

Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

Indian Tribal Governments

This proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a "significant energy action" under that order because it is not a "significant regulatory action" under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This proposed rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.ID, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and

have made a preliminary determination that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, we believe that this rule should be categorically excluded, under figure 2-1, paragraph (34)(h), of the Instruction, from further environmental documentation.

Under figure 2-1, paragraph (34)(h), of the Instruction, an "Environmental Analysis Check List" is not required for this rule. Comments on this section will be considered before we make the final decision on whether to categorically exclude this rule from further environmental review.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 100 as follows:

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

1. The authority citation for part 100 continues to read as follows:

Authority: 33 U.S.C. 1233, Department of Homeland Security Delegation No. 0170.1.

2. Add § 100.534 to read as follows:

§ 100.534 Tug-of-War; Spa Creek, Annapolis, Maryland.

(a) *Regulated area.* A regulated area is established for the waters of Spa Creek from shoreline to shoreline, extending 400 feet from either side of a rope spanning Spa Creek from a position at latitude 38°58'36.9" N, longitude 076°29'03.8" W on the Annapolis shoreline to a position at latitude 38°58'26.4" N, longitude 076°28'53.7" W on the Eastport shoreline. All coordinates reference Datum NAD 1983.

(b) *Definitions.* (1) *Coast Guard Patrol Commander* means a commissioned, warrant, or petty officer of the Coast Guard who has been designated by the Commander, Coast Guard Sector Baltimore.

(2) *Official Patrol* means any vessel assigned or approved by Commander, Coast Guard Sector Baltimore with a commissioned, warrant, or petty officer on board and displaying a Coast Guard ensign.

(3) *Participant* means all vessels participating in the "Tug of War" under the auspices of the Marine Event Permit issued to the event sponsor and approved by Commander, Coast Guard Sector Baltimore.

(c) *Special local regulations.* (1) Except for event participants and persons or vessels authorized by the

Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area.

(2) The operator of any vessel in the regulated area must:

(i) Stop the vessel immediately when directed to do so by any official patrol.

(ii) Proceed as directed by any official patrol.

(iii) Unless otherwise directed by the official patrol, operate at a minimum wake speed not to exceed six (6) knots.

(d) *Enforcement period.* This section will be enforced annually from 10:30 a.m. to 2:30 p.m. on the first Saturday in November. In 2005 the section will be enforced on the last Saturday in October instead of the first Saturday in November.

Dated: August 18, 2005.

L.L. Hereth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 410, 411, 413, 414, and 426

[CMS-1502-CN]

RIN 0938-AN84

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006; Corrections

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

ACTION: Proposed rule; correction.

SUMMARY: This document corrects errors in the proposed rule that appeared in the **Federal Register** on August 8, 2005 entitled "Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006."

FOR FURTHER INFORMATION CONTACT: Diane Milstead, (410) 786-3355.

SUPPLEMENTARY INFORMATION:

I. Background

FR Doc. 05-15370, of August 8, 2005, contains the proposed rule to update the physician fee schedule for CY 2006 (70 FR 45764). We identified several errors and are correcting them in the "Correction of Errors" section below.

II. Summary of Errors

On page 45769, in the first column, under “Step 1—Calculation of the SMS Cost Pool for Each Specialty” in the first bullet, the last sentence inadvertently included the word “seconds.”

On page 45775, Table 14—PRACTICE EXPENSE PER HOUR FIGURES inadvertently included incorrect practice expense per hour figures.

On page 45779, in the third column, in the second bullet titled “Supply Item for Percutaneous Vertebroplasty Procedures (CPT Codes 22520 and 22525)”, the second CPT code referenced is incorrect. The reference to CPT code 22525 at the end of the first sentence should also be corrected.

On page 45784, in the middle column, in the third complete paragraph, the GAF for “Rest of California” was listed incorrectly twice and in the fourth sentence of this paragraph, “0.01 percent below” should read “equal to.”

On page 45786, in the first column, in the third complete paragraph, the last set of CPT codes were listed incorrectly in the last sentence of this paragraph, “93617 to 93641” should read “93618 to 93641.”

On page 45791, in the third column, in the second complete sentence the references to \$2.850 and \$1.960 million are incorrect.

On page 45792, the footnote to Table 22 should be deleted; the headings for the second and third columns should be corrected. Also, in the middle column of page 45792, in the last paragraph, in the fifth sentence, \$3.107 and \$2.137 million are incorrect.

On page 45855, in the first column, in footnote 4, the Web site address should be corrected.

On page 45864, in Table 33, “Impact of Practice Expense, Malpractice RVUs, Multiple Imaging Discount, and Physician Fee Schedule Update on Total Medicare Allowed Charges by Physician, Practitioner and Supplier Sub-category,” in the column labeled “Medicare allowed charges for 2004 (\$ in millions),” incorrect figures were listed for Hematology/Oncology, Infectious Disease, and Rheumatology.

On page 45866, in the discussion labeled “B. Geographic Practice Cost Indices (GPCI) Payment Localities,” in the first line of the third column, the GAF for Rest of California was incorrectly referenced as “1.011.”

In Table 36, “Impacts on California Payment Localities,” on page 45867, the 2006 Proposed MP GPCI was incorrectly published as “0.717” for Santa Cruz, Sonoma, and Rest of California.

On page 45872, in the middle column in the regulation text under “§ 411.351 Definitions,” the second term defined is listed incorrectly as “Radiation and certain other imaging services.”

On pages 45876 and 45877 in Addendum B, we incorrectly indicated that the practice expense RVUS reflect the fully implemented practice expense RVUs rather than the transitional PE RVUs for 2006; therefore, in the third column of page 45876 and the first column of page 45877, items 6, 7, 9, and 10 need to be corrected. Also, we incorrectly indicated in the third column of page 45876 and the first column on page 45877 that item 9 reflected “Facility” totals and item 10 reflected “Non-facility” totals.

In Addendum B, on pages 45937 and 45996, the incorrect practice expense RVUs were listed for CPT code 58356

(Endometrial cryoablation) and 96567 (photodynamic tx, skin), respectively. In addition, on page 46004, in Addendum B, we failed to include the PE RVUs for two HCPCS codes, G0375 (Smoke/Tobacco counseling 3–10) and G0376 (Smoke/Tobacco counseling >10).

On page 46007, in Addendum D, “2006 Geographic Practice Cost Indices (GPCI) By Medicare Carrier and Locality,” the MP GPCI for Santa Cruz, Sonoma, and Rest of California was listed incorrectly as “0.717.” In Addendum E, “Proposed 2006 Geographic Adjustment Factors (GAFs),” on page 46008, the 2006 GAF for Santa Clara, CA was listed incorrectly and should be corrected to read “1.265.”

II. Correction of Errors

A. Preamble Corrections

We are making the following corrections to the August 8, 2005 proposed rule.

1. On page 45769, in the first column, under “Step 1—Calculation of the SMS Cost Pool for Each Specialty,” in the first bullet, the last sentence inadvertently included the word “seconds.” The sentence is corrected to read as follows: “The PE/HR is divided by 60 to obtain the PE per minute (PE/MIN).”

2. On Page 45775, Table 14—PRACTICE EXPENSE PER HOUR FIGURES inadvertently included incorrect practice expense per hour figures. The practice expenses per hour figures are corrected as follows:

TABLE 14.—PRACTICE EXPENSE PER HOUR FIGURES

Specialty	Clinical staff	Admin. staff	Office expense	Medical supplies	Medical equipment	Other	Total
Radiology	22.8	29.7	18.8	8.8	21.4	35.2	136.7
Cardiology	46.7	41.8	41.3	20.3	14.6	19.6	184.3
Radiation Oncology	39.0	20.4	31.1	3.8	21.7	22.0	138.0
Urology	26.3	39.9	50.7	13.6	10.6	22.1	163.2
Dermatology	38.3	48.5	74.3	14.5	10.4	26.6	212.5
Allergy/Immunology	62.1	53.1	62.1	21.2	5.9	29.3	233.7
Gastroenterology	27.6	36.2	44.3	7.5	5.4	12.2	133.2

3. On page 45779, in the third column, in the second bullet titled “Supply Item for Percutaneous Vertebroplasty Procedure (CPT Codes 22520 and 22525)”, the second CPT code reference is incorrect. This code is corrected to read “22521.” The reference to CPT code 22525 at the end of the first sentence is also corrected to read “22521.”

4. On Page 45784, in the middle column, in the fourth complete paragraph, the reference to the GAF for “Rest of California” was listed incorrectly. The fourth sentence is corrected as follows: “The Rest of California GAF would be 1.012, a value equal to the 2005 Rest of California GAF.” In addition, the last sentence of this paragraph is corrected to read as

follows: “The proposed Rest of California GAF of 1.012 fully reflects incorporating the updated data.”

5. On page 45786, in the first column, in the third complete paragraph, the last set of CPT codes listed in the last sentence of this paragraph were incorrect. The last sentence is corrected as follows: “We agree with the RUC PLI Workgroup recommendation and

propose that the following CPT codes be added to the existing list of codes under the exception: 92975; 92980 to 92998; and 93618 to 93641.”

6. On page 45791, in the third column, in the second complete sentence the references to \$2.850 and \$1.960 million are incorrect. This sentence is corrected to read as follows: “For CY 2005, we estimate that total spending, after the deduction of payments for syringes, will reach \$246 million for Epogen provided in hospital-based facilities, and \$2,850 million for drugs provided in independent facilities (\$1,960 million for Epogen and \$890 million for other drugs).”

7. On page 45792, make the following corrections to Table 22: the footnote “* Compared to the \$10.00 statutory price.” is removed as this footnote is only pertinent to table 23; the heading for the second column is corrected to read “CY 2005 Estimated Drug Payments as a Percentage of Top Ten ESRD Drug Payments (percent),” and the heading for the third column of the table is corrected to read “CY 2002 OIG Drug Payments as a Percentage of Top Ten ESRD Drug Payments (percent).” In the middle column of page 45792, in the third complete paragraph, the fourth sentence is corrected to read as follows “This procedure resulted in projected expenditures of \$268 million for Epogen provided in hospital-based facilities and \$3,107 million for drugs provided in independent facilities (\$2,137 million for Epogen and \$970 million for other drugs).”

8. On page 45855, in the first column in footnote 4, the last sentence of the Web site address is corrected to read as follows: <http://search.ed.com/ed/article?tocid=9062423>.

9. On page 45864, in Table 33, “Impact of Practice Expense, Malpractice RVUs, Multiple Imaging Discount and Physician Fee Schedule Update on Total Medicare Allowed Charges by Physician, Practitioner and Supplier Sub-category”, in the column labeled “Medicare allowed charges for 2004 (\$ in millions),” incorrect figures were listed for Hematology/Oncology, Infectious Disease, and Rheumatology. These figures are corrected as follows:

Hematology/Oncology	2,041
Infectious Disease	491
Rheumatology	462

10. On page 45866, in the discussion labeled “B. Geographic Practice Cost Indices (GPCI) Payment Localities,” in the first line of the third column, the GAF for Rest of California was incorrectly referenced as “1.011.” This is corrected to read “1.012.”

11. In Table 36, “Impacts on California Payment Localities” on page 45867, the 2006 Proposed MP GPCI was published as “0.717” for Santa Cruz, Sonoma, and Rest of California. This figure is corrected to read “0.733” for these localities.

B. Regulations Text

On page 45872, in the middle column in the regulation text under “§ 411.351 Definitions,” the second term defined is listed incorrectly as “Radiation and

certain other imaging services.” This is corrected to read “Radiology and certain other imaging services.”

C. Addenda

1. On pages 45876 and 45877, in Addendum B, we incorrectly indicated that the practice expense RVUs reflect the fully implemented PE RVUs rather than the transitional PE RVUs for 2006. We also incorrectly indicated in the third column of page 45876 and the first column of page 45877 that item 9 reflected “Facility” totals and item 10 reflected “Non-facility” totals. Therefore, items 6, 7, 9, and 10 are corrected to read as follows:

“6. *Non-facility practice expense RVUs.* These are the transitional 2006 resource-based practice expense RVUs for non-facility settings.”

“7. *Facility practice expense RVUs.* These are the transitional 2006 resource-based practice expense RVUs for facility settings.”

“9. *Non-facility total.* This is the sum of the work, the transitional 2006 non-facility practice expense, and malpractice expense RVUs.”

“10. *Facility total.* This is the sum of the work, the transitional 2006 facility practice expense, and malpractice expense RVUs.”

2. In Addendum B, on pages 45937 and 45996, the incorrect PE RVUs were listed for CPT codes 58356 and 96567, respectively. In addition, on page 46004 in Addendum B, we failed to include the PE RVUs for two HCPCS codes, G0375 and G0376. The RVUs for these codes are corrected as follows:

CPT 1/ HCPCS 2	Mod	Status	Description	Physician work RVUs	Non-facility PE RVUs	Facility PE RVUs	Mal- practice RVUs	Non-facility total	Facility total	Global
58356	A	Endometrial cryoablation.	6.37	56.84	2.60	0.82	64.03	9.79	010
96567	A	Photodynamic tx, skin.	0.00	2.29	NA	0.04	2.33	NA	XXX
G0375	A	Smoke/Tobacco counseling 3–10.	0.24	0.09	0.09	0.01	0.34	0.34	XXX
G0376	A	Smoke/Tobacco counseling >10.	0.48	0.18	0.17	0.01	0.67	0.66	XXX

¹ CPT codes and descriptions only are copyright 2005 American Medical Association. All rights reserved. Applicable FARS/DFARS apply.

² Copyright 2005 American Dental Association. All rights reserved.

³ +Indicates RVUs are not used for Medicare payment.

3. On page 46007, in Addendum D, “2006 Geographic Practice Cost Indices (GPCI) By Medicare Carrier and Locality,” the MP GPCI for Santa Cruz, Sonoma, and Rest of California was listed incorrectly as “0.717.” This figure is corrected to read “0.733” for these localities.

4. In Addendum E, “Proposed 2006 Geographic Adjustment Factors (GAFs)”, on page 46008, the 2006 GAF

for Santa Clara, CA was listed incorrectly and is corrected to read “1.265.”

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 25, 2005.

Ann C. Agnew,

Executive Secretary to the Department.

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