



Highlights from the CY 2022 Medicare Physician Fee Schedule Final Rule

On November 2nd, the Centers for Medicaid and Medicare Services (CMS) released the calendar year (CY) 2022 Medicare Physician Fee Schedule (MPFS) final rule. Through this rule, CMS makes changes to payment and other policy provisions for physicians and other healthcare professionals covered under the MPFS. Below we highlight key provisions of interest to infectious diseases physicians.

“Outbreak Activation”

In the rule, CMS summarized comments it received on an important solicitation for feedback on the impact of infectious disease on codes and ratesetting. The comment solicitation came in response to concerns raised by IDSA and others about the additional costs borne by their practices during the COVID-19 public health emergency (PHE). Working closely with other front-line medical specialties, IDSA developed an “outbreak activation” payment policy proposal. The proposal asked CMS to establish a new payment modifier “that infectious disease physicians and other clinicians could append to current E/M codes that would help ensure that resources are available for the increased work associated with care during an outbreak,” a concept that was [broadly supported by the House of Medicine](#). While the Agency has been trying to redirect from COVID-19-specific policies, IDSA urged CMS to include in the MPFS proposed rule a request for comments on a long-term outbreak activation policy. CMS agreed, and in response to the feedback received in comments on the proposed rule, including those provided by the IDSA-led coalition, CMS stated it would consider the input for future rulemaking.

Conversion Factor and CMS Overall Impact Estimates

CMS announced the CY 2022 conversion factor of **\$33.5983**, a drop of 3.71 percent or \$1.30, compared to the 2021 conversion factor of \$34.8931. CMS estimates an overall impact of the MPFS changes to infectious disease physicians to be 0%. This does not, however, factor in the loss of the temporary payment adjustment (+3.75%) provided under the CY 2021 under the Consolidated Appropriations Act, 2021 (CAA) or sequestration (i.e., Medicare sequester set at 2% and PAYGO sequester of 4%). If Congress does not intervene, infectious disease physicians will face a Medicare payment reduction close to 9% starting January 1, 2022.

Clinical Labor Update

After almost two decades, CMS proposed – and finalized – updates to clinical labor prices, which are used to calculate practice expense payments under the PFS. Given the impact of this policy on certain services, CMS agreed to phase-in the new rates over a 4-year transition, thus spreading out the impact over time. Once the new clinical labor prices are fully-phased in, the impact on infectious diseases will be approximately -1%, depending on the mix of services provided by a given provider. In the rule, CMS states that the clinical labor rates will remain open for public comment over the course of the 4-year period and are particularly interested in data that will improve the accuracy of their finalized pricing.

Evaluation and Management (E/M) Services

As described in a CMS fact sheet, the agency has refined its split/shared E/M visit policies. These are now defined as “visits provided in a facility setting by a physician and a non-physician provider [NPP] in the same group,” and where “the substantive portion is determined based on medical history, physical exam, medical decision-making or more than half of the total time,” for 2022. Starting in 2023, “the substantive portion will be defined as more than half of the total time spent.” Clinicians will need to append a modifier (i.e., “FS”) to identify these services on their claims, as well as ensure documentation reflects the two individuals that performed the visit. CMS will allow split/shared E/M services for new and established patients, initial and subsequent visits, and prolonged services.



Telehealth

As the agency proposed, CMS will retain certain services (i.e., Category 3) on the Medicare telehealth list through Dec. 31, 2023, allowing stakeholders and the agency additional time to collect data to determine whether those services should be permanently added to the Medicare telehealth list once the COVID-19 PHE has concluded. However, once the PHE ends, without Congressional action these codes will be subject to the general telehealth geographic and originating site restrictions as they are statutory and the Secretary was only able to waive them via the authority granted under a PHE declaration.

Consistent with authorities granted under the CAA, CMS permanently removed geographic restrictions and originating site requirements so that beneficiaries may remain in their homes when accessing behavioral and mental health services through telehealth. In addition, CMS will also allow payment for behavioral and mental health services using “audio-only” communication technology.

Payment for COVID-19 Monoclonal Antibodies (MABs)

During the pandemic, CMS covered and reimbursed COVID-19 MABs as part of its vaccine administration coverage and payment policies, which eliminated beneficiary cost-sharing and boosted payment for provider administration. However, in light stakeholder feedback, and effective January 1 of the year following the year in which the PHE ends, CMS will begin to pay for these drugs similar to other physician-administered drugs and biologicals under Medicare Part B.