

# Fee Schedule Options for Services Furnished by Hospitals to Outpatients under the California Workers' Compensation Program

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## Summary

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The Official Medical Fee Schedule (OMFS) establishes the maximum allowable amounts (MAAs) for medical services under the California workers' compensation system. California Senate Bill 863 requires that the administrative director of the Division of Workers' Compensation implement a resource-based relative value scale (RBRVS) fee schedule for physician and other practitioner services. The final rule implementing the RBRVS for physician services were filed with the secretary of state September 24, 2013 and will be effective January 1, 2014.<sup>3</sup> The RBRVS fee schedule is similar to the fee schedule utilized in the federal Medicare program except that the allowances are 120 percent of what Medicare would pay for comparable services (i.e., a 1.2 multiplier is applied to the Medicare rate).

Senate Bill 863 did not address how the allowances for certain services furnished by hospitals to outpatients—mostly diagnostic procedures and clinic visits—that are paid under the pre-2014 OMFS for physician services should be established after the RBRVS is implemented for physician services. These services represent approximately seven percent of total expenditures for outpatient services provided by hospitals to workers' compensation patients. The last major update to the pre-2014 OMFS physician fee schedule occurred in 1999. Given its outdated nature and the implementation of the RBRVS for physician services, it is not appropriate to continue to use the pre-2014 OMFS physician fee schedule to set allowances for hospital services to outpatients. Two basic OMFS alternatives build on Medicare-based fee schedules that are already used to determine OMFS allowances for some services: 1) the RBRVS fee schedule that was implemented for physician and other practitioner services effective January 1, 2014 and/or 2) the fee schedule based on the Medicare outpatient prospective payment system (OPPS) that currently is used for the OMFS for hospital facility fees for outpatient surgery and emergency room visits. Both fee schedules apply a 1.2 multiplier to the Medicare payment rate; however, the administrative director has the flexibility to adopt different multipliers for selected services as long as aggregate payments do not exceed 120 percent of what would be payable under Medicare for comparable services.

Under the pre-2014 OMFS for physician services, the same payment is made for diagnostic procedures and clinic visits regardless of where they are provided. Basing the allowances on the RBRVS fee schedule would be most consistent with the pre-2014 OMFS policy. Medicare generally pays higher rates for services furnished in a hospital outpatient setting because hospitals incur costs for standby capacity for emergencies and have higher infrastructure and regulatory costs. Basing the allowances on the OPPS fee schedule would recognize these higher

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<sup>3</sup> The rules were subsequently updated to reflect Medicare 2014 RBRVS rates (see DIR, 2013d).

costs. A key policy question that should be considered in deciding whether the allowances should be based on the RBRVS or OPSS rates is whether workers' compensation should pay more to hospitals than community-based providers for services that could appropriately be provided in a less costly setting.

The labor code limits aggregate MAAs under the OMFS to 120 percent of the amounts that would be payable under Medicare for comparable services (which, in the case of the services furnished by hospitals that are subject to the pre-2014 OMFS would be 120 percent of the OPSS rate). Within this aggregate limitation, the administrative director has the authority to use different multipliers for selected services to preserve access and/or encourage the efficient delivery of medically appropriate care. We compared the MAAs for services furnished by hospitals that are covered under the pre-2014 OMFS for physician services with two potential policies that were chosen in consultation with DWC:

Option 1: A separate facility fee based on the RBRVS PE RVUs.

This would set the OMFS allowance for hospital outpatient facility services based on the PE component of the RBRVS for services furnished in a nonfacility setting with a 1.20 multiplier. For services that have separate technical and professional components, the allowances for each component (and for the full service) would be determined in accordance with the RBRVS (including the 1.2 multiplier). The outpatient facility service allowance for other services would be based on nonfacility setting PE RVUs only and a separate allowance for the related physician professional services based on the allowances for services furnished in a facility-setting. This approach is modeled on the Medicare payment methodology for office-based surgeries performed in ambulatory surgery centers, which sets the facility fees for the office-based surgeries at the PE component of the RBRVS fee schedule.

Option 2: A separate facility fee based on the OPSS with no multiplier.

This would set the OMFS allowance at the Medicare rate for the hospital outpatient facility services that are currently subject to the pre-2014 OMFS for physician services. There would be separate RBRVS-allowances for the related physician professional services based on the allowances for services furnished in a facility-setting.

Relative to pre-2014 OMFS allowances, aggregate MAAs would decrease 7.6 percent if the RBRVS fee schedule with a 1.2 multiplier were used (Table 1). These would be the same as allowances paid to physicians for their practice expenses when services are provided in office settings. Aggregate MAAs would increase 48-65 percent if the OPSS fee schedule were used without a multiplier. This represents an estimated 3-5 percent increase in overall expenditures for hospital services to outpatients. Both estimates include where applicable additional RBRVS allowances for related services provided by physicians in a facility setting.

**Table 1 Summary of Impacts of Alternative Policies for Establishing Allowances for Services Provided by Hospitals to WC Outpatients**

Option	Estimated percentage change in allowances for services paid under the pre-2014 OMFS for physician services		Estimated percentage change in total expenses for hospital services to outpatients	
	Low estimate	High estimate	Low estimate	High estimate
1. RBRVS with 1.2 multiplier	(7.6)	(7.6)	(0.5)	(0.5)
2. OPFS with no multiplier	48.4	65.2	3.4	4.6