRVUs in 2021, the reduction in the MPFS conversion factor could mean that the organization will not receive a corresponding increase in reimbursement depending on the specialty and service provided.
- **Implementation of 2021 MPFS.** Health care organizations will need to move quickly to determine their approach for 2021. We anticipate that some health care organizations will choose to implement their compensation models utilizing the 2021 MPFS.
- **Freezing Compensation.** As an alternative to utilizing the 2021 MPFS, other organizations may choose to "freeze" their compensation plans. Effectively, this means that they will continue to implement compensation based on the 2020 MPFS or a prior year.
- **Proactive Adjustments.** We also anticipate that some organizations may choose to proactively adjust the applicable wRVU rates, thresholds and/or conversion factors under their compensation plans to account for the proposed changes to the 2021 MPFS so that compensation remains consistent with historical levels.
- **Contractual Updates.** Regardless of the approach taken, organizations have an opportunity to update contractual language relating to wRVU calculations in case CMS makes material adjustments to wRVU values in future years.
- **Compensation Redesigns.** Given the challenges of the COVID-19 pandemic and Stark and Anti-Kickback reform that will go into effect on January 19, 2021, some health care organizations may look to transform to more innovative value-based arrangements that incentivize care coordination, quality of care and cost containment during 2021.

PRACTICAL TAKEAWAYS

Health care leaders should engage their compliance, legal and business teams to develop an approach for calculating compensation in 2021 that allows the organization to meet its goals.

It is also important for health care organizations to keep in mind that, along with the changes to wRVU values, the Final Rule also finalized changes to the documentation requirements for E/M Services. A documentation review of providers' coding is therefore recommended, as these new documentation rules introduce another layer of complexity and potential compliance risk.

Hall Render attorneys are monitoring updates across the industry related to 2021 MPFS and its impact on physician compensation. As a next step, please register [here](#) for a Hall Render physician compensation webinar roundtable that will touch on the MPFS changes scheduled for December 8, 2020 at 1:00 PM EST. If you have any questions or would like more information on this topic, please contact:

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[references]

[1] CMS finalized its policy regarding the re-valuation of certain E/M codes in the CY 2020 Physician Fee Schedule Final Rule (84 FR 62844 through 62860), available at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices-Items/CMS-1715-F>.

[2] G2212 replaces the placeholder code 99XXX referenced in the Proposed Rules

[3] G2211 replaces the placeholder code GPC1X referenced in the Proposed Rule. The full description of the G2211 modifier is as follows: “visit complexity inherent to evaluation and management associated with medical care services that serve as the continuing focal point for all needed health care services and/or with medical care services that are part of ongoing care related to a patient’s single, serious, or complex condition.”

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