

# The Final Rule for 2022: What's New and How Changes in the Medicare Physician Fee Schedule and Quality Payment Program Affect Dermatologists

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## PRACTICE POINTS

- The Centers for Medicare & Medicaid Services (CMS) 2022 final rule contains multiple updates affecting the practice of dermatology.
- Adjustments to the conversion factor and legislative-level actions have led to changes in reimbursement for many procedures within dermatology and beyond.
- Other notable updates include refining the definition of split evaluation and management visits, clinical labor pricing, and billing for physician assistant services.
- Changes in the Merit-Based Incentive Payment System (MIPS), cost measures, and MIPS value pathways also will impact many dermatology practices.

The Centers for Medicare & Medicaid Services (CMS) 2022 final rule, which went into effect on January 1, 2022, contains updates affecting the practice of dermatology. This article reviews many of the changes to the Medicare Physician Fee Schedule (PFS) and Quality Payment Program (QPP) and their impact on clinical practice.

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On November 2, 2021, the Centers for Medicare & Medicaid Services (CMS) released its final rule for the 2022 Medicare Physician Fee Schedule (PFS) and the Quality Payment Program (QPP).<sup>1,2</sup> These guidelines contain updates that will remarkably impact the field of medicine—and dermatology in particular—in 2022. This article will walk you through some of the updates most relevant to dermatology and how they may affect your practice.

## Process for the Final Rule

The CMS releases an annual rule for the PFS and QPP. The interim rule generally is released over the summer with preliminary guidelines for the upcoming payment year. There is then a period of open comment where those affected by these changes, including physicians and medical associations, can submit comments to support what has been proposed or advocate for any changes. This input is then reviewed, and a final rule generally is published in the fall.

For this calendar year, the interim 2022 rule was released on July 13, 2021,<sup>3</sup> and included many of guidelines that will be discussed in more detail in this article. Many associations that represent medicine overall and specifically dermatology, including the American Medical Association and the American Academy of Dermatology, submitted comments in response to these proposals.<sup>4,5</sup>

## PFS Conversion Factor

The PFS conversion factor is updated annually to ensure budget neutrality in the setting of changes in relative value units. For 2022, the PFS conversion factor is \$34.6062, representing a reduction of approximately \$0.29 from the 2021 PFS conversion factor of \$34.8931.<sup>6</sup> This reduction does not take into account other payment adjustments due to legislative changes.

In combination, these changes previously were estimated to represent an overall payment cut of 10% or higher for dermatology, with those practitioners doing more procedural work or dermatopathology likely being impacted more heavily. However, with the passing of the Protecting Medicare and American Farmers from

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Sequester Cuts Act, it is estimated that the reductions in payment to dermatology will begin at 0.75% and reach 2.75% in the second half of the year with the phased-in reinstatement of the Medicare sequester.<sup>4,5,7</sup>

### Clinical Labor Pricing Updates

Starting in 2022, the CMS will utilize updated wage rates from the US Bureau of Labor Statistics to revise clinical labor costs over a 4-year period. Clinical labor rates are important, as they are used to calculate practice expense within the PFS. These clinical labor rates were last updated in 2002.<sup>8</sup> Median wage data, as opposed to mean data, from the US Bureau of Labor Statistics will be utilized to calculate the updated clinical labor rates.

A multiyear implementation plan was put into place by CMS due to multiple concerns, including that current wage rates are inadequate and may not reflect current labor rate information. Additionally, comments on this proposal voiced concern that updating the supply and equipment pricing without updating the clinical labor pricing could create distortions in the allocation of direct practice expense, which also factored into the implementation of a multiyear plan.<sup>8</sup>

It is anticipated that specialties that rely primarily on clinical labor will receive the largest increases in these rates and that specialties that rely primarily on supply or equipment items are anticipated to receive the largest reductions relative to other specialties. Dermatology is estimated to have a 0% change during the year 1 transition period; however, it will have an estimated 1% reduction in clinical labor pricing overall once the updates are completed.<sup>1</sup> Pathology also is estimated to have a similar overall decrease during this transition period.

### Evaluation and Management Visits

The biggest update in this area primarily is related to refining policies for split (shared) evaluation and management (E/M) visits and teaching physician activities. Split E/M visits are defined by the CMS as visits provided in the facility setting by a physician and nonphysician practitioner in the same group, with the visit billed by whomever provides the substantive portion of the visit. For 2022, the term *substantive portion* will be defined by the CMS as history, physical examination, medical decision-making, or more than half of the total time; for 2023, it will be defined as more than half of the total time spent.<sup>3</sup> A split visit also can apply to an E/M visit provided in part by both a teaching physician and resident. Split visits can be reported for new or established patients. For proper reimbursement, the 2 practitioners who performed the services must be documented in the medical record, and the practitioner who provided the substantive portion must sign and date the encounter in the medical record. Additionally, the CMS has indicated the modifier FS must be included on the claim to indicate the split visit.<sup>9</sup>

For dermatologists who act as teaching physicians, it is important to note that many of the existing CMS

policies for billing E/M services are still in place, specifically that if a resident participates in a service in a teaching setting, the teaching physician can bill for the service only if they are present for the key or critical portion of the service. A primary care exception does exist, in which teaching physicians at certain teaching hospital primary care centers can bill for some services performed independently by a resident without the physical presence of the teaching physician; however, this often is not applicable within dermatology.

With updated outpatient E/M guidelines, if time is being selected to bill, only the time that the teaching physician was present can be included to determine the overall E/M level.

### Billing for Physician Assistant Services

Currently Medicare can only make payments to the employer or independent contractor of a physician assistant (PA); however, starting January 1, 2022, the CMS has authorized Medicare to make direct payments to PAs for qualifying professional services, in the same manner that nurse practitioners can currently bill. This also will allow PAs to incorporate as a group and bill Medicare for PA services. This stems from a congressional mandate within the Consolidated Appropriations Act of 2021.<sup>8</sup> As a result, in states where PAs can practice independently, they can opt out of physician-led care teams and furnish services independently, including dermatologic services.

### QPP Updates

Several changes were made to the Merit-Based Incentive Payment System (MIPS). Some of these changes include:

- Increase the MIPS performance threshold to 75 points from 60 points.
- Set the performance threshold at 89 points.
- Reduce the quality performance category weight from 40% to 30% of the final MIPS score.
- Increase the cost performance category weight from 20% to 30% of the final MIPS score.
- The extreme and uncontrollable circumstances application also has been extended to the end of 2022, allowing those remarkably impacted by the COVID-19 public health emergency to request for reweighting on any or all MIPS performance categories.

### Cost Measures and MIPS Value Pathways

The melanoma resection cost measure will be implemented in 2022, representing the first dermatology cost measure, which will include the cost to Medicare over a 1-year period for all patient care for the excision of a melanoma. Although cost measures will be part of the MIPS value pathways (MVPs) reporting, dermatology currently is not part of the MVP; however, with the CMS moving forward with an initial set of MVPs that physicians can voluntarily report on in 2023, there is a possibility that dermatology will be asked to be part of the program in the future.<sup>10</sup>

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## Final Thoughts

There are many upcoming changes as part of the 2022 final rule, including to the conversion factor, E/M split visits, PA billing, and the QPP. Advocacy in these areas to the CMS and lawmakers, either directly or through dermatologic and other medical societies, is critical to help influence eventual recommendations.

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