

Jersey. The existing drawbridge operating regulations are listed at 33 CFR 117.723(e). In their request, Amtrak provided the Coast Guard with bridge opening logs from 2011 to 2018, which showed that the number of bridge openings declined significantly since 2016 rush hour train traffic increased during the same period, arguing that the decreased demand for bridge openings and increased train traffic enabled modifications to the bridge's special operating regulation. The Coast Guard collected stakeholder feedback regarding a proposed change to the bridge's schedule via a December 13, 2018 public notice and a conference call on February 7, 2019. This 180 day temporary deviation to the regulation will allow the Coast Guard, waterway stakeholders, and the bridge owner to collect vessel traffic and other data to assess the impact of changing the bridge's operating schedule.

The Amtrak Portal Bridge is a swing bridge with a vertical clearance of 23 feet at mean high water and 28 feet at mean low water in the closed position. The waterway users are seasonal recreational vessels and commercial vessels of various sizes. The 2017 and 2018 bridge logs indicated the number of bridge openings during rush hour have become minimal (one or two vessels per month), however, most of the waterway vessel traffic requires high tide when transiting under the bridge and needs an opportunity during rush hour for possible openings.

The Coast Guard is publishing this temporary deviation to test the proposed change to the bridge's operating schedule and determine whether a permanent change to the schedule is necessary to better balance the needs of marine and rail traffic.

Under this deviation, in effect from 12:01 a.m. on March 14, 2019, to 11:59 p.m. on September 9, 2019, the Amtrak Portal Bridge need not open for the passage of vessel traffic from 5 a.m. to 10 a.m. and from 3 p.m. to 8 p.m. Additional bridge openings shall be provided for tide restricted commercial vessels between 7 a.m. and 8 a.m. and between 5 p.m. and 6 p.m., if at least a two-hour advance notice is given by calling the number posted at the bridge. At all other times the bridge shall open on signal if at least two-hour advance notice is given.

Vessels able to pass through the bridge in the closed position may do so at any time. There are no alternate routes. The bridge will be able to open for emergencies.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners

of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

II. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>. If your material cannot be submitted using <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any personal information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this notification as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

Dated: March 12, 2019.

C.J. Bisignano,

*Supervisory Bridge Management Specialist,
First Coast Guard District.*

[FR Doc. 2019-04889 Filed 3-14-19; 8:45 am]

BILLING CODE 9110-04-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 410, 411, 414, 415, 425, and 495

[CMS-1693-CN2]

RIN 0938-AT31

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2019; Medicare Shared Savings Program Requirements; Quality Payment Program; Medicaid Promoting Interoperability Program; Quality Payment Program—Extreme and Uncontrollable Circumstance Policy for the 2019 MIPS Payment Year; Provisions From the Medicare Shared Savings Program—Accountable Care Organizations—Pathways to Success; and Expanding the Use of Telehealth Services for the Treatment of Opioid Use Disorder Under the Substance Use-Disorder Prevention That Promotes Opioid Recovery and Treatment (SUPPORT) for Patients and Communities Act; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document corrects technical errors in the "Evaluation and Management Services" provisions that appeared in the final rule with comment period published in the **Federal Register** on November 23, 2018, concerning changes to the Medicare physician fee schedule (PFS) and other Medicare Part B payment policies to ensure that our payment systems are updated to reflect changes in medical practice and the relative value of services, as well as changes in the statute.

DATES: These corrections are effective on March 14, 2019.

FOR FURTHER INFORMATION CONTACT:

Jamie Hermansen, (410) 786-2064, for any physician payment issues not identified below.

Michael Soracoe, (410) 786-6312, for issues related to relative value units (RVUs).

Lindsey Baldwin, (410) 786-1694, and Emily Yoder, (410) 786-1804, for issues related to communication technology-based services.

Pamela West, (410) 786-2302, for issues related to therapy services.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Rule Doc. No. 2018–24170, published November 23, 2018 (83 FR 59452 through 60303), there were a number of technical errors that are identified and corrected in the Correction of Errors section below. The provisions in this correction document are effective as if they had been included in the document published November 23, 2018. Accordingly, the corrections are effective January 1, 2019.

II. Summary of Errors

Due to a technical error, on page 59454, in the second column, following the first full paragraph, we inadvertently did not include the heading for Section II. of the preamble “Provisions of the Final Rule and Analysis of and Responses to Public Comments for PFS”, and the subsection heading and preamble language for “A. Background”. This subsection provides background information regarding Medicare payment for physicians’ services under the PFS. We are correcting this error by adding the language described below in section IV. 1. of this correction notice, to page 59454, in the second column, following the first partial paragraph.

Due to a technical error, the RVUs associated with the 53 modifier (discontinued procedures) for CPT codes 44388 and 45378 and HCPCS codes G0105 and G0121 were inadvertently not calculated at half of the RVUs for their respective non-53 modifier codes. The RVUs that result from the correction of this error are reflected in the updated Addendum B available on the CMS website at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/PhysicianFeeSched/PFS-Federal-Regulation-Notices.html>.

On page 59575, column 3, 3rd full paragraph, we incorrectly stated that CPT code 99457 could not be furnished by auxiliary personnel, and instead must be performed by the billing practitioner. CPT code 99457 may be furnished by auxiliary personnel, incident to the billing practitioner’s professional services.

On page 60070, column 3, 1st full paragraph, in our discussion of quantifying burden reduction for therapy services related to the discontinuation of functional reporting, we incorrectly referenced section II.M. rather than section II.L. of the final rule.

III. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule

take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive this notice and comment procedure if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the notice.

Section 553(d) of the APA ordinarily requires a 30-day delay in effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds for good cause that the delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued.

We find it unnecessary to undertake notice and comment rulemaking because this notice merely provides technical corrections to the regulations. Therefore, we find good cause to waive notice and comment procedures.

IV. Correction of Errors

In FR Rule Doc. No. 2018–24170, appearing on page 59452 in the **Federal Register** of Friday, November 23, 2018, make the following corrections:

1. On page 59454, in the second column; following the first full paragraph, we are adding the following language.

“II. Provisions of the Final Rule and Analysis of and Responses to Public Comments for PFS

A. Background

Since January 1, 1992, Medicare has paid for physicians’ services under section 1848 of the Act, “Payment for Physicians’ Services.” The PFS relies on national relative values that are established for work, practice expense (PE), and malpractice (MP), which are adjusted for geographic cost variations. These values are multiplied by a conversion factor (CF) to convert the relative value units (RVUs) into payment rates. The concepts and methodology underlying the PFS were enacted as part of the Omnibus Budget Reconciliation Act of 1989 (Pub. L. 101–239, enacted on December 19, 1989) (OBRA ’89), and the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508, enacted on November 5, 1990) (OBRA ’90). The final rule published on November 25, 1991 (56 FR 59502) set forth the first fee schedule used for payment for physicians’ services.

We note that throughout this major final rule, unless otherwise noted, the

term “practitioner” is used to describe both physicians and nonphysician practitioners (NPPs) who are permitted to bill Medicare under the PFS for the services they furnish to Medicare beneficiaries.

1. Development of the Relative Values a. Work RVUs

The work RVUs established for the initial fee schedule, which was implemented on January 1, 1992, were developed with extensive input from the physician community. A research team at the Harvard School of Public Health developed the original work RVUs for most codes under a cooperative agreement with the Department of Health and Human Services (HHS). In constructing the code-specific vignettes used in determining the original physician work RVUs, Harvard worked with panels of experts, both inside and outside the federal government, and obtained input from numerous physician specialty groups.

As specified in section 1848(c)(1)(A) of the Act, the work component of physicians’ services means the portion of the resources used in furnishing the service that reflects physician time and intensity. We establish work RVUs for new, revised and potentially misvalued codes based on our review of information that generally includes, but is not limited to, recommendations received from the American Medical Association/Specialty Society Relative Value Scale Update Committee (RUC), the Health Care Professionals Advisory Committee (HCPAC), the Medicare Payment Advisory Commission (MedPAC), and other public commenters; medical literature and comparative databases; as well as a comparison of the work for other codes within the Medicare PFS, and consultation with other physicians and health care professionals within CMS and the federal government. We also assess the methodology and data used to develop the recommendations submitted to us by the RUC and other public commenters, and the rationale for their recommendations. In the CY 2011 PFS final rule with comment period (75 FR 73328 through 73329), we discussed a variety of methodologies and approaches used to develop work RVUs, including survey data, building blocks, crosswalk to key reference or similar codes, and magnitude estimation. More information on these issues is available in that rule.

b. Practice Expense RVUs

Initially, only the work RVUs were resource-based, and the PE and MP RVUs were based on average allowable charges. Section 121 of the Social Security Act Amendments of 1994 (Pub. L. 103-432, enacted on October 31, 1994), amended section 1848(c)(2)(C)(ii) of the Act and required us to develop resource-based PE RVUs for each physicians' service beginning in 1998. We were required to consider general categories of expenses (such as office rent and wages of personnel, but excluding MP expenses) comprising PEs. The PE RVUs continue to represent the portion of these resources involved in furnishing PFS services.

Originally, the resource-based method was to be used beginning in 1998, but section 4505(a) of the Balanced Budget Act of 1997 (Pub. L. 105-33, enacted on August 5, 1997) (BBA) delayed implementation of the resource-based PE RVU system until January 1, 1999. In addition, section 4505(b) of the BBA provided for a 4-year transition period from the charge-based PE RVUs to the resource-based PE RVUs.

We established the resource-based PE RVUs for each physicians' service in the November 2, 1998 final rule (63 FR 58814), effective for services furnished in CY 1999. Based on the requirement to transition to a resource-based system for PE over a 4-year period, payment rates were not fully based upon resource-based PE RVUs until CY 2002. This resource-based system was based on two significant sources of actual PE data: The Clinical Practice Expert Panel (CPEP) data; and the AMA's Socioeconomic Monitoring System (SMS) data. These data sources are described in greater detail in the CY 2012 PFS final rule with comment period (76 FR 73033).

Separate PE RVUs are established for services furnished in facility settings, such as a hospital outpatient department (HOPD) or an ambulatory surgical center (ASC), and in nonfacility settings, such as a physician's office. The nonfacility RVUs reflect all of the direct and indirect PEs involved in furnishing a service described by a particular HCPCS code. The difference, if any, in these PE RVUs generally results in a higher payment in the nonfacility setting because in the facility settings some costs are borne by the facility. Medicare's payment to the facility (such as the outpatient prospective payment system (OPPS) payment to the HOPD) would reflect costs typically incurred by the facility. Thus, payment associated with those

facility resources is not made under the PFS.

Section 212 of the Balanced Budget Refinement Act of 1999 (Pub. L. 106-113, enacted on November 29, 1999) (BBRA) directed the Secretary of Health and Human Services (the Secretary) to establish a process under which we accept and use, to the maximum extent practicable and consistent with sound data practices, data collected or developed by entities and organizations to supplement the data we normally collect in determining the PE component. On May 3, 2000, we published the interim final rule (65 FR 25664) that set forth the criteria for the submission of these supplemental PE survey data. The criteria were modified in response to comments received, and published in the **Federal Register** (65 FR 65376) as part of a November 1, 2000 final rule. The PFS final rules published in 2001 and 2003, respectively, (66 FR 55246 and 68 FR 63196) extended the period during which we would accept these supplemental data through March 1, 2005.

In the CY 2007 PFS final rule with comment period (71 FR 69624), we revised the methodology for calculating direct PE RVUs from the top-down to the bottom-up methodology beginning in CY 2007. We adopted a 4-year transition to the new PE RVUs. This transition was completed for CY 2010. In the CY 2010 PFS final rule with comment period, we updated the practice expense per hour (PE/HR) data that are used in the calculation of PE RVUs for most specialties (74 FR 61749). In CY 2010, we began a 4-year transition to the new PE RVUs using the updated PE/HR data, which was completed for CY 2013.

c. Malpractice RVUs

Section 4505(f) of the BBA amended section 1848(c) of the Act to require that we implement resource-based MP RVUs for services furnished on or after CY 2000. The resource-based MP RVUs were implemented in the PFS final rule with comment period published November 2, 1999 (64 FR 59380). The MP RVUs are based on commercial and physician-owned insurers' MP insurance premium data from all the states, the District of Columbia, and Puerto Rico. For more information on MP RVUs, see section II.C. of this final rule.

d. Refinements to the RVUs

Section 1848(c)(2)(B)(i) of the Act requires that we review RVUs no less often than every 5 years. Prior to CY 2013, we conducted periodic reviews of work RVUs and PE RVUs

independently. We completed 5-year reviews of work RVUs that were effective for calendar years 1997, 2002, 2007, and 2012.

Although refinements to the direct PE inputs initially relied heavily on input from the RUC Practice Expense Advisory Committee (PEAC), the shifts to the bottom-up PE methodology in CY 2007 and to the use of the updated PE/HR data in CY 2010 have resulted in significant refinements to the PE RVUs in recent years.

In the CY 2012 PFS final rule with comment period (76 FR 73057), we finalized a proposal to consolidate reviews of work and PE RVUs under section 1848(c)(2)(B) of the Act and reviews of potentially misvalued codes under section 1848(c)(2)(K) of the Act into one annual process.

In addition to the 5-year reviews, beginning for CY 2009, CMS and the RUC identified and reviewed a number of potentially misvalued codes on an annual basis based on various identification screens. This annual review of work and PE RVUs for potentially misvalued codes was supplemented by the amendments to section 1848 of the Act, as enacted by section 3134 of the Affordable Care Act, that require the agency to periodically identify, review and adjust values for potentially misvalued codes.

e. Application of Budget Neutrality to Adjustments of RVUs

As described in section VII. of this final rule, in accordance with section 1848(c)(2)(B)(ii)(II) of the Act, if revisions to the RVUs cause expenditures for the year to change by more than \$20 million, we make adjustments to ensure that expenditures do not increase or decrease by more than \$20 million.

2. Calculation of Payments Based on RVUs

To calculate the payment for each service, the components of the fee schedule (work, PE, and MP RVUs) are adjusted by geographic practice cost indices (GPCIs) to reflect the variations in the costs of furnishing the services. The GPCIs reflect the relative costs of work, PE, and MP in an area compared to the national average costs for each component. Please refer to the CY 2017 PFS final rule with comment period for a discussion of the last GPCI update (81 FR 80261 through 80270).

RVUs are converted to dollar amounts through the application of a CF, which is calculated based on a statutory formula by CMS's Office of the Actuary (OACT). The formula for calculating the Medicare PFS payment amount for a

given service and fee schedule area can be expressed as:

$$\text{Payment} = [(\text{RVU work} \times \text{GPCI work}) + (\text{RVU PE} \times \text{GPCI PE}) + (\text{RVU MP} \times \text{GPCI MP})] \times \text{CF}$$

3. Separate Fee Schedule Methodology for Anesthesia Services

Section 1848(b)(2)(B) of the Act specifies that the fee schedule amounts for anesthesia services are to be based on a uniform relative value guide, with appropriate adjustment of an anesthesia CF, in a manner to ensure that fee schedule amounts for anesthesia services are consistent with those for other services of comparable value. Therefore, there is a separate fee schedule methodology for anesthesia services. Specifically, we establish a separate CF for anesthesia services and we utilize the uniform relative value guide, or base units, as well as time units, to calculate the fee schedule amounts for anesthesia services. Since anesthesia services are not valued using RVUs, a separate methodology for locality adjustments is also necessary. This involves an adjustment to the national anesthesia CF for each payment locality.”

2. On page 59575, column 3, 3rd full paragraph we are removing the sentence, “We note that CPT code 99457 describes professional time and therefore cannot be furnished by auxiliary personnel incident to a practitioner’s professional services.” and adding in its place, “We thank commenters and confirm that these services may be furnished by auxiliary personnel incident to a practitioner’s professional service.”

3. On page 60070, in the 3rd column; in the first full paragraph, in the section heading, 3. Outpatient Therapy Services; line 1, we are correcting the section reference in the sentence, “As noted in section II.M. of this final rule,” to read “As noted in section II.L. of this final rule.”.

Dated: March 5, 2019.

Ann C. Agnew,

*Executive Secretary to the Department,
Department of Health and Human Services.*

[FR Doc. 2019-04803 Filed 3-14-19; 8:45 am]

BILLING CODE 4120-01-P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[FCC 18-103]

Equal Employment Opportunity Audit and Enforcement Team Deployment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (FCC or Commission) moves the audit and enforcement responsibilities associated with our equal employment opportunity (EEO) rules from the Media Bureau to the Enforcement Bureau. As set forth below, we conclude that transferring enforcement of these rules to the Enforcement Bureau will better ensure that the communications companies subject to these rules give all qualified individuals an opportunity to apply and be considered as job candidates.

DATES: Effective March 15, 2019.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Holly Saurer, *Holly.Saurer@fcc.gov*, of the Media Bureau, (202) 418-7200. Direct press inquiries to Janice Wise at (202) 418-8165.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission’s *Order* (Order), FCC 18-103, adopted and released on July 24, 2018. The full text of this document is available electronically via the FCC’s Electronic Document Management System (EDOCS) website at http://fjallfoss.fcc.gov/edocs_public/ or via the FCC’s Electronic Comment Filing System (ECFS) website at <http://fjallfoss.fcc.gov/ecfs2/>. (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, which is located in Room CY-A257 at FCC Headquarters, 445 12th Street SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m. The complete text may be purchased from the Commission’s copy contractor, 445 12th Street SW, Room CY-B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to fcc504@fcc.gov or calling the Commission’s Consumer and

Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

Synopsis

1. In this Order, we conclude that it will serve the public interest and improve the Commission’s operations to move the audit and enforcement responsibilities associated with our EEO rules from the Media Bureau to the Enforcement Bureau. We take this action in recognition of the important role our EEO rules play in encouraging a diverse and multi-talented workforce and at the request of MMTC and other civil rights organizations. By transferring enforcement of these rules to the Enforcement Bureau, we find that we can better ensure that the communications companies subject to these rules give all qualified individuals an opportunity to apply and be considered as job candidates. We therefore conclude that this organizational change is warranted and amend the Commission’s rules accordingly.

2. Fifty years ago this month, the Commission observed that equal opportunity in employment was essential to the public interest and committed to ensuring that the national policy against discrimination in hiring applied to broadcast licensees.¹ This remains true today. Currently, a team comprised of attorneys and other professionals responsible for EEO audits and enforcement is part of the Commission’s Media Bureau.² The EEO audit and enforcement team does essential work overseeing the EEO compliance of television and radio broadcast licensees, as well as multichannel video programming distributors (MVPDs), such as cable and DBS operators, and satellite radio. The team’s work is primarily focused on periodic random audits of broadcast licensee and MVPD EEO programs, along with any necessary enforcement actions arising from those audits.³ In

¹ *Petition for Rulemaking to Require Broadcast Licensees to Show Nondiscrimination in Their Employment Practices*, Memorandum Opinion and Order and Notice of Proposed Rulemaking, Docket No. 18244, 33 FR 12854 (Sept. 11, 1968), 13 FCC 2d 766 (1968).

² 47 CFR 0.61(d).

³ Each year, the EEO team conducts a random audit of the EEO compliance of five percent of radio station employment units, as well as five percent of television station employment units. 47 CFR 73.2080(f)(4). The team also conducts random audits of the EEO compliance of MVPD employment units. 47 CFR 73.77(d). In addition, the team is responsible for ensuring that every MVPD employment unit is reviewed for compliance through a supplemental investigation at least once every five years (meaning that approximately 20 percent are investigated each year). 47 CFR 76.77(c).