Section	Issue	Comment	Response	Commenter
9789.32(c)(1)	Applying the OMFS	Commenter 1 is strongly	The DWC acknowledges	1.1 (Clayton)
	RBRVS (physician fee	in favor of the DWC	and appreciates	
	schedule) for	more holistically	commenter's	
	determining payment for	adopting the CMS	suggestions and	
	any hospital outpatient	HOPPS for hospital	comments. DWC agrees	
	services	billing and	that adopting the CMS	
		reimbursement and	Hospital Prospective	
		abandoning altogether	Payment System	
		the present practice of	(HOPPS) as the basis for	
		applying the OMFS	payment of facility fees	
		RBRVS (physician fee	for all services rendered	
		schedule) to any hospital	to hospital department	
		outpatient services.	outpatients is a better	
		Commenter 1 stated in	alternative. The DWC	
		his oral testimony, that it	proposes to amend the	
		was his understanding	Hospital Outpatient	
		that DWC is required to	Departments fee	
		follow the relevant rules	schedule regulations to	
		and payment guidelines	adopt facility fee	
		of the applicable	payment methods based	
		Medicare payment	on the CMS HOPPS for	
		system and, therefore,	all services rendered to	
		wholly abandon the	hospital department	
		OMFS RBRVS as	outpatients that are	
		applicable to physicians.	payable under the CMS	
			HOPPS.	
9789.32(c)(1)(B)(iii)	Application of the	The proposed	DWC acknowledges and	1.2 (Clayton)
	OMFS RBRVS	amendment adding	appreciates the concerns	
	(physician fee schedule)	section	raised by Commenter 1.	

for determining payment	9789.32(c)(1)(B)(iii)	The DWC proposes to	
for certain services	does not go far enough	amend the Hospital	
rendered to hospital	to eliminate the systemic	Outpatient Departments	
department outpatients	confusion that is created	fee schedule regulations	
	by imposing a fee	to adopt facility fee	
	schedule designed (by	payment methods based	
	CMS) for physicians on	on the CMS HOPPS, for	
	to hospitals. Commenter	all services rendered to	
	1 requests the DWC not	hospital department	
	limit the applicability of	outpatients that are	
	the amendments by	payable under the CMS	
	service date, but rather	HOPPS. If amended as	
	allow the clarification to	proposed, commenter's	
	affect resolution of all	concerns will be	
	service dates impacted	alleviated.	
	by the problem.		
	Commenter 1 points out		
	the following concerns		
	(non-exhaustive):		
	1. Without additional		
	specificity insofar as		
	who must "use the		
	OMFS RBRVS code,"		
	confusion and disputes		
	will persist with minimal		
	abatement. Specifically,		
	it is not clear as to		
	whether the hospital		
	provider must bill with		
	the OMFS RBRVS		
	code, or if the claims		
	administrator must		
	translate the hospital		

L'II. I CMG HODDG
billed CMS HOPPS
code to an OMFS
RBRVS code for
reimbursement purposes.
The crosswalk will not
be a 1:1 transition and
will require more effort
to properly translate the
hospital's CMS HOPPS
code to the appropriate
OMFS RBRVS code.
2. Many private
contracts between
hospitals and PPO
networks, accessed by
employers and claims
administrators, require
the hospitals to bill in
accordance with the
CMS guidelines. CMS
requires hospitals to bill
with CMS HOPPS codes
and does not prescribe
the use of Physician
codes. Many of the
same contracts set
payment rates at the
OMFS allowable, which,
in combination, brings
the parties back to the
current problem.
3. If hospitals bill with
the comparable OMFS
the comparable divies

RBRVS code, many services, as billed, will fail the definition of "Other Services." [section 9789.30(s)] in that the OMFS RBRVS codes are very often not "payable under the CMS hospital outpatient prospective payment system". 4. In many cases, the corresponding OMFS RBRVS code will result in nonpayment, even though the hospitals are routinely paid for said services under CMS HOPPS. Reimbursement rules for CMS POPC, were not designed to apply to hospital billings. More specifically, RBRVS PC/TC Indicators and Status Codes both drive reimbursement of the billed code in consideration that a physician, and not a bospital is billing the	 T T	
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Reimbursement rules for CMS's RBRVS, as adopted by the DWC, were not designed to apply to hospital billings. More specifically, RBRVS PC/TC Indicators and Status Codes both drive reimbursement of the billed code in consideration that a physician, and not a	services under CMS	
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adopted by the DWC, were not designed to apply to hospital billings. More specifically, RBRVS PC/TC Indicators and Status Codes both drive reimbursement of the billed code in consideration that a physician, and not a	Reimbursement rules for	
were not designed to apply to hospital billings. More specifically, RBRVS PC/TC Indicators and Status Codes both drive reimbursement of the billed code in consideration that a physician, and not a	CMS's RBRVS, as	
apply to hospital billings. More specifically, RBRVS PC/TC Indicators and Status Codes both drive reimbursement of the billed code in consideration that a physician, and not a	adopted by the DWC,	
billings. More specifically, RBRVS PC/TC Indicators and Status Codes both drive reimbursement of the billed code in consideration that a physician, and not a	were not designed to	
specifically, RBRVS PC/TC Indicators and Status Codes both drive reimbursement of the billed code in consideration that a physician, and not a	apply to hospital	
PC/TC Indicators and Status Codes both drive reimbursement of the billed code in consideration that a physician, and not a	billings. More	
PC/TC Indicators and Status Codes both drive reimbursement of the billed code in consideration that a physician, and not a	specifically, RBRVS	
reimbursement of the billed code in consideration that a physician, and not a		
billed code in consideration that a physician, and not a	Status Codes both drive	
consideration that a physician, and not a	reimbursement of the	
physician, and not a	billed code in	
	consideration that a	
	physician, and not a	
nospital, is offining the	hospital, is billing the	

Т		
	code. For example,	
	a. RBRVS PC/TC	
	Indicator 5: Incident To	
	Codes – would not allow	
	payment for services	
	provided to hospital	
	inpatients or patients in a	
	hospital outpatient	
	department, when the	
	CMS HOPPS may allow	
	payment.	
	b. RBRVS Status Code	
	B: Bundled Code – will	
	not allow the billing	
	physician to receive	
	separate reimbursement	
	for this code, because	
	the Physician is being	
	compensated for the	
	service under another	
	code on her bill.	
	However, CMS HOPPS	
	may provide	
	reimbursement to	
	hospitals for the service,	
	regardless of other billed	
	codes.	
	c. RBRVS cap status	
	Code C: Carrier priced	
	code – all RVU's are	
	"0.00" which will yield	
	a \$0.00 allowable, when	
	the CMS HOPPS may	
	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	

allow payment.	
d. RBRVS Status Code	
X: Statutory Exclusion –	
represents an item or	
service that is not in the	
statutory definition of	
"physician services" for	
fee schedule payment	
purposes. No RVUs or	
payment amounts are	
shown for these codes,	
which yield a \$0.00	
allowable, when the	
CMS HOPPS may allow	
payment.	
5. There is another	
fundamental gap in the	
current schism of	
applying a hybrid of	
CMS HOPPS and CMS	
RBRVS payment	
systems to hospital	
outpatient bills, and that	
is those items (supplies,	
drugs, devices, etc.) that	
map to a CMS HOPPS	
Status Indicator N that	
are not rendered in	
conjunction with an	
emergency room visit,	
surgical procedure, or	
Facility Only Service.	
There are many CMS	
·	l

Γ		T	
	OPPS services and		
	ocedures payable per		
	PC under that		
	imbursement system		
	hich are <i>not</i> payable		
	r APC under the		
HO	OPD/ASC OMFS.		
	ection 9789.32(c) does		
	ot address those items		
tha	at are assigned a CMS		
Н	OPPS Status Indicator		
of	"N". Commenter 1		
str	ongly encourages the		
Di	WC to abandon the		
O	MFS RBRVS in its		
en	tirety and instead		
ad	opt more holistically		
the	e CMS HOPPS. If this		
is	impossible at present		
tin	ne, Commenter 1		
rec	commends DWC to:		
1.	Require hospitals to		
	ll using CMS HOPPS		
	des and require claims		
ad	ministrators to		
tra	anslate those CMS		
HO	OPPS codes to the		
ma	aterially equivalent		
	MFS RBRVS codes;		
	Require claims		
	ministrators to		
	anslate in a detailed		
	d transparent manner,		

		the CMS HOPPS codes		
		to appropriate OMFS		
		RBRVS codes;		
		3. Not limit the		
		applicability of the		
		adopted solution by date		
		of service, if at all		
		permitted; and		
		4. Solve via utilization		
		of the APC methodology		
		the specific PC/TC		
		indicator, Status Code,		
		and "unpackaged" Status		
		Indicator N issues		
		addressed by		
		commenter.		
9789.32(c)(1)(B)(iii)	Application of the	Commenter 2	DWC acknowledges and	2.1 (Stryd)
	OMFS RBRVS	acknowledges the	appreciates the concerns	
	(physician fee schedule)	DWC's clarification of	raised by Commenter 2.	
	for determining payment	the payment method for	The DWC proposes to	
	for certain services	"Other Services", but a	amend the Hospital	
	rendered to hospital	concern is that without	Outpatient Departments	
	department outpatients	guidance from the DWC	fee schedule regulations	
	1	it may be difficult for	to adopt facility fee	
		the claims administrators	payment methods based	
		and others in the	on the CMS HOPPS, for	
		industry to be aware of	all services rendered to	
		the Medicare coding	hospital department	
		changes that would	outpatients that are	
		cause "comparable"	payable under the CMS	
		Other Services to be	HOPPS. If amended as	
		described by different	proposed, commenter's	

		CMS HOPPS and	alleviated.	
		OMFS RBRVS.	aneviated.	
		Commenter 2		
		recommends the DWC		
		publish updated list of		
		codes to support the		
		review of "Other		
		Services" that have		
		differing codes under		
		CMS HOPPS and		
0700 22()(1)(7)(11)	A 11 0.1	OMFS RBRVS.	DWG 1	21/1
9789.32(c)(1)(B)(iii)	Application of the	Commenter 3	DWC acknowledges and	3.1 (Jones)
	OMFS RBRVS	recommends adding	appreciates the concerns	
	(physician fee schedule)	language to ensure that	raised by Commenter 3.	
	for determining payment	facility providers bill the	The DWC proposes to	
	for certain services	appropriate code rather	amend the Hospital	
	rendered to hospital	than requiring the payer	Outpatient Departments	
	department outpatients	to assign a comparable	fee schedule regulations	
		code found under the	to adopt facility fee	
		"OMFS RBRVS"	payment methods based	
		schedule. Using the	on the CMS HOPPS, for	
		example provided in the	all services rendered to	
		Initial Statement of	hospital department	
		Reasons – code G0463	outpatients that are	
		could represent either	payable under the CMS	
		new patient or	HOPPS. If amended as	
		established patient	proposed, commenter's	
		services of varying	concerns will be	
		intensity. Inadequate	alleviated.	
		coding at the time of		
		billing will result in		
		disallowance if a code is		
		not reassigned or		

		payment disputes if the wrong code is assigned		
9789.32(c)(1)(B)(iii)	Application of the OMFS RBRVS (physician fee schedule) for determining payment for certain services rendered to hospital department outpatients	by the payer. Commenter 4 stated his support of the proposed amendments to section 9789.32, to amend the fee schedule as being necessary to make more specific that payment method for "Other Services". Commenter states Medicare changes to HCPCS codes have affected California ambulatory surgery centers as well (denied payment for certain HCPCS codes).	DWC acknowledges and appreciates the concerns raised by Commenter 4. The DWC proposes to amend the Hospital Outpatient Departments fee schedule regulations to adopt facility fee payment methods based on the CMS HOPPS, for all services rendered to hospital department outpatients that are payable under the CMS HOPPS. The proposed amendments also broaden the definition of surgical services which will align better with Medicare's list of surgical services. If amended as proposed, commenter's concerns will be alleviated.	4.1 (Davis)
9789.30	Geographic wage adjustment conversion factor	Commenter 4 requests the DWC to adopt the same hospital outpatient PPS geographic-adjusted conversion factor utilized by Medicare.	Not within the scope of this rulemaking. However, in response, the conversion factor used by the OMFS is updated by the hospital	4.2 (Davis)

market basket only, in
accordance with Labor
code section 5307.1. In
recent years, because
adjustment is made to
the relative weights, the
conversion factors for
CMS and the OMFS are
fairly close. The CMS
2014 conversion factor
was 72.672 vs. OMFS
conversion factor of
72.53. The market
basket increase in 2015
is 2.9% while the CMS
update factor is 2.2%.
Finally, the market
basket increase in 2016
is 2.4% while the CMS
update factor is 1.7%.