



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 400, 410, 414, 415, 423, 424, and 425

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RIN 0938-AU10, 0938-AU31, 0938-AU32, and 0938-AU33

Medicare Program; CY 2021 Payment Policies under the Physician Fee Schedule and Other Changes to Part B Payment Policies; Medicare Shared Savings Program Requirements; Medicaid Promoting Interoperability Program Requirements for Eligible Professionals; Quality Payment Program; Coverage of Opioid Use Disorder Services Furnished by Opioid Treatment Programs; Medicare Enrollment of Opioid Treatment Programs; Electronic Prescribing for Controlled Substances for a Covered Part D Drug; Payment for Office/Outpatient Evaluation and Management Services; Hospital IQR Program; Establish New Code Categories; Medicare Diabetes Prevention Program (MDPP) Expanded Model Emergency Policy; Coding and Payment for Virtual Check-in Services Interim Final Rule Policy; Coding and Payment for Personal Protective Equipment (PPE) Interim Final Rule Policy; Regulatory Revisions in Response to the Public Health Emergency (PHE) for COVID-19; and Finalization of Certain Provisions from the March 31st, May 8th and September 2nd Interim Final Rules in Response to the PHE for COVID-19; Correction

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

ACTION: Final rule and interim final rule; Correction.

SUMMARY: This document corrects technical errors in the final rule that appeared in the December 28, 2020, **Federal Register** entitled, “Medicare Program; CY 2021 Payment Policies under the Physician Fee Schedule and Other Changes to Part B

Payment Policies; Medicare Shared Savings Program Requirements; Medicaid Promoting Interoperability Program Requirements for Eligible Professionals; Quality Payment Program; Coverage of Opioid Use Disorder Services Furnished by Opioid Treatment Programs; Medicare Enrollment of Opioid Treatment Programs; Electronic Prescribing for Controlled Substances for a Covered Part D Drug; Payment for Office/Outpatient Evaluation and Management Services; Hospital IQR Program; Establish New Code Categories; Medicare Diabetes Prevention Program (MDPP) Expanded Model Emergency Policy; Coding and Payment for Virtual Check-in Services Interim Final Rule Policy; Coding and Payment for Personal Protective Equipment (PPE) Interim Final Rule Policy; Regulatory Revisions in Response to the Public Health Emergency (PHE) for COVID-19; and Finalization of Certain Provisions from the March 31st, May 8th and September 2nd Interim Final Rules in Response to the PHE for COVID-19” (hereinafter referred to as the CY 2021 PFS final rule).

DATES: This correction is effective [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], and is applicable beginning January 1, 2021.

FOR FURTHER INFORMATION CONTACT:

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SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2020–26815 of December 28, 2020, the CY 2021 PFS final rule (85 FR 84472), there were technical errors that are identified and corrected in this correcting document. These corrections are effective and applicable beginning January 1, 2021.

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 84503, in the Medicare telehealth services list, due to a typographical error, the CPT code is incorrect.

On page 84513 in Table 14: Final Services for Temporary Addition to the Medicare Telehealth Services List, we inadvertently included CPT code 96121.

On page 84516 in Table 14: Final Services for Temporary Addition to the Medicare Telehealth Services List, we inadvertently included CPT codes 99221, 99222, and 99223.

On page 84560 in Table 23: CY 2020 Work RVUs and CY 2021 Final Work RVUs, we inadvertently included CPT codes 99492 and 99493 and inadvertently omitted HCPCS codes G2211 and G2212. There were no changes made to the work RVUs for CPT codes 99492 and 99493 in this final rule.

On page 84562 in Table 24: Comparison of Physician Time, and Clinical Staff Time (Non-facility and Facility) for HCPCS Codes, CY 2020 Values vs. 2021 Final Values, we inadvertently included CPT codes 99492 and 99493 and inadvertently omitted HCPCS Codes G2211 and G2212.

On page 84665 in Table 28: CY 2021 Work RVUs for New, Revised and Potentially Misvalued Codes, due to a typographical error, we inadvertently included the incorrect descriptor for HCPCS code G2216.

B. Summary and Correction of Errors in the Addenda on the CMS Website

Due to a technical change that was applied in error to the indirect practice expense (PE) allocation for HCPCS codes G2082 and G2083 in the final rule, the Addendum B posted on the CMS website contained errors for the Non-Facility PE RVUs, Facility PE RVUs, Total Non-Facility RVUs, and the Total Facility RVUs. Specifically, we assigned an incorrect physician specialty in our ratesetting process to the predecessor codes for HCPCS codes G2082 and G2083 in the CY 2020 PFS final rule and CY 2021 PFS proposed rule. We intended to correct the assigned physician specialty for these codes in

the CY 2021 PFS final rule; however, we neglected to discuss this correction in the course of PFS rulemaking for CY 2021. Since this technical change was applied in the CY 2021 PFS final rule, but was not discussed in the course of PFS rulemaking for CY 2021, we are removing this change for the 2021 calendar year, retroactive to January 1, 2021. The Non-Facility PE RVUs, Facility PE RVUs, Total Non-Facility RVUs, and Total Facility RVUs that resulted from the correction of this error are reflected in the revised CY 2021 Addendum B available on the CMS website at

<https://www.cms.gov/medicare/medicare-fee-service-payment/physicianfeesched/pfs-federal-regulation-notice/cms-1734-f>. Specifically, we are correcting the following:

1. In Addendum B – Relative Value Units and Related Information Used in the CY 2021 PFS final rule, line 12615 for CPT/HCPCS code G2082, Visit esketamine 56m or less,

a. Seventh column, the Non-Facility PE RVUs the value “17.68” is corrected to read “24.06”.

b. Eighth column, the Facility PE RVUs the value “0.17” is corrected to read “0.27”.

c. Tenth column, Total Non-Facility RVUs the value “18.43” is corrected to read “24.81”.

d. Eleventh column, Total Facility RVUs the value “0.92” is corrected to read “1.02”.

2. In Addendum B – Relative Value Units and Related Information Used in the CY 2021 PFS final rule, line 12616 for CPT/HCPCS G2083 for Visit esketamine, > 56m,

a. Seventh column the Non-Facility PE RVUs the value “25.54” is corrected to read “34.72”.

b. Eighth column the Facility PE RVUs the value “0.17” is corrected to read “0.27”.

c. Tenth column, Total Non-Facility RVUs the value “26.29” is corrected to read “35.47”.

d. Eleventh column Total Facility RVUs the value “0.92” is corrected to read “1.02”.

III. Waiver of Proposed Rulemaking and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (the APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. Similarly, section 1871(b)(1) of the Social Security Act (the Act) requires the Secretary to provide for notice of the proposed rule in the **Federal Register** and provide a period of not less than 60 days for public comment. In addition, section 553(d) of the APA and section 1871(e)(1)(B)(i) of the Act mandate a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the APA notice and comment, and delay in effective date requirements; in cases in which these exceptions apply, sections 1871(b)(2)(C) and 1871(e)(1)(B)(ii) of the Act provide exceptions from the notice and 60-day comment period and delay in effective date requirements of the Act as well. Section 553(b)(B) of the APA and section 1871(b)(2)(C) of the Act authorize an agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and includes a statement of the finding and the reasons for it in the rule. In addition, section 553(d)(3) of the APA and section 1871(e)(1)(B)(ii) allow the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and the agency includes in the rule a statement of the finding and the reasons for it.

In our view, this correcting document does not constitute a rulemaking that would be subject to these requirements. This document merely corrects technical errors in the

CY 2021 PFS final rule. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were proposed, subject to notice and comment procedures, and adopted in the CY 2021 PFS final rule. As a result, the corrections made through this correcting document are intended to resolve inadvertent errors so that the CY 2021 PFS final rule accurately reflects the policies adopted in the final rule. Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the CY 2021 PFS final rule or delaying the effective date of the corrections would be contrary to the public interest because it is in the public interest to ensure that the rule accurately reflects our policies as of the date they take effect. Further, such procedures would be unnecessary because we are not making any substantive revisions to the final rule, but rather, we are simply correcting the **Federal Register** document to reflect the policies that we previously proposed, received public comment on, and subsequently finalized in the CY 2021 PFS final rule. For these reasons, we believe there is good cause to waive the requirements for notice and comment and delay in effective date.

IV. Correction of Errors

In FR Doc. 2020–26815 (85 FR 84472), published December 28, 2020, make the following corrections:

A. Correction of Errors in the Preamble

1. On page 84503, second column, third bullet, third line, the number “994780” is corrected to read “99478”.
2. On page 84513 in Table 14: Final Services for Temporary Addition to the Medicare Telehealth Services List, the second column, the third row, is corrected by removing the listing for HCPCS code 96121 in the second and third columns.

3. On page 84516 in Table 14: Final Services for Temporary Addition to the Medicare Telehealth Services List, the second column, the second, third, and fourth rows are corrected by removing the listings for HCPCS codes 99221, 99222, and 99223 in the second and third columns.

4. On page 84560, Table 23: CY 2020 Work RVUs and CY 2021 Final Work RVUs, is corrected by removing CPT codes 99492 and 99493 and adding rows for HCPCS codes G2211 and G2212 to read as follows:

HCPCS Code	Long Descriptor	CY 2020 Work RVUs	Final CY 2021 Work RVUs
G2211	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 condition or a complex condition. (Add-on code, list separately in addition to office/outpatient evaluation and management visit, new or established).	N/A	0.33
G2212	Prolonged office or other outpatient evaluation and management service(s) beyond the maximum required time of the primary procedure which has been selected using total time on the date of the primary service; each additional 15 minutes by the physician or qualified healthcare professional, with or without direct patient contact (List separately in addition to CPT codes 99205, 99215 for office or other outpatient evaluation and management services). (Do not report G2212 on the same date of service as 99354, 99355, 99358, 99359, 99415, 99416). (Do not report G2212 for any time unit less than 15 minutes).	N/A	0.61

5. On page 84562, Table 24: Comparison of Physician Time, and Clinical Staff Time (Non-facility and Facility) for HCPCS Codes, CY 2020 Values vs. 2021 Final Values, is corrected by removing CPT codes 99492 and 99493 and adding rows for HCPCS codes G2211 and G2212 to read as follows:

HCPCS	Phys. Time (Minutes) – CY 2020	Phys. Time (Minutes) – CY 2021 Final	NF Clinical Staff Time (Minutes) - CY2020	NF Clinical Staff Time (Minutes) – CY 2021 Final	Fac. Clinical Staff Time (Minutes) – CY 2020	Fac. Clinical Staff Time (Minutes) – CY 2021 Final
G2211	11	11	0	0	0	0
G2212	15	15	2	2	0	0

6. On page 84665 in Table 28: CY 2021 Work RVUs for New, Revised and Potentially Misvalued Codes, the second column, the third row, the phrase “Take-home supply of auto-injector naloxone” is corrected to read “Take-home supply of injectable naloxone”.

Dated: March 12, 2021

Wilma M. Robinson,

Deputy Executive Secretary to the Department,

Department of Health and Human Services.

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