2023 Regulatory Deep Dive and Future Strategy

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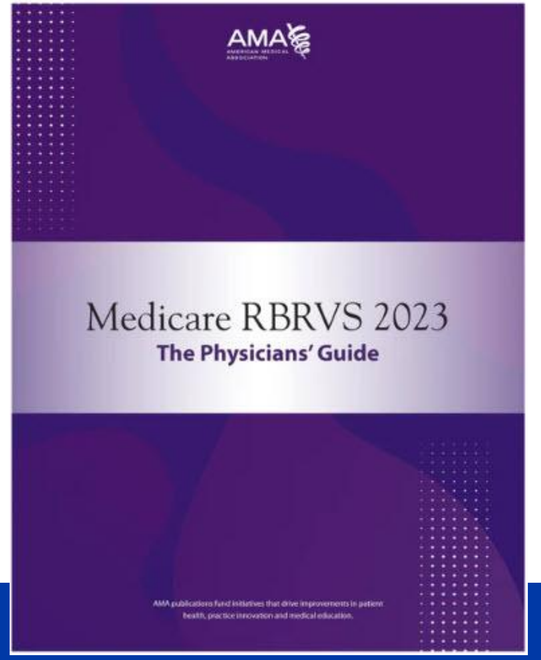
RBRVS Equation

Work RVUs

Practice Expense RVUs

+Liability Insurance RVUs

Total RVUs for a given code



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

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

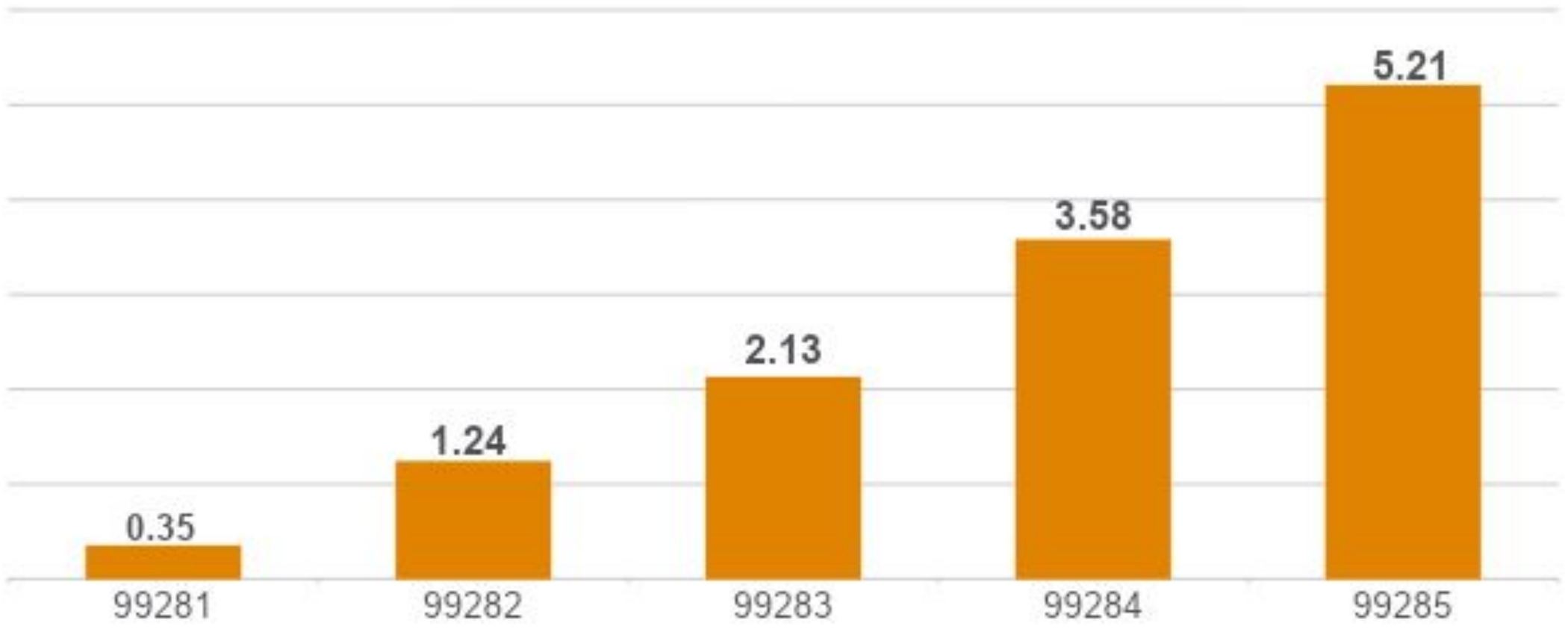
ED RUC Work RVU History

- 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

2023 RVU Component Detail- Small Increases

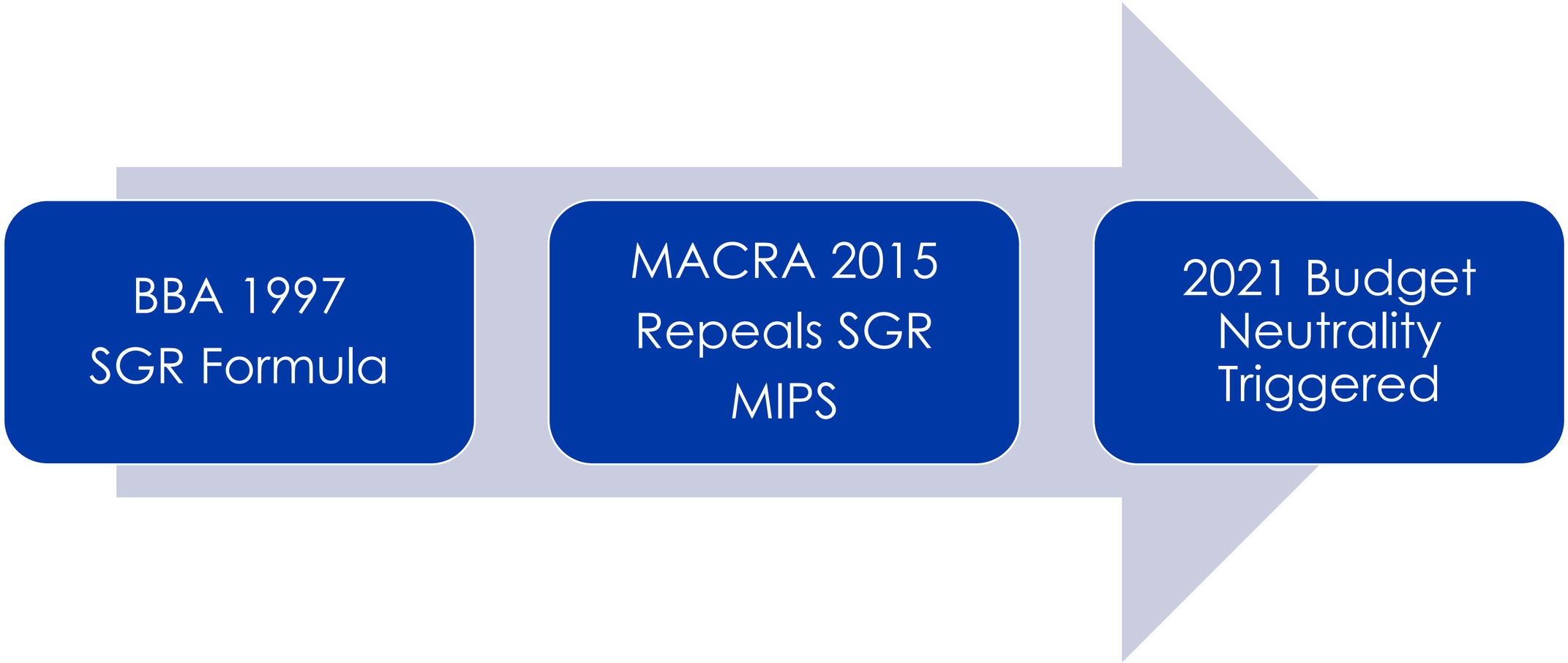
Code	2023 Work	2022 Work	2023 PE	2022 PE	2023 PLI	2022 PLI	2022 Total	2023 Total
99281	0.25	0.48	0.06	0.11	0.04	0.05	**0.64**	**0.35**
99282	0.93	0.93	0.21	0.21	0.10	0.10	**1.24**	**1.24**
99283	**1.60**	**1.60**	0.35	0.33	0.17	0.18	**2.11**	**2.13**
99284	2.74	2.74	0.57	0.54	0.29	0.27	**3.56**	**3.58**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

- Office visits went up substantially in 2021
  - Represents 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**

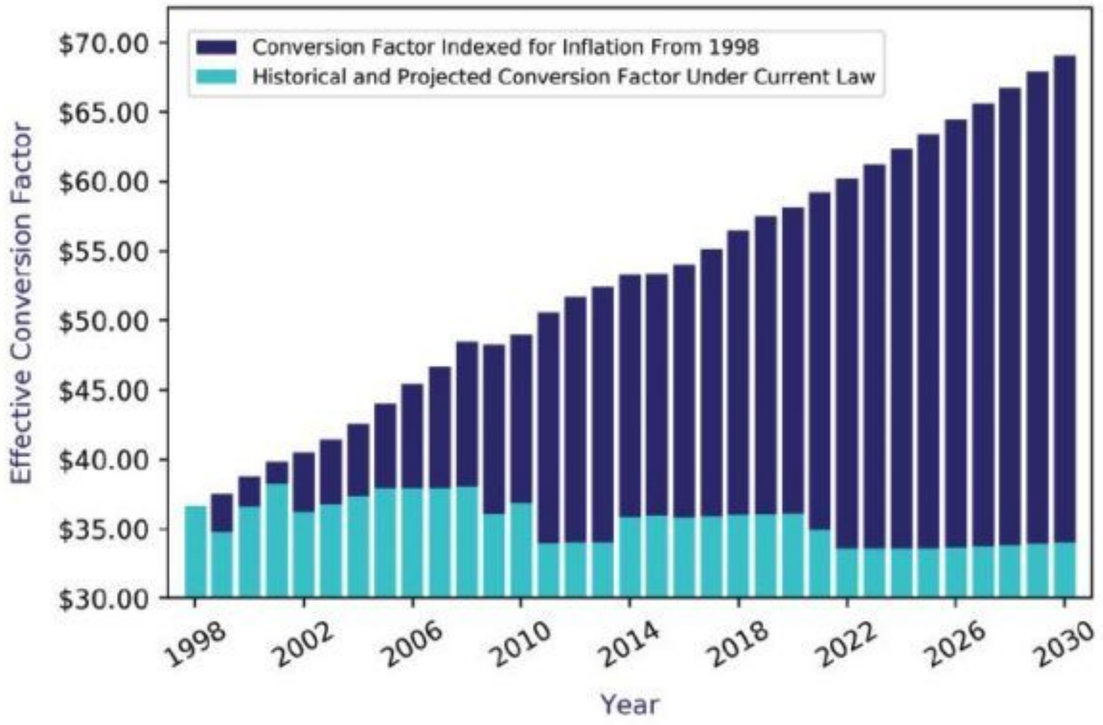
The Medicare Conversion Factor: Adjusted Annually

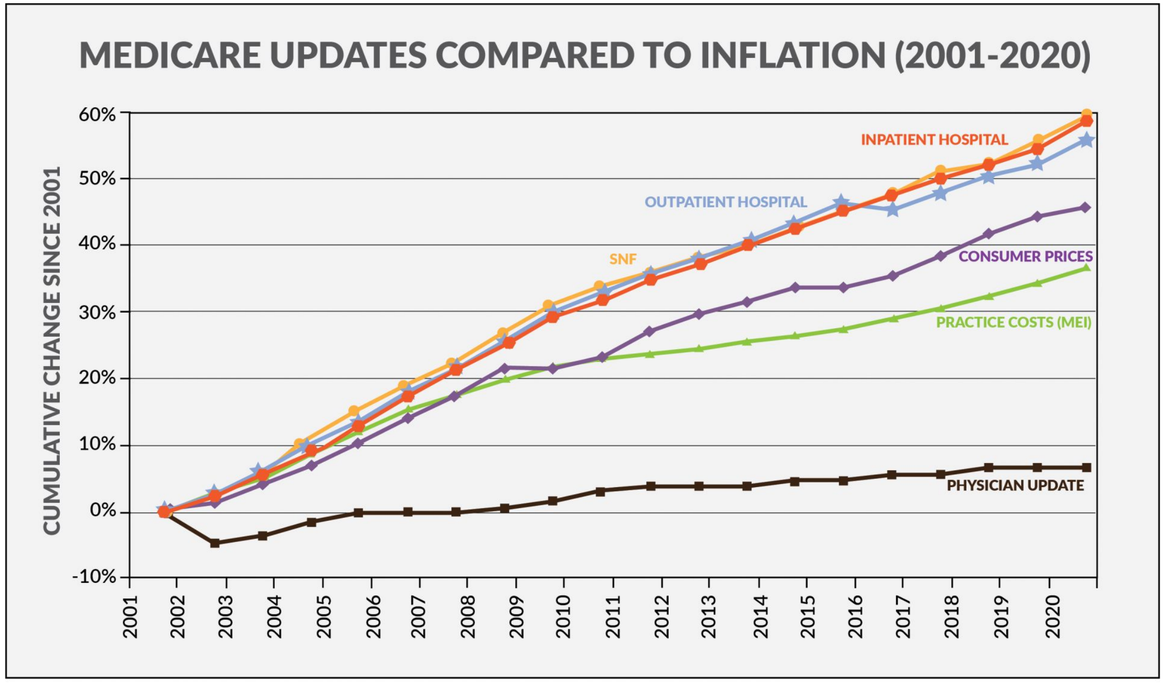
- Since 2021 have received some help from Congress annually. 2022 +3%
- Final Rule did not account for last year's 3% and cut another -1.6%

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**

Conversion Factor: Not Keeping Up





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

Final 2023 Medicare Payment per RVU

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

2023 CMS National Fee Schedule

2023 Observation

2023 CPT: Obs Requires Two Patient Encounters

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

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

RVU Values 2023: Observation Services

2023 RVUs Observation Services

Observation CPT Code	2023 Total RVU
Same-Day	
99234	2.92
99235	4.71
99236	6.18
99285	5.21
Multi-Day	
99222+99238	6.24
99223+99238	7.52

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

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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

"***We proposed that the practitioner would select a code that reflects all of the practitioner's services provided during the date of the service***."

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), all services provided by the practitioner in conjunction with that admission are considered part of the initial hospital observation care when performed on the same date as the admission"

2023 CMS Physician Final Rule page 595/3304

Same Day Observation CPT Codes Continue

2023 Same day admit and discharge CPT Codes:

- **99234** – Low-complexity MDM
- **99235** – Moderate-complexity MDM
- **99236** – High-complexity MDM

2023 99234-99236 have updated definitions!

2023 Same Day Admit and Discharge Combine Inpatient and Observation

Inpatient and Observation services combined under a single numeric code

- **99234 Hospital inpatient or observation care**, including admission and discharge on the same date; low medical decision making

- **99235 Hospital inpatient or observation care**, including admission and discharge on the same date; moderate medical decision making

- **99236 Hospital inpatient or observation care**, including admission and discharge on the same date; high medical decision making

Observation Initial Day CPT Codes Big Changes

- Admit and discharge more than one calendar day:
- Initial day CPT codes:
  - **99218** Low complexity MDM… DELETED
  - **99219** Moderate complexity MDM … DELETED
  - **99220** High complexity MDM… DELETED

2023 Initial Day Obs Service Now Combined With Inpatient

Inpatient and Observation services combined under a single numeric code

- **99221 Initial hospital inpatient or observation care,** per day, straight forward or low medical decision making
- **99222 Initial hospital inpatient or observation care,** per day, moderate medical decision making
- **99223 Initial hospital inpatient or observation care,** per day, high medical decision making

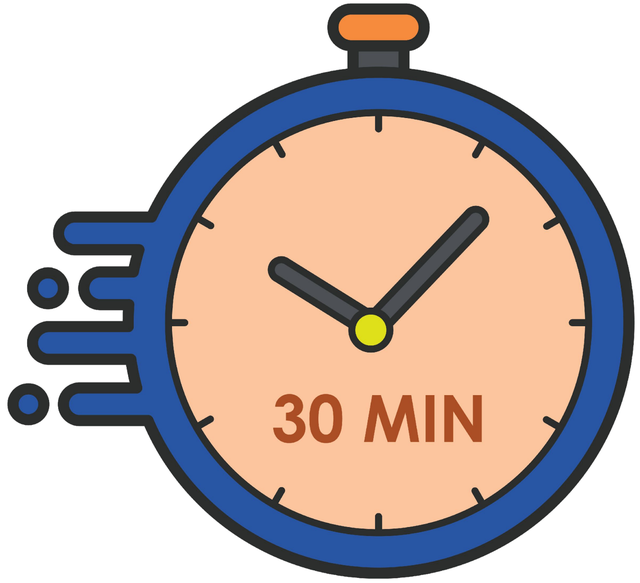
Observation Discharge Code Big Changes

<u>Discharge Day</u> CPT Code:

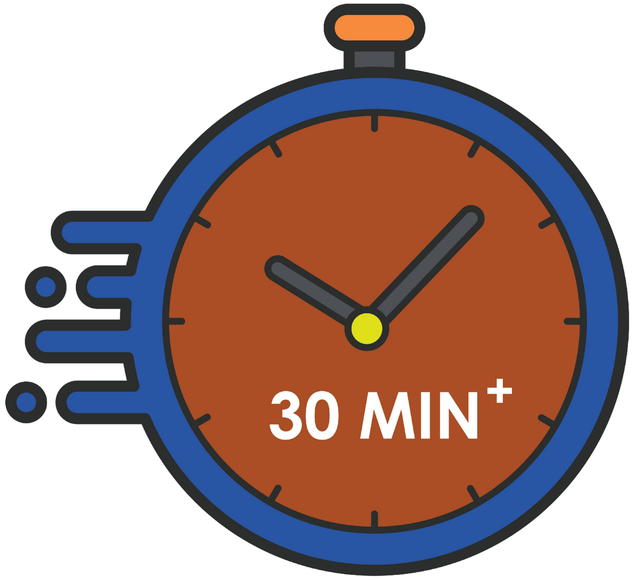
- **99217-** Discharge Day… DELETED
- Includes final exam, discussion of observation stay, follow-up instructions, and documentation
- Used with codes from the initial observation day codes series (99218/99219/99220)

2023 Obs Discharge Service: Now Combined with Inpatient and Time Based

▲ **99238 Hospital inpatient or observation discharge day management;** 30 minutes or less on the date of the encounter



▲ **99239 Hospital inpatient or observation discharge day** management; more than 30 minutes on the date of the encounter



Obs 2022 vs 2023 Code Structure

Observation 2022	Observation 2023
99218	99221
99219	99222
99220	99223
99217	99238/99239
99234 - 99236	99234 - 99236

2023 CPT Coding Scenarios Observation Services

Obs Complexity of Care	Care All on the Same Day	Care Covers Two Calendar Days
Low	99234	99221 + 99238/99239
Moderate	99235	99222 + 99238/99239
High	99236	99223 + 99238/99329

RVU Values 2023 Same Day Observation Services

Same Day Obs 2022 vs 2023

Same Day Obs	2022 Total RVU	2023 Total RVU
99234	3.77	2.92
99235	4.78	4.73
99236	**6.12**	**6.19**
99285	5.17	5.26

RVU Values 2023 Multi Day Observation Services

Multi Day Obs 2022 vs 2023

2022 Multi Day Obs	2022 Total RVUs	2023 Multi Day Obs	2023 Total RVUs
99218+99217	4.90	99221+99238/39	4.83/5.82
99219+99217	5.90	99222+99238/39	6.24/7.23
99220+99217	**7.24**	99223+99238/39	**7.55**/8.54
99285	5.17	99285	5.26

Obs Vignette Potential Examples with RVUs

Same Day

- Chest pain patient begins observation at 8am Monday and DC'd Monday 6pm
  - 99236 (Hospital initial inpatient or observation, admission and discharge on the same date high complexity) **6.19 RVUs**

Crosses Midnight

- Chest pain patient begins observation at 8am Monday and is discharged Tuesday at 12 noon. The discharge services are < 30 minutes
  - 99223 (Initial inpatient or observation high complexity) **5.17 RVUs**
  - 99239 (Obs/Inpatient discharge services < 30 minutes) **2.38 RVUs**

Total RVUs 5.17 + 2.38 = 7.55 RVUs

ED Telehealth Regulatory Update

- Key telehealth services approved through 12.31.2023
  - ED 99281-99285 and critical care 99291-99292
  - Observation services
- Consolidated Appropriations Act, 2023 extended key waivers through 12.31.2024
  - HPSA geographic waiver
  - The patient home location waiver
- Next advocacy step is harmonizing the code approvals which expire 12.31.2023 with the HPSA and geographic waivers which expire 12.31.2024
  - Letter cosigned by 46 medical societies to harmonize the regulatory expirations

Ends May 11th 2023

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 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"

2023 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.***"

2023 CMS Physician Final Rule page 672/3304

Good News: E/M Shared Visits Expanding- 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 observation 2023 CPT changes
- Telehealth
- APP shared services
- Critical care

2023

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Educational Appendix

Subsequent or "Middle Day" Obs Codes 99224-99226 Deleted

2023 Reporting of Subsequent/Middle Day Observation Combined with Inpatient

- ▲ **99231 Subsequent hospital inpatient or observation care,** per day, straightforward or low medical decision making

- ▲ **99232 Subsequent hospital inpatient or observation care,** per day, moderate medical decision making

- ▲ **99233 Subsequent hospital inpatient or observation care,** per day, high-level medical decision making

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