

Emergency Medicine

2021 Medicare Fee Schedule Update & Consolidated Appropriations Act of 2021 Specialty Estimated Impacts

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Previously the changes in the 2021 Medicare Physician Fee Schedule (MPFS) writ large were described; these are several MPFS changes that are specific to Emergency Medicine (ED) and then further changes that were made in the most recent COVID relief and budget bill.

CMS finalized the proposed increases in the ED E/M codes for 2021 as follows:

CPT Code	2021 W-RVU	2020 W-RVU	Percentage Increase
99283	1.60	1.48	12.68%
99284	2.74	2.60	5.38%
99285	4.00	3.80	5.26%

- The expected cut in the conversion factor (CF) did not occur because of the provisions of the Consolidated Appropriations Act of 2021 (CAA) (see discussion below). Therefore, we expect that most ED groups will see a 0 to +1% increase in Medicare reimbursements in 2021.
- Based in part on ACEP and EDPMA advocacy, CMS revised its proposed rule and has included reimbursement for all five (5) E/M levels for telehealth (T/H) through the end of 2021.
- During the pendency of the public health emergency (PHE) (the current declaration ends on Jan. 23, 2021 and is expected to be extended), CMS will permit teaching physicians to “directly supervise” residents using T/H.
- Again, both ACEP and EDPMA advocated for CMS to finalize its proposal to permit EM to use an add on code—worth 1.3 W-RVUs (between a Level II and Level III E/M service—when providing medication assisted treatment (MAT) in the ED in 2021 and beyond. The add on code is reimbursement for the assessment, referral of care, follow up after treatment begins and arranging access to support services.
- CMS finalized its proposal to allow nurse practitioners (NPs) and physician assistants (PAs) to supervise the performance of diagnostic tests in addition to physicians.

The Consolidated Appropriations Act of 2021 (CAA) (a.k.a, COVID relief and budget package) was signed into law on Dec. 27, 2020—several important changes were made that impact the MPFS for 2021. Below are several frequently asked questions (FAQs) regarding the CAA and MPFS.

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FAQs:

1. Q: What were the impacts of the “work-RVU” (W-RVU) changes in the final 2021 MPFS and what impact if any did the CAA have on the W-RVUs?

A: ACEP was successful in 2020 increasing the ED W-RVUs by approximately ~5%. Then after CMS announced the changes and increases in the office E/M codes for the upcoming 2021 fee schedule, ACEP was successful in arguing to CMS that the parity that had existed since the creation of the Medicare fee schedule in 1992 between the office and ED E/M codes should necessitate further increases in the ED E/M codes. So, the ED E/M code increases of approximately 5% were finalized in the 2021 Medicare fee schedule and were not impacted by the CAA (see the chart above).

2. Q: Will there be a new Medicare conversion factor (CF) rate published, which appears to be 3.75% higher than that which was published in the 2021 CMS MPFS final rule on Dec. 2, 2020, due to changes imposed in The Consolidated Appropriations Act of 2021 (CAA) (a/k/a/ COVID relief package and budget package just signed into law)?

Based on the CAA’s provisions - Newly Published CF (released Jan. 5, 2021 by CMS):

2021 Conversion Factor (CF)	\$34.89
2020 Conversion Factor	\$36.09
Difference	-\$1.20
% Change	-3.32%

(The elimination of the office complexity code for three (3) years will add an estimated +3% back into the Medicare payments. For this reason and due to the increases in W-RVU for the ED E/M codes, and depending on the patient/payor mix, most ED groups will see a 0 to +1% in 2021 for Medicare.)

A: Yes, however the increases listed above in 2021 in the CF are only for 1 year; Congress essentially let itself borrow billions from the Medicare trust fund and apply those funds to “increasing the RBRVS pie” by 3.75% for 2021. The downside practically speaking is that this increase in the CMS “pie” is causing the entirety of the Medicare fee schedule to be “re-calculated”. Our understanding is that the Medicare MACs should be receiving the new fee schedule files from CMS and the new values are being reviewed now.

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3. What is the impact if any of the changes to the 2021 Medicare physician fee schedule (MPFS) provisions contained in The Consolidated Appropriations Act of 2021 (CAA), outside of Medicare?

A: The CAA changes Medicare per se but if commercial participation contracts are tied to “the current Medicare fee schedule” then there could be impacts to those participation agreements as well. The 2021 RVUs for emergency medicine (EM) are increasing in the range of ~5% so if the commercial contracts are tied to the W-RVUs for CMS then that would be a positive; recall too that EM physicians received about a 5% increase in '20 W-RVUs as well. The issue is that the 2021 conversion factor (CF) is dropping & the “sequestration cuts” (-2%) are delayed only for 90 days in '21—so if a group wished to be conservative, and linking to CMS is necessary, then 2020 may be a better year to do it even though the group may not receive the W-RVU bump—it all depends on how the contracts are written. In other words, if the commercial contract is tied to the “Medicare fee schedule” then that too includes the CF arguably and the commercial plans could reduce payment on a proportionate basis. Also, for a multi-year agreement, there is more potential risk because the +3.75% is only for calendar year 2021 (see answer to #1 above). Depending on the ED group’s acuity mix, and given the significant increases in acuity because of COVID, the overall impact may be 0 to +1% for many ED groups.

4. Q: Are the overall impacts inclusive of the upside of the sequestration cut delay and the CARES Act provider relief funds (PRF) that clinicians may be receiving?

A: The “0 to +1%” for EM groups in 2021 is inclusive of the 90 day sequestration cut delay (-2% of discretionary spending across the federal government including Medicare which began in 2011 but was delayed in the CARES Act signed in March 2020 until the end of '20 due to COVID). The sequestration cuts of -2% could be back on without Congressional intervention by April '21. The CARES Act “Provider relief funds” (PRF) are completely separate—they were originally funded by the CARES Act in March 2020 and then received another +\$3B in the CAA just signed. Tranche 3 PRF payments are still being issued by HHS and the extent of another PRF round of grants or a “Tranche 4” are not known at this time.