



Federal Register

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Part II

Department of Health and Human Services

Center for Medicare & Medicaid Services

**42 CFR Parts 405, 409, 410 et al.
Medicare Program; Payment Policies
Under the Physician Fee Schedule and
Other Revisions to Part B for CY 2011;
Final Rule**

TABLE 56—SPECIFIED MENTAL HEALTH SERVICES SUBJECT TO THE FIVE PERCENT INCREASE IN MEDICARE PAYMENT THROUGH DECEMBER 31, 2010—Continued

90824 (Individual psychotherapy, interactive, using play equipment, physical devices, language interpreter, or other mechanisms of non-verbal communication, in an inpatient hospital, partial hospital or residential care setting, approximately 20 to 30 minutes face-to-face with the patient; with medical evaluation and management services)
90826 (Individual psychotherapy, interactive, using play equipment, physical devices, language interpreter, or other mechanisms of non-verbal communication, in an inpatient hospital, partial hospital or residential care setting, approximately 45 to 50 minutes face-to-face with the patient;)
90827 (Individual psychotherapy, interactive, using play equipment, physical devices, language interpreter, or other mechanisms of non-verbal communication, in an inpatient hospital, partial hospital or residential care setting, approximately 45 to 50 minutes face-to-face with the patient; with medical evaluation and management services)
90828 (Individual psychotherapy, interactive, using play equipment, physical devices, language interpreter, or other mechanisms of non-verbal communication, in an inpatient hospital, partial hospital or residential care setting, approximately 75 to 80 minutes face-to-face with the patient;)
90829 (Individual psychotherapy, interactive, using play equipment, physical devices, language interpreter, or other mechanisms of non-verbal communication, in an inpatient hospital, partial hospital or residential care setting, approximately 75 to 80 minutes face-to-face with the patient; with medical evaluation and management services)

Comment: One commenter supported CMS' proposal to continue the current 5 percent increase in Medicare payment for specified mental health services through December 31, 2010.

Response: We appreciate the support of our efforts to implement this mandated mental health add-on provision that extends the expiration of the 5 percent increase in payment for specified outpatient mental health services from January 1, 2010 to December 31, 2010.

After consideration of the public comment we received, we are finalizing the extension of the 5 percent increase in Medicare payment under the PFS from January 1, 2010 to December 31, 2010.

H. Section 3108: Permitting Physician Assistants To Order Post-Hospital Extended Care Services

The ACA included a self-implementing provision relating to SNFs. Section 3108 of the ACA adds physician assistants (PAs) to the list of practitioners (that is, physicians, nurse practitioners (NPs), and clinical nurse specialists) that can perform the required initial certification and periodic recertification under section 1814(a)(2)(B) of the Act with respect to the SNF level of care. Accordingly, we proposed to make appropriate revisions to include PAs in § 424.20(e)(2), in which we refer to NPs, clinical nurse specialists, and PAs collectively as "physician extenders."

We received no comments on this proposal and, therefore, are finalizing this provision as proposed without further modification.

I. Section 3111: Payment for Bone Density Tests

Section 1848(b) of the Act (as amended by section 3111 of the ACA) changed the payment calculation for dual-energy x-ray absorptiometry (DXA)

services described by two specified DXA CPT codes for CYs 2010 and 2011. This provision required payment for these services at 70 percent of the product of the CY 2006 RVUs for these DXA codes, the CY 2006 conversion factor (CF), and the geographic adjustment for the relevant payment year.

Effective January 1, 2007, the CPT codes for DXA services were revised. The former DXA CPT codes 76075 (Dual energy X-ray absorptiometry (DXA), bone density study, one or more sites; axial skeleton (eg, hips, pelvis, spine)); 76076 (Dual energy X-ray absorptiometry (DXA), bone density study, one or more sites; appendicular skeleton (peripheral) (for example, radius, wrist, heel)); and 76077 (Dual energy X-ray absorptiometry (DXA), bone density study, one or more sites; vertebral fracture assessment) were deleted and replaced with new CPT codes 77080, 77081, and 77082 that have the same respective code descriptors as the predecessor codes. Section 1848(b) of the Act (as amended by section 3111 of the ACA) specifies that the revised payment applies to two of the predecessor codes (CPT codes 76075 and 76077) and "any succeeding codes," which are, in this case, CPT codes 77080 and 77082.

Section 1848(b) (as amended by section 3111 of the ACA) revised the payment for CPT codes 77080 and 77082 during CY 2010 and CY 2011. We have provided payment in CY 2010 under the PFS for CPT codes 77080 and 77082 at the specified rates. (Additional information regarding the CY 2010 payment rates for these services is available in CR 6973, published May 10, 2010.)

Because the statute specifies a payment amount for these services as described previously, we proposed to impute RVUs for CY 2011 that would provide the specified payment amount

for these services when multiplied by the CY 2011 CF. Specifically, we divided the payment amount based on the statutory requirements by the CY 2011 CF for the proposed rule and distributed the imputed total RVUs across the work, PE, and malpractice components proportionately to their CY 2006 distribution. Therefore, these imputed RVUs for CPT codes 77080 and 77082 were displayed in Addendum B to the CY 2011 proposed rule.

Comment: Many commenters supported the ACA provision requiring a specific payment amount for DXA services. Several commenters requested that CMS include in the final rule a sample payment calculation for CPT codes 77080 and 77082 to clarify the calculation for these two codes and to facilitate proper processing of claims by Medicare contractors. In addition, one commenter requested that CMS recalculate any imputed RVUs for DXA services based on the final conversion factor reflected in the CY 2011 PFS final rule with comment period.

Response: We appreciate the comments we received on our proposal. We note that any changes to the proposed rule calculation that resulted from changes between proposed rule values and final rule values have been incorporated in the final determination of the RVUs for these codes upon which PFS payment is based. That said, we are updating our calculation for this final rule with comment period to reflect the final CY 2011 conversion factor applicable under current law that is discussed in section II.H.1.b. of this final rule with comment period. A sample payment calculation for CPT code 77080 is included below.

Sample CY 2011 Calculation of Medicare Payment Rates for CPT Code 77080 (CY 2006 CPT Code 76075)

As discussed above, section 1848(b) of the Act (as amended by section 3111 of