2023 Reimbursement Update

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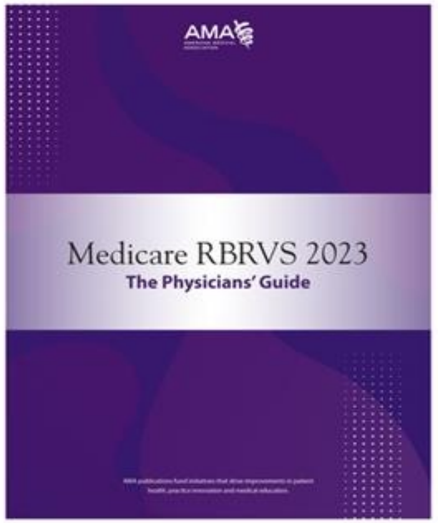
RBRVS Equation

Work RVUs
Practice Expense RVUs
+Liability Insurance RVUs
Total RVUs for a given code



RVU_{Total} X Conversion Factor (CF) = Medicare Payment

ED RVUs

2023 Work RVUs Stable

Code	2022 Work RVU	2023 Work RVU
99283	1.60	1.60
99284	2.74	2.74
99285	4.00	4.00

2023 ED RVU Components and RUC Increases

Emergency Medicine Total RVUS

- Work RVUs 77% (RUC)
- Practice Expense 16%
  - Non physician clinical labor, supplies, and overhead
    - Doesn't apply much to the ED
- Liability 7%
  - Actual claims data

ED RUC Work RVU History

- 2007 big increases
  - (99285 wRVU 3.06 - 3.80)
- 2020 5% increase
  - (99283 wRVU 1.34 - 1.42)
- 2021 5% increase
  - (99284 wRVU 2.60 - 2.74)
- 2023 new Work RVU valuations
  - RUC recommended 99284 wRVU 2.60 fought back to 2.74

The Fight for 99284

"In response to the RUC recommended wRVU of 2.60 for 99284 a commenter submitted a public comment stating that relativity between the ED visits and Office visits visits should be maintained, and submitted a specific recommendation for CPT codes 99283-99285 that was higher than the RUC-recommended values."

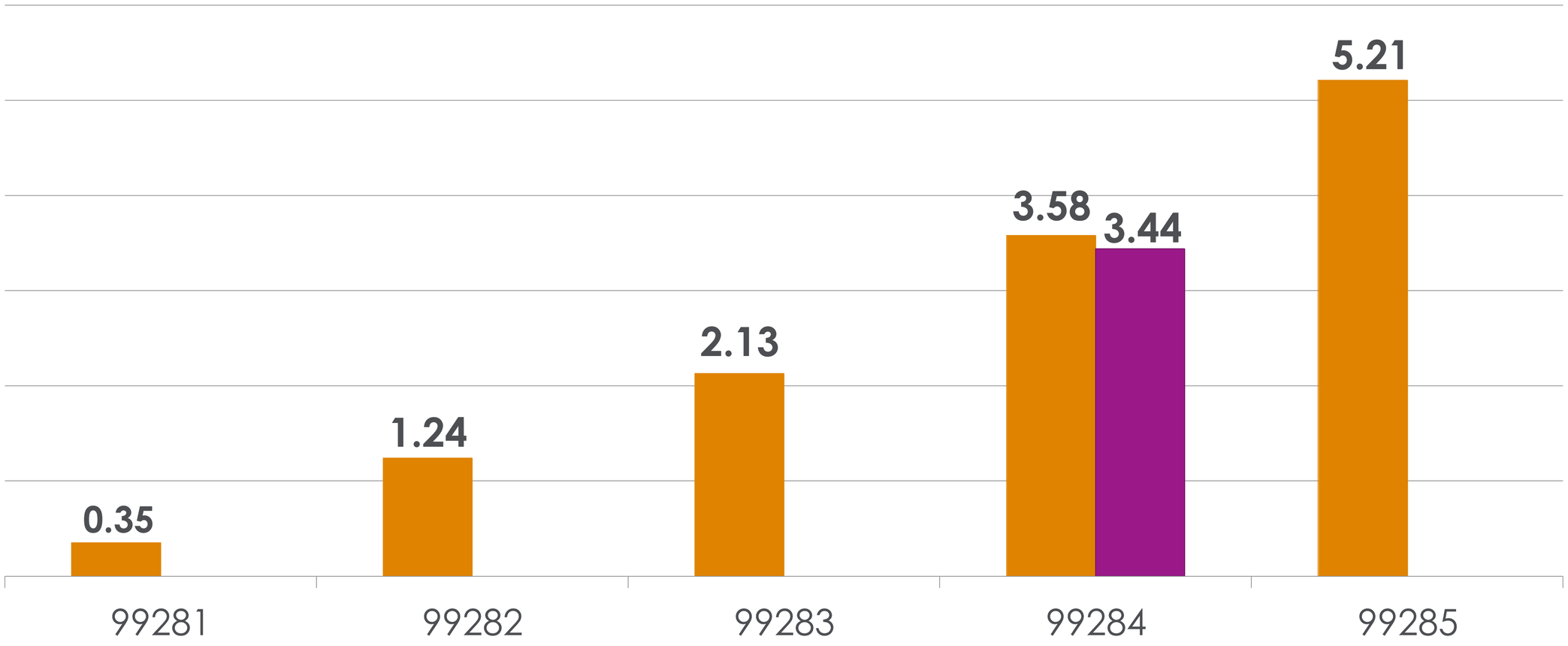
"We proposed and now finalized the values recommended by this commenter in this final policy and increased the work RVU from 2.60 to 2.74 for CPT code 99284."

2023 CMS Physician Final Rule page 669/3304

2023 RVU Component Detail- Small Increases

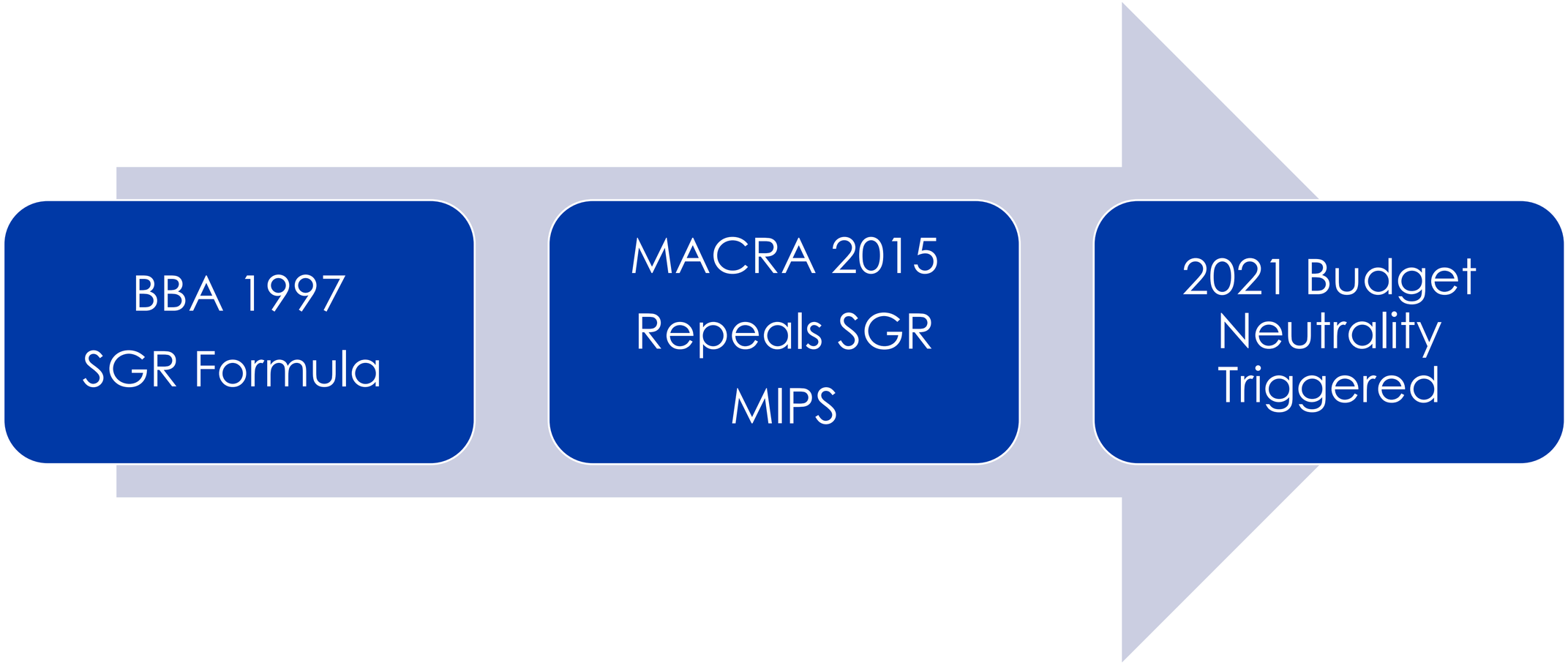
Code	2023 Work	2022 Work	2023 PE	2022 PE	2023 PLI	2022 PLI	2022 Total	2023 Total
99281	0.25	0.48	0.06	0.11	0.04	0.05	**0.64**	**0.35**
99282	0.93	0.93	0.21	0.21	0.10	0.10	**1.24**	**1.24**
99283	**1.60**	**1.60**	0.35	0.33	0.17	0.18	**2.11**	**2.13**
99284	2.74	2.74	0.57	0.54	0.29	0.27	**3.56**	**3.58**
99285	4.00	4.00	0.79	0.75	0.42	0.42	**5.17**	**5.21**

2023 RVU Increases With Each E/M Level



The Conversion Factor

Medicare Conversion Factor Big Picture



2023 Conversion Factor Challenge: Budget Neutrality

- Office visits went up substantially 2021, represent 20% of total Medicare physician cost
- Budget neutrality triggered >$20M spending increase

"Section 1848 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. If this threshold is exceeded, we make adjustments to preserve budget neutrality."

Physician Final Rule

The Medicare Conversion Factor: Adjusted Annually

- Since 2021 have received some help from Congress annually. 2022 +3%
- Final Rule did not account for last year's 3% and cut another -1.6%

TABLE 146: Calculation of the CY 2023 PFS Conversion Factor

CY 2022 Conversion Factor		34.6062
Conversion Factor without CY 2022 Protecting Medicare and American Farmers from Sequester Cuts Act	−3.0%	33.5983
Statutory Update Factor	0.00 percent (1.0000)	
CY 2023 RVU Budget Neutrality Adjustment	-1.60 percent (0.9840)	
CY 2023 Conversion Factor	−4.6%	**33.0607**

Final 2023 Medicare Payment per RVU

News from the AMA AMERICAN MEDICAL ASSOCIATION

News from the AMA AMERICAN MEDICAL ASSOCIATION

January 5, 2023 Press Release:

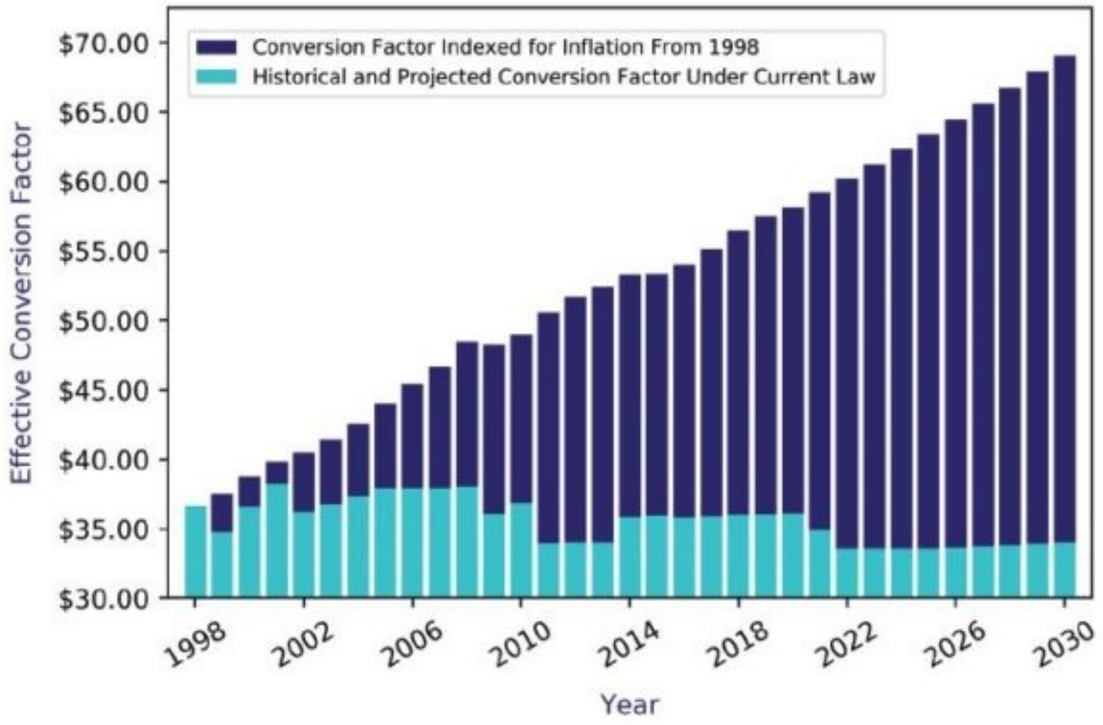
"CMS has released updated national Medicare physician payment files that incorporate the changes in the Consolidated Appropriations Act of 2023. Congress reduced the 4.5% cut to Medicare physician payment by increasing the 2023 conversion factor by 2.5%. The updated 2023 Medicare physician payment schedule conversion factor will be **$33.8872.**

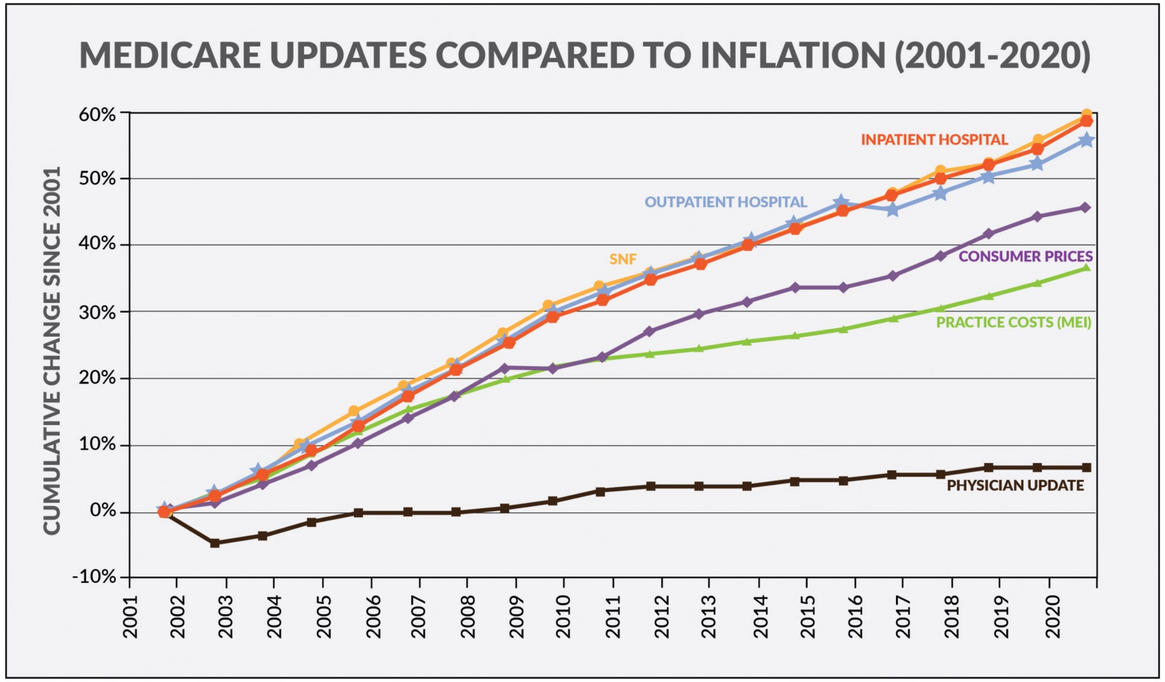
Year	Conversion Factor
2018	$35.9996
2019	$36.0391
2020	$36.0896
2021	$34.8931
2022	$34.6062
2023	$33.8872

MPFS Conversion Factor Under Statute

Statutory Update	Conversion Factor	Actual Change
	2015: $35.9335	-0.34%
2016: +0.5%	2016: $35.8043	+0.24%
2017: +0.5%	2017: $35.8887	+0.31%
2018: +0.5%	2018: $35.9996	+0.11%
2019: +0.25%	2019: $36.0391	+0.14%
2020: 0.00%	2020: $36.0896	-3.3%
2021: +3.75%*	2021: $34.8931	-0.8%
2022: +3.00%*	2022: $34.6062	*-4.7%**
2023: 0.00%	*2023: $33.0607*	*-2.1%*

Conversion Factor: Not Keeping Up



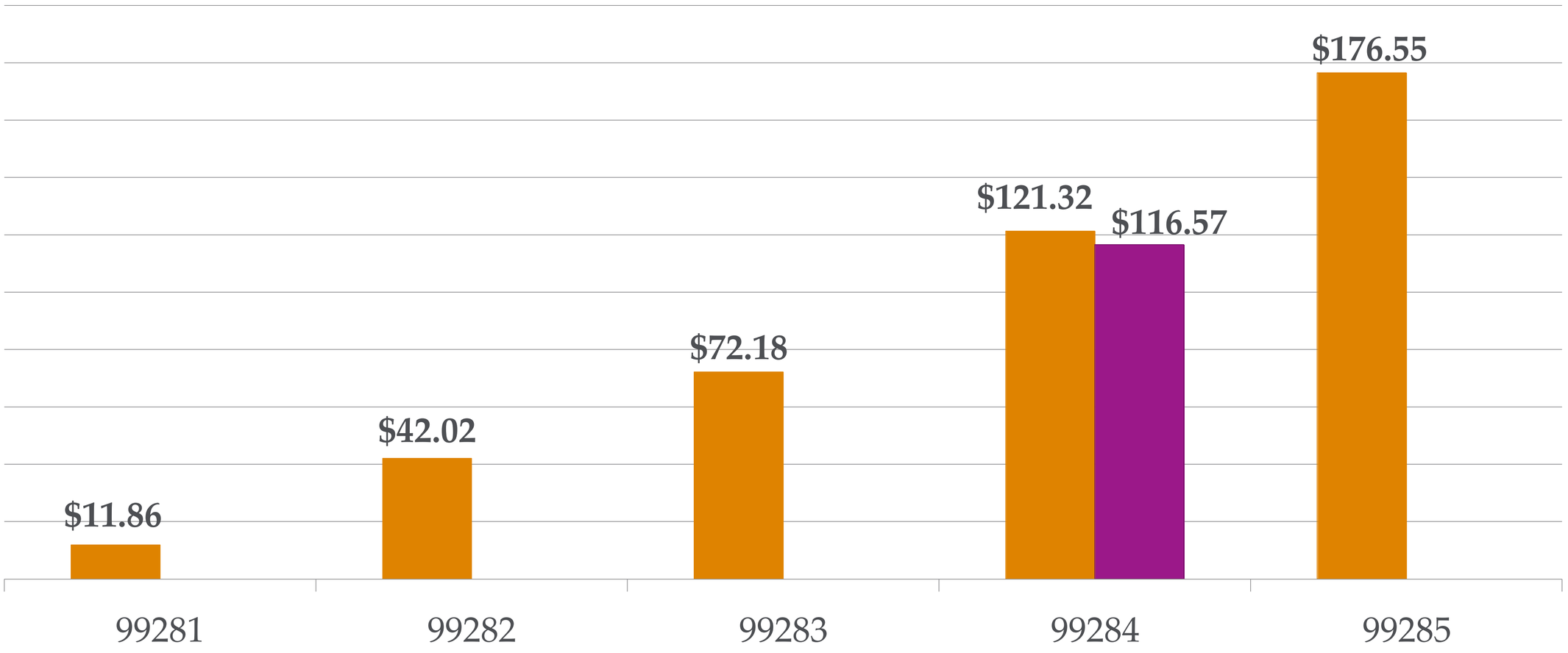


Sources: Federal Register, Medicare Trustees' Reports and U.S. Bureau of Labor Statistics

MPFS Cuts Compounded by Federal Budget "Sequestrations"

- Budget Control Act of 2011 (2% cap on Medicare cuts):
  - In place prior to the COVID-19 PHE
  - Congress issued moratoria on the cuts, but these cuts were full back in effect July 1, 2022 & continue for 2023
- PAYGO (4% cap on Medicare cuts)
  - Claw back of federal spending as a result of enacted legislation that is not fully funded
  - Congress kicked the can for 2 more years (on hold)
    - Consolidated Appropriations Act 2023 (Omnibus Spending Bill)

2023 CMS National Fee Schedule



CMS and Critical Care Timing

Critical Care

- No CPT changes to the code descriptors like ED or Observation
- Big changes in CMS rules on counting time thresholds for adding a unit of 99292
- RVUs stable at 4.50 work 1.39 PE and 0.42 PLI totaling 6.31
- 2022 RVUs were 4.50 work 1.42 PE and 0.41 PLI totaling 6.33
- ? 99291 now requires RUC revaluation
  - "Some commenters also suggested that this policy amounted to an undervaluation for CPT code 99291. These commenters suggested that, while the purported time for CPT code 99291 is 30-74 minutes, our policy essentially extends the time covered by CPT code 99291 from 30-103 minutes."

2023 CMS Final Rule page 674/3304

Time Issues in Critical and Prolonged Care Codes

- CMS is **not** in alignment with CPT on the long-established time thresholds for critical care codes 99291 and 99292.
- It insists on an additional buffer before the add on codes can be reported

"As correctly stated elsewhere in the CY 2022 PFS final rule (regarding critical care furnished by single physicians at 86 FR 65160, and regarding concurrent care furnished by multiple practitioners in the same group and the same specialty to the same patient at 86 FR 65162), our policy is that CPT code 99291 is reportable for the first 30-74 minutes of critical care services furnished to a patient on a given date. CPT code 99292 is reportable for additional, complete 30-minute time increments furnished to the same patient (74 + 30 = 104 minutes). We clarify that our policy is the same for critical care whether the patient is receiving care from one physician, multiple practitioners in the same group and specialty who are providing concurrent care, or physicians and NPPs who are billing critical care as a split (or shared) visit."

- Also impacts observation services, which can be time based

2023 CPT Time Threshold Tables

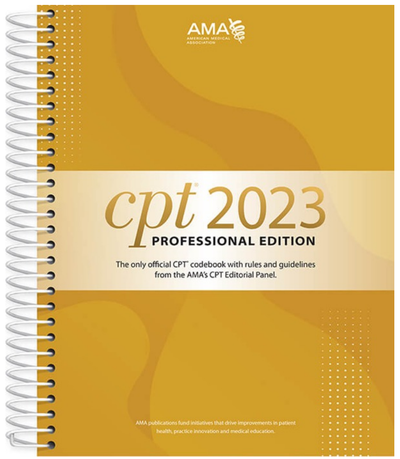
Total Duration of Critical Care	Codes
less than 30 minutes	appropriate E/M codes
30-74 minutes (30 minutes - 1 hr. 14 min.)	99291 X 1
75-104 minutes (1 hr. 15 min. - 1 hr. 44 min.)	99291 X 1 AND 99292 X 1
105-134 minutes (1 hr. 45 min. - 2 hr. 14 min.)	99291 X 1 AND 99292 X 2
135-164 minutes (2 hr. 15 min. - 2 hr. 44 min.)	99291 X 1 AND 99292 X 3
165-194 minutes (2 hr. 45 min. - 3 hr. 14 min.)	99291 X 1 AND 99292 X 4
195 minutes or longer (3 hr. 15 min. - etc.)	99291 and 99292 as appropriate (see illustrated reporting examples above)

▶Total Duration of New Patient Office or Other Outpatient Services (use with 99205)	Code(s)
less than 75 minutes	Not reported separately
75-89 minutes	99205 X 1 and 99417 X 1
90-104 minutes	99205 X 1 and 99417 X 2
105 minutes or more	99205 X 1 and 99417 X 3 or more for each additional 15 minutes

CMS and the 2023 Documentation Guidelines

2023 CPT E/M Guidelines for the ED

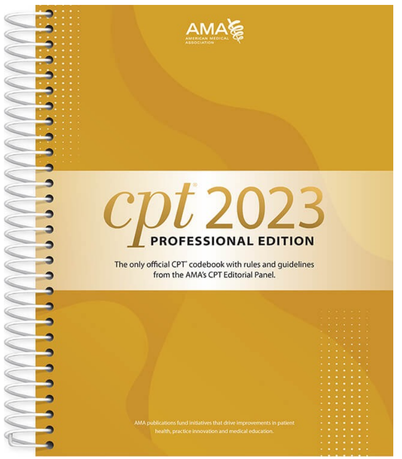
2023 CPT E/M Guideline Changes



Revision of Emergency Department E/M Services

99281-99285

Effective January 1, 2023



2023 CMS Comments Regarding The 2023 Documentation Guidelines

"We proposed to adopt the CPT guidelines for determining MDM levels, and we understand that the specialty societies contributed to their revision for 2023 through the AMA Workgroup and CPT processes. Suggestions for additional revisions can be made to the AMA/CPT, and we will consider any future changes to the MDM guidelines for future rulemaking."

2023 Physician Final Rule 579/3304

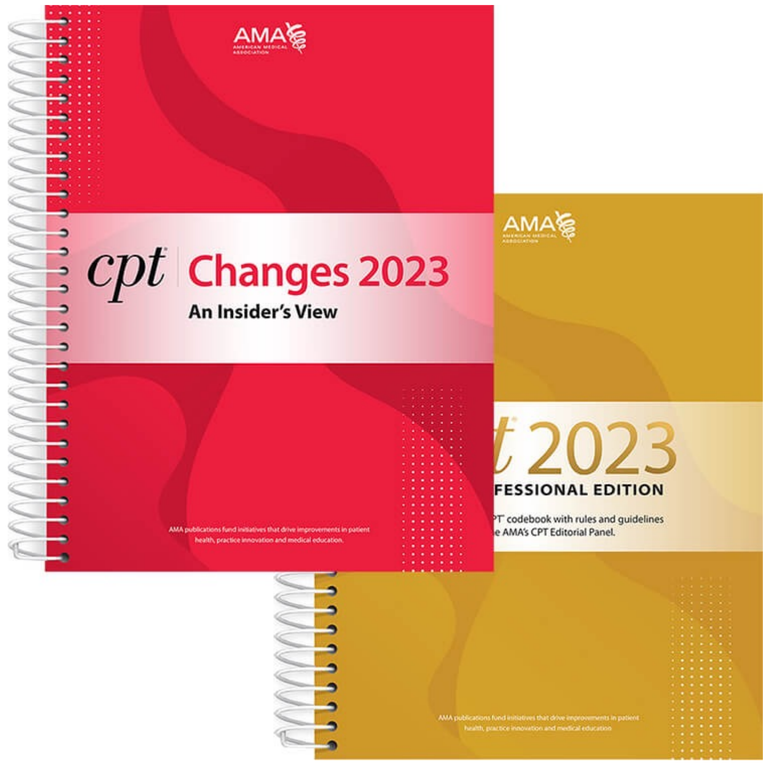
2023 CPT Update

2023 CPT Update

Effective for dates of service:

January 1, 2023

- ● New Code (225) ~~Deletions~~(75)
- ▲ Revised code (93)
- ►◄ Contains new or revised text
- ↯ FDA approval pending
- # Out of numerical sequence
- ★ Appendix P Telemedicine code



ED Principles Reiterated By CPT For 2023

- No Distinction between new and established patients
- Time may not be used to select ED codes
- Critical Care and ED services allowable on the same day
  - If patient condition changes after the ED services provided
- Consultations in the ED
  - Consultations performed in the ED reported with office or outpatient consultation codes 99241-99245
- Physician convenience- If a patient is seen in the ED for convenience of a physician the office or other outpatient codes (99201-99215) apply
  - New vs established will apply for office codes

2023 ED: It Really Is All About the MDM

2023 CPT 99281–99285 Descriptors

▲99281	**Emergency department visit** for the evaluation and management of a patient that may not require the presence of a physician or other qualified health care professional
▲99282	**Emergency department visit** for the evaluation and management of a patient, which requires a medically appropriate history and/or examination and straightforward medical decision making
▲99283	**Emergency department visit** for the evaluation and management of a patient, which requires a medically appropriate history and/or examination and low level of medical decision making
▲99284	**Emergency department visit** for the evaluation and management of a patient, which requires a medically appropriate history and/or examination and moderate level of medical decision making
▲99285	**Emergency department visit** for the evaluation and management of a patient, which requires a medically appropriate history and/or examination and high level of medical decision making

99285 2022

99285 **Emergency department visit** for the evaluation and management of a patient, which requires these 3 key components within the constraints imposed by the urgency of the patient's clinical condition and/or mental status:

- **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 presenting problem(s) are of high severity and pose an immediate significant threat to life or physiologic function.

New CPT Code for Suture Removal - No RVUs

- +15853 Removal Suture or Staples NOT requiring Anesthesia
- +15854 Removal of Sutures AND Staples NOT requiring Anesthesia

(List separately in addition to E/M Code)

(Use in conjunction with 9928x…)

#+● **15854** Removal of sutures **and** staples not requiring anesthesia (List separately in addition to E/M code)

CPT Changes: An Insider's View 2023

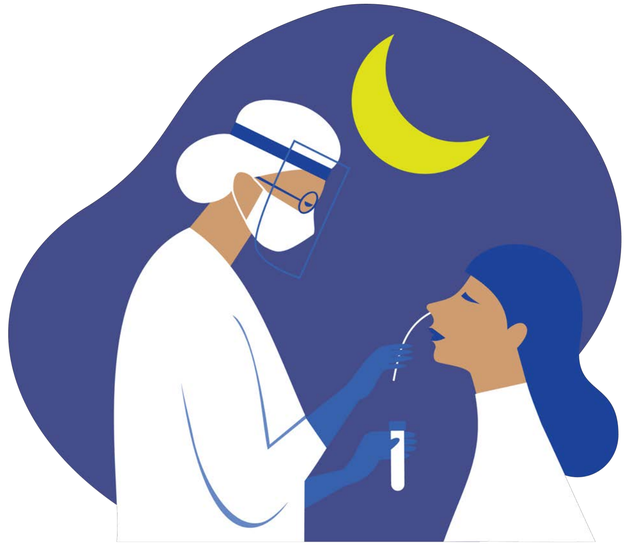
►(Use 15854 in conjunction with 99202, 99203, 99204, 99205, 99211, 99212, 99213, 99214, 99215, 99281, 99282, 99283, 99284, 99285, 99341, 99342, 99344, 99345, 99347, 99348, 99349, 99350)◄

CPT		Description	Work	Non Fac. PE	Fac. PE	PLI	Non Fac. Total	Fac. Total
15853		Removal sutr/stapl xreq anes	0.00	0.33	NA	0.01	0.34	NA
15854		Removal sutr&stapl xreq anes	0.00	0.46	NA	0.02	0.48	NA

CPT 2023 Major Observation Changes

2023 CPT: Obs Requires Two Patient Encounters

"Codes 99234, 99235, 99236 require ***<u>two or more encounters</u>*** *on the same date of which one of these encounters is an* ***<u>initial admission encounter</u>*** *and another encounter being a* ***<u>discharge encounter</u>****."*



2023 CPT E/M Guideline July Release

2022 CPT Long Standing Bundling Language

"When "observation status" is initiated in the course of an encounter in another site of service (e.g., hospital ***emergency department****, office, nursing facility) all evaluation and management services provided by the supervising physician are considered part of the initial observation care when performed on the same date. The observation care level of service should include the services related to initiating observation status."*

2022 CPT Professional Edition page 22

Advocacy From Multiple Sources

Academic Emergency Medicine
A GLOBAL JOURNAL OF EMERGENCY CARE

Original Contribution | Free Access

Financial Viability of Emergency Department Observation Unit Billing Models

Christopher W. Baugh MD, MBA, Pawan Suri MD, Christopher G. Caspers MD, Michael A. Granovsky MD, CPC, CEDC, Keith Neal MBA, MHL, CHFP, Michael A. Ross MD

First published: 16 May 2018 | https://doi.org/10.1111/acem.13452 | Citations: 1

Monte Carlo simulation to demonstrate financial non viability of the single provider/service billing model.

"Current Procedural Terminology policies predate modern observation care and prohibit professional billing for emergency services and observation services on the same date of service by physicians from the same specialty and same group."

2023 Observation CPT Extremely Significant Change

*"When the patient is admitted to the hospital as an inpatient or to observation status in the course of an encounter in another site of service (**e.g., hospital emergency department**, office, nursing facility), **the services in the initial site may be separately reported**."*

2023 CPT E/M Guidelines July Release

"Modifier 25 may be added to the other evaluation and management service to indicate a significant, separately identifiable service was performed on the same date."

2023 CPT Professional Edition page 15

CMS: ED and Obs Bundling Continues!

"***<u>We proposed that the practitioner would select a code that reflects all of the practitioner's services provided during the date of the service</u>***, *as provided in the Medicare Claims Processing Manual, IOM 100-04, Chapter 12, 30.6.9.B."*

2023 CMS Physician Proposed Rule page 307/2066

"When a patient is admitted to outpatient observation or as a hospital inpatient via another site of service (such as, hospital ED, office setting, nursing facility), all services provided by the practitioner in conjunction with that admission are considered part of the initial hospital inpatient or observation care when performed on the same date as the admission"

2023 CMS Physician Final Rule page 595/3304

2023 Telehealth and Public Health Emergency Update

ED Telehealth Regulatory Overview

- ED codes currently approved through 12.31.2023
  - ED 99281-99285 & Critical care 99291-99292
  - Modifier 95 approved for 2023

- Consolidated Apparitions Act, 2023 (AKA The Omnibus Bill) extended key waivers through 12.31.2024
  - HPSA geographic waiver
  - The patient home location waiver

- Remaining barrier is now extending the 9928x codes beyond 2023

PUBLIC HEALTH EMERGENCY

Expected through mid April

Threshold for CMS to Permanently Support ED Telehealth Is High

- "Requestors should submit evidence indicating that delivering the candidate telehealth service produces clinical benefit to the patient."
  - Not simply decreased barriers to care
  - CMS not focused on ease of access
- "The evidence submitted should include both a description of relevant clinical studies, including dates and findings and a list and copies of published peer reviewed articles."
- "Our evidentiary standard of clinical benefit will not include minor or incidental benefits."

2023 APP Shared Services

Shared Visit Performance Requirement

- Longstanding CMs policy allows Physician NPI billing if a **"substantive portion"** of an APP shared visit performed
- 2022 Final Rule addresses how to define **"substantive portion"**:
  - more than half of the total time spent performing the shared visit; OR
  - one of the three key components: history, exam, OR MDM

"If MDM is used as the substantive portion, each practitioner could perform certain aspects of MDM, but the billing practitioner must perform all portions or aspects of MDM that are required to select the visit level billed."

2022 CMS Physician Fee Schedule Final Rule page 425/2414

2023 ED Shared Services-
Will You Make The ED Track Time?

"Having reviewed the public comments and consulted with our medical officers, we do not believe that an alternative process for ED visits is the best approach at this time. As we discussed above, only for 2022, we will allow history, or exam, or MDM, or more than half of the total time, to comprise the substantive portion of any E/M visit (including ED visits) except critical care. Starting in 2023, the finalized listing of qualifying activities will apply to all split E/M visits except critical care, for purposes of determining the substantive portion."

Page 434 2022 Physician Final Rule

TABLE 26: Final Definition of Substantive Portion for E/M Visit Code Families

E/M Visit Code Family	2022 Definition of Substantive Portion	2023 Definition of Substantive Portion
Other Outpatient*	History, or exam, or MDM, or more than half of total time	More than half of total time
Inpatient/Observation/Hospital/Nursing Facility	History, or exam, or MDM, or more than half of total time	More than half of total time
Emergency Department	History, or exam, or MDM, or more than half of total time	More than half of total time
Critical Care	More than half of total time	More than half of total time

2023 Shared Services: A Victory!

"As part of our ongoing engagement with interested parties, we are hearing continued concern about the implementation of our phased in approach with regard to defining "substantive portion" only as more than half of the total time of the visit, and continue to receive requests that we also recognize MDM as the substantive portion"

CMS Physician Final Rule page 669/3304

"After considering the public comments we received, we are finalizing our proposed policy to ***delay implementation*** *of our definition of the substantive portion as more than half the total practitioner time until* ***January 1, 2024.***"

CMS Physician Final Rule page 672/3304

Good News: E/M Shared Visits Expanded Include Critical Care

"We also proposed to modify our policy to allow physicians and NPPs to bill for shared visits for both new and established patients, and for ***critical care*** *and certain Skilled Nursing Facility /Nursing Facility (SNF/NF) E/M visits. We proposed these modifications to the current policy and conditions of payment to account for changes that have occurred in medical practice patterns, including the evolving role of NPPs as part of the medical team."*

2022 CMS Physician Fee Schedule Final Rule page 425/2414

Good News: Critical Care Policies

Critical Care and 9928X

"A patient might not require critical care services at the time of an ED visit, but then be admitted to the hospital on the same calendar date as the ED visit and require care that meets the definition of critical care services."

2022 Physician Final Rule Page 462

But…9928x Must Come First

"Specifically, as long as the physician documents that the E/M service was provided prior to the critical care service at a time when the patient did not require critical care, that the service is separate and distinct… Practitioners must use modifier -25 on the claim when reporting these critical care services."

2022 Physician Final Rule Page 463

Shared Critical Care with PA/NP OK

"For critical care visits, starting for services furnished in CY 2022, the substantive portion will be more than half of the total time, as proposed."

2022 Physician Final Rule Page 431

2023 A Huge Year for Coding and Reimbursement

- 2023 updated ED RVUs
  - 99284 cuts avoided
- Conversion Factor issues settled for now
- Important 2023 CPT Changes
  - 2023 Documentation Guidelines
  - Observation
- Telehealth
- APP shared services
- Critical Care

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