OMFS Update for Physician and Non-Physician Practitioner Services

Attachment to Administrative Director Order dated January 19, 2024

Explanation of Changes

(Effective February 15, 2024)

# Data Sources

**CY 2024 Medicare Physician Fee Schedule Final Rule**

The Centers for Medicare and Medicaid Services’ (CMS) CY 2024 update to the Medicare physician fee schedule was published in the Federal Register on November 16, 2023 (88 Fed. Reg. 78818). It is entitled “Medicare and Medicaid Programs; CY 2024 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Medicare Advantage; Medicare and Medicaid Provider and Supplier Enrollment Policies; and Basic Health Program” [CMS–1784–F.] Hereafter, the final rule will be referenced as “CY 2024 Medicare Physician Fee Schedule Final Rule, CMS-1784-F” or “Final Rule, CMS-1784-F”.

The [CY 2024 Medicare Physician Fee Schedule Final Rule, CMS-1784-F, and supporting download files](https://www.cms.gov/medicare/medicare-fee-service-payment/physicianfeesched/pfs-federal-regulation-notices/cms-1784-f) are available on the CMS’ Physician Fee Schedule Federal Regulation Notices web page.

**Congressional Legislation**

The following congressional legislation impacts calculation of the workers’ compensation conversion factors as set forth in the text below.

[Consolidated Appropriations Act, 2023 (HR 2617)](https://www.congress.gov/bill/117th-congress/house-bill/2617/text) Public Law 117-328.

# Revisions to title 8, California Code of Regulations Adopted by Update Order to Conform to Relevant Medicare Changes

**Title 8 CCR §9789.12.2 Calculation of the Maximum Reasonable Fee - Services Other than Anesthesia.**

Section 9789.12.2 is revised to address Place of Service Codes for telehealth. In response to the COVID-19 Public Health Emergency, in 2020 Medicare expanded the scope of permissible telehealth services, including specifying services that could be provided by audit only technology. In order to facilitate provision of medical care in the safest manner possible, DWC adopted the Medicare Telehealth List beginning in 2020. For the 2024 annual update, DWC has adopted the revised Medicare “List of Telehealth Services for Calendar Year 2024 (ZIP) – Updated 11/13/2023” for services rendered on or after February 15, 2024.

As set forth in the Final Rule CMS 1784-F, providers will use Place of Service (POS codes) 02 and 10 for telehealth services, rather than follow the Public Health Emergency rule that allowed the POS where the service would have been performed in person. CMS states as follows:

“In the CY 2023 PFS final rule (87 FR 69467), we finalized that we would continue to maintain payment at the rate for a service had the service been furnished in person, and that this would allow payments to continue to be made at the non-facility based rate for Medicare telehealth services through the latter of the end of CY 2023 or the end of the calendar year in which the PHE ends.

In the CY 2023 PFS final rule (87 FR 69467), we finalized that, following the end of the end of the calendar year in which the PHE ends, practitioners will no longer bill claims with Modifier ‘95’ along with the POS code that would have applied had the service been furnished in person, and telehealth claims will instead be billed with the POS indicators:

* POS ‘‘02’’—is redefined as Telehealth Provided Other than in Patient’s Home (Descriptor: The location where health services and health related services are provided or received, through telecommunication technology. Patient is not located in their home when receiving health services or health related services through telecommunication technology.); and
* POS ‘‘10’’—Telehealth Provided in Patient’s Home (Descriptor: The location where health services and health related services are provided or received through telecommunication technology. Patient is located in their home (which is a location other than a hospital or other facility where the patient receives care in a private residence) when receiving health services or health related services through telecommunication technology.).”

[CMS 1784-F (88 FR 78818 at 78875.)]

In light of the Medicare revisions to usage of the POS codes, DWC has revised section 9789.12.2 as follows:

* Modify the POS code “02 Telehealth” to specify that the effective date ends for services on or after February 15, 2024.
* Adopt the current Medicare POS code “02 Telehealth Provided Other than in Patient’s Home” and descriptor for services on or after February 15, 2024.
* Adopt the Medicare POS code “10 Telehealth Provided in Patient’s Home” and descriptor for services on of after February 15, 2024.

Adoption of these revisions will align the workers’ compensation POS codes with the national codes. The POS code 02 is designated as a “Facility” site of services, while POS code 10 is designated as a “Non-Facility” site of service, in conformity with the Medicare designations.

**Title 8 CCR §9789.19 (Update Table):** A new subdivision (k) is added, adopting updates for services rendered on or after February 15, 2024, to conform to Medicare changes, as follows:

| **Document/Data** | **Services Rendered On or After February 15, 2024 & Mid-year Updates** |
| --- | --- |
| Adjustment Factors- Services Other than Anesthesia | Updated to include the relevant 2024 Medicare adjustment factors:2024 RVU budget neutrality adjustment factor:-2.18% (0.9782) [88 Fed. Reg. 78818, 79467, Final Rule, CMS-1784-F] [Note that Final Rule, CMS-1784-F, Table 116 has an error; text on page 79467 states budget neutrality is -2.18, the -2.20 listed on Table 116 is in error]2024 Annual increase in the Medicare Economic Index (MEI): 4.6% (1.046) [CMS’ [Actual Regulation Market Basket Updates (ZIP)](https://www.cms.gov/files/zip/actual-regulation-market-basket-updates.zip); CMS-1784-F, 88 Fed. Reg. 78818, 78884]Consolidated Appropriations Act, 2023, temporary increase of 1.25% (1.0125) for CY 2024[See detailed explanation set forth below this table.] |
| Adjustment Factors - Anesthesia | Updated to include the relevant 2024 Medicare adjustment factors:2024 RVU budget neutrality adjustment factor:-2.18% (0.9782) [88 Fed. Reg. 78818, 79467, Final Rule, CMS-1784-F, Table 117]2024 Anesthesia practice expense and malpractice adjustment factor: 0.11% (1.0011)[88 Fed. Reg. 78818, 79467, Final Rule, CMS-1784-F, Table 117]2024 Annual increase in the MEI: 4.6% (1.046) [CMS’ [Actual Regulation Market Basket Updates (ZIP)](https://www.cms.gov/files/zip/actual-regulation-market-basket-updates.zip)][88 Fed. Reg. 78818, 78884, Final Rule, CMS-1784-F]Consolidated Appropriations Act, 2023, temporary increase of 1.25% (1.0125) for CY 2024[See detailed explanation set forth below this table.] |
| Anesthesia Base Units by CPT Code | The anesthesia base units are unchanged for 2024. [See CMS’ [Anesthesiologist Center](https://www.cms.gov/medicare/payment/fee-schedules/physician/anesthesiologists-center)] |
| California-Specific Codes | The maximum fee for each of these codes has been updated by the MEI 4.6% increase (1.046) pursuant to section 9789.12.14. |
| CMS’ Medicare National Physician Fee Schedule Relative Value File [ZIP] | Updated to the CMS’ 2024 RVU file:RVU24A – Updated 01/03/2024 (ZIP). |
| Conversion Factor – Anesthesia (before GPCI adjustment)Adjusted for MEI, Relative Value Scale adjustment factors, and application of Consolidated Appropriations Act, 2023, increase | Updated the base anesthesia conversion factor in accordance with Labor Code §5307.1, subdivision (g)(1)(A) and subdivision (c) of title 8, California Code of Regulations, § 9789.12.5 and to adopt relevant Medicare physician fee increase in the federal Consolidated Appropriations Act, 2023 (CAA). The CAA provides a 1.25% (1.0125) increase for Medicare services rendered in Calendar Year 2024.The conversion factor is also calculated to account for the expiration of the one-year 2.5% increase in Medicare Physician Fee Schedule fees for CY 2023 that was provided in the Consolidated Appropriations Act, 2023.The base 2024 Conversion Factor for anesthesia is further adjusted to calculate the 2024 GPCI-Adjusted Anesthesia Conversion Factors set forth in Section 9789.19.1 Table A Effective 2.15.2024. These GPCI-adjusted conversion factors are used in the formula to determine the maximum fees for services rendered in the specified localities.[See detailed explanation set forth below this Update table.] |
| Conversion Factor – Services Other than AnesthesiaAdjusted for MEI, Relative Value Scale adjustment factor, and application of Consolidated Appropriations Act, 2023, increase | Updated the conversion factor in accordance with Labor Code §5307.1, subdivision (g)(1)(A) and subdivision (c) of title 8, California Code of Regulations, § 9789.12.5 and to adopt relevant Medicare physician fee increase in the federal Consolidated Appropriations Act, 2023 (CAA). The CAA provides a 1.25% (1.0125) increase for Medicare services rendered in Calendar Year 2024.The conversion factor is also calculated to account for the expiration of the one-year 2.5% increase in Medicare Physician Fee Schedule fees for CY 2023 that was provided in the Consolidated Appropriations Act, 2023.The 2024 Adjusted Conversion Factor for Services Other Than Anesthesia is the Conversion Factor used in the formulas to determine the maximum fees.[See detailed explanation set forth below this table.] |
| Current Procedural Terminology (CPT®) | Updated to CPT® 2024. |
| Current Procedural TerminologyCPT codes that shall not be used | Unchanged from 2023. |
| Diagnostic Cardiovascular Procedure CPT codes subject to the MPPR | Updated to 2024. |
| Diagnostic Imaging Family Indicator Description | Updated to 2024. |
| Diagnostic Imaging Family Procedures Subject to the MPPR | Updated to 2024. |
| Diagnostic Imaging Multiple Procedures Subject to the MPPR | Updated to 2024. |
| DWC Pharmaceutical Fee Schedule | Sets forth reference to DWC pharmaceutical fee schedule web page, which is unchanged from 2024. |
| Geographic Practice Cost Index (GPCI) by locality (Other than anesthesia services) | Updated to 2024. Adopted and incorporated by reference specified columns of files from the 2024 CMS’ Medicare National Physician Fee Schedule Relative Value File RVU24A – Updated 01/03/2024 (ZIP):* GPCI2024 (Column C (“Locality Number”), column D (“Locality Name”), column E (“2024 PW GPCI (with 1.0 Floor”)), column F (“2024 PE GPCI”), and column G (“2024 MP GPCI”) for the State of California (“CA”))

[Based on Addendum E to CY 2024 Medicare Physician Fee Schedule Final Rule, CMS-1784-F which can be accessed in [CY 2024 PFS Final Rule Addenda Updated 12/19/2023 (ZIP)](https://www.cms.gov/files/zip/cy-2024-pfs-final-rule-addenda-updated-12/19/2023.zip) on CMS website]* 24LOCCO – Column B (“Locality Number”), column C (“State”), column D (“Fee Schedule Area”), and column E (“Counties”) for the State of California (“CA”)

CMS has reduced the number of localities in California from 32 to 29. In the Final Rule, CMS indicates it is retiring Locality 06, Locality 07, and Locality 26, and modifying the scope of Locality 05 and Locality 18. [88 FR 78818 at 78985 et seq.]See discussion below this table for further information on the GPCI Locality changes. |
| Geographic Practice Cost Index (GPCIs) by locality and anesthesia shares (Anesthesia) | Although DWC uses the same California GPCI adjustments and Anesthesia shares as Medicare, the base CF for workers’ compensation is different. Therefore, DWC creates and adopts Table A for California locality-adjusted Anesthesia CFs.Table A is updated to the Medicare 2024 locality GPCI adjustments and Medicare 2024 Anesthesia Shares as set forth on the document “Section 9789.19.1 Table A Effective 2.15.2024”, pursuant to title 8 CCR, section 9789.19.1.Medicare data utilized is as follows.GPCIs:RVU24A – Updated 01/03/24 (ZIP)GPCI2024 – Column C (“Locality Number”), column D (“Locality Name”), column E (“2024 PW GPCI (with 1.0 Floor)”), column F (“2024 PE GPCI”), and column G (“2024 MP GPCI”) for the State of CaliforniaNote that the Work GPCI 1.0 workfloor currently in Medicare law is set to expire 1/19/2024. However, this does not impact the California localities’ Work GPCIs because all of them are above1.0.Anesthesia Shares:[2024 Anesthesia Conversion Factors (ZIP)](https://www.cms.gov/files/zip/cy-2024-pfs-final-rule-anesthesia-updated-01/05/2024.zip) – Updated 01/05/2024 * Anesthesia Shares excel sheet

Note that the California GPCI Work, GPCI Practice Expense, and GPCI Malpractice factors set forth in the 2024 Anesthesia Conversion Factors (ZIP) file in the excel document “CY 2024 locality adjusted CF 04JAN24 no workfloor”, on the excel sheet “Locality Adjusted CFs” are the same GPCI adjustments set forth for California in the RVU23A – Updated 01/03/2024 in the GPCI2024 document.Locality for anesthesia services determined by Medicare county to locality index.RVU24A – Updated 01/03/2024 (County to locality index)* 24LOCCO – column B (“Locality Number”), column C (“State”), column D (“Fee Schedule Area”), and column E (“Counties”) for the State of California
 |
| Geographic Practice Cost Index (GPCI) locality mappingZip Code files mapping zip codes to GPCI locality (for “other than anesthesia services” and anesthesia services) | Updated to the 2024 files.The current [CMS Zip Code to Carrier Locality files](https://www.cms.gov/medicare/payment/fee-schedules) can be accessed on the CMS website. |
| Geographic Health Professional Shortage Area zip code data files | Updated to 2024 files for the Primary Care Geographic HPSA and the Mental Health Geographic HPSA. |
| Health Resources and Services Administration: Geographic HPSA shortage area query(By State & County) | Unchanged from 2023. Sets forth reference to the HRSA Geographic HPSA shortage area web page query by state/county. |
| Health Resources and Services Administration: Geographic HPSA shortage area query(By Address) | Unchanged from 2023. Sets forth reference to the HRSA Geographic HPSA shortage web page query by address. |
| Incident To Codes | Updated to 2024. |
| Medi-Cal Rates – DHCS | Updated for services rendered on or after February 15, 2024, use: Medi-Cal Rates file – Updated 2/15/2024. The Medi-Cal rates file will be updated monthly by Administrative Director’s posting order. Medi-Cal rates are updated as of the 15th of each month, posted to the Medi-Cal website on or about the 16th of each month, and posted to the DWC website as soon as feasible. |
| National Correct Coding Initiative (NCCI) Edits: Medically Unlikely Edits (MUE) | Updated to adopt the 2024 MUE file, excluding all codes listed with Practitioner Services MUE Value of “0” (zero).” DWC has created and posted an excerpt of the file excluding the “zero” value codes for the convenience of the public. |
| National Correct Coding Initiative (NCCI) Edits:National Correct Coding Initiative Policy Manual for Medicare Services | Updated to the CMS’ 2024 annual manual. |
| National Correct Coding Initiative (NCCI) Edits:Practitioner Procedure to Procedure (PTP) Edits | Updated to 2024 “Practitioner PTP Edits, v300r0, Effective January 1, 2024; Posted 12/1/2023”. (Four ZIP files adopted for use for services on or after 2.15.2024.) |
| Ophthalmology Procedure CPT codes subject to the MPPR | Updated to 2024. |
| Physical Therapy Multiple Procedure Payment Reduction: “Always Therapy” Codes; and Acupuncture and Chiropractic Codes | Updated to 2024 Medicare list of “Always Therapy Codes”. In addition, retain the acupuncture codes and chiropractic manipulation codes, which are unchanged from 2023. |
| Physician Time | Updated to 2024. |
| Splints and Casting Supplies | Sets forth reference to the Durable Medical Equipment, Prosthetics, Orthotics, Supplies fee schedule applicable to the date of service; reference is unchanged from 2024. |
| Telehealth – Services Accessible Through Telehealth (using audio and video telecommunication method and audio only telecommunication method) | Updated to the Medicare Telehealth List for Calendar Year 2024 updated 11/13/2023.For informational purposes, add cross-reference to section 9789.12.2, subdivision (d) which contains Place of Service Codes (POS). As explained above, DWC adopts Medicare’s POS code 10 for telehealth services rendered in a patient’s home, and revised POS code 02 to conform to Medicare POS for telehealth provided other than in a patient’s home. Also, in conformity with Medicare, eliminated the temporary Public Health Emergency policy of allowing POS where the service would normally have been provided.Continue use of modifier 95. |

**CMS Revisions to Geographic Practice Cost Index (GPCI) Localities**

CMS has made refinements to the GPCI localities in California, retiring 3 localities and revising the name and scope of 2 localities.

Retired Localities:

| **Locality Number** | **2023 Locality Name** | **Comment for 2024** |
| --- | --- | --- |
| 06 | SAN FRANCISCO-OAKLAND-BERKELEY (SAN MATEO CNTY) | Merged into Locality 05 |
| 07 | SAN FRANCISCO-OAKLAND-BERKELEY (ALAMEDA/CONTRA COSTA CNTY) | Merged into Locality 05 |
| 26 | LOS ANGELES-LONG BEACH-ANAHEIM (ORANGE CNTY) | Merged into Locality 18 |

Revised Locality Names:

| **Locality Number** | **2023 Locality Name** | **2024 Revised Locality Name** |
| --- | --- | --- |
| 05 | SAN FRANCISCO-OAKLAND-BERKELEY (SAN FRANCISCO CNTY) | SAN FRANCISCO-OAKLAND-BERKELEY (SAN FRANCISCO/SAN MATEO/ALAMEDA/CONTRA COSTA CNTY) |
| 18 | LOS ANGELES-LONG BEACH-ANAHEIM (LOS ANGELES CNTY) | LOS ANGELES-LONG BEACH-ANAHEIM (LOS ANGELES/ORANGE CNTY) |

It should be noted that the revision and deletion of localities will not impact the level of fees in the localities. CMS indicates that “…locality numbers 06, 07, and 26 will no longer be used for the PFS starting January 1, 2024. We note that these changes, when operationalized, do not have any payment implications under the PFS because these counties are not transition areas and will receive the same GPCI values, for PFS payment purposes, going forward.” [88 FR 78818 at 78986.]

**Adjustment Factors – Updating the Conversion Factors**

**Conversion Factor for Services Other than Anesthesia**

The 2024 conversion factor for services other than anesthesia is updated pursuant to Labor Code section 5307.1, subdivision (g)(1)(A) and title 8, CCR, section 9789.12.5, subdivision (c), to conform to relevant changes in the Medicare Physician Fee Schedule payment system as adopted in the Medicare Final Rule, CMS 1784-F, and in light of relevant federal legislation. The federal [Consolidated Appropriations Act, 2023](https://www.congress.gov/bill/117th-congress/house-bill/2617/text), Public Law No. 117-328 impacts the calculation of the 2024 conversion factor.

Labor Code section 5307.1, subdivision (g)(1)(A) states in part as follows:

(g) (1) (A) Notwithstanding any other law, the official medical fee schedule *shall be adjusted to conform to any relevant changes in the Medicare* and Medi-Cal payment systems no later than 60 days after the effective date of those changes, subject to the following provisions:

\*\*\*

(iii) The annual adjustment factor for physician services shall be based on the product of one plus the percentage change in the *Medicare Economic Index* and any *relative value scale adjustment factor*. [Emphasis added.]

Title 8, CCR, section 9789.12.5, subdivision (c) states:

“(c) For calendar year 2018, and annually thereafter, the Anesthesia conversion factor and the Other Services conversion factor in effect in the prior calendar year shall be updated by the Medicare Economic Index inflation rate and by the Relative Value Scale Adjustment Factor, if any.”

The 2024 annual increase in the Medicare Economic Index (MEI) is 4.6% (1.046). (CMS’ “[Actual Regulation Market Basket Updates (ZIP)](https://www.cms.gov/files/zip/actual-regulation-market-basket-updates.zip)”; CMS-1784-F, 88 Fed. Reg. 78818, 78884.) The MEI is an input price index that accounts for annual changes in the various resources involved in providing physician services.

The 2024 Relative Value Scale (RVS) adjustment factor for all services other than anesthesia is the Medicare 2024 RVU budget neutrality adjustment factor of -2.18 percent (0.9782). [CY 2024 Medicare Physician Fee Schedule Final Rule, CMS-1784-F, 88 FR 78818 at 79467. Note that Table 116 lists an erroneous budget neutrality factor.]

The calculation of the 2024 Conversion Factor also takes into account two relevant provisions of the Consolidated Appropriations Act, 2023.

In December of 2022, Congress passed the Consolidated Appropriations Act, 2023, which provided, *inter alia*, a 2.50% increase in physician fees for CY 2023 only and a 1.25% increase for CY 2024 only. As a result of the expiration of the one-year 2.5 percent increase provided by the Consolidated Appropriations Act, 2023, CMS calculated the Medicare CY 2024 conversion factor by applying the 2024 factors to the 2023 CF as it would have been calculated without the 2.5 percent increase.

CMS explained the calculation of the Medicare 2024 CF as follows:

“The PFS update adjustment factor for CY 2024, as specified in section 1848(d)(19) of the Act, is 0.00 percent before applying other adjustments. In addition, the CAA, 2023 provided a one-year 2.50 percent increase in PFS payment amounts for services furnished in CY 2023, and a one-year 1.25 percent increase in PFS payment amounts for services furnished during CY 2024, and required that the supplementary percentage increases shall not be taken into account in determining PFS payment rates for subsequent years. To calculate the CY 2024 PFS conversion factor (CF), we took the CY 2023 conversion factor without the one-year 2.50 percent payment increase provided by the CAA, 2023 for CY 2023 and multiplied it by the budget neutrality adjustment required as described in the preceding paragraphs and the 1.25 percent PFS payment increase provided by the CAA, 2023 for CY 2024. We estimate the CY 2024 PFS CF to be 32.7442 which reflects the -2.18 percent budget neutrality adjustment under section 1848(c)(2)(B)(ii)(II) of the Act, the 0.00 percent update adjustment factor specified under section 1848(d)(19) of the Act, and the 1.25 percent payment increase for services furnished in CY 2024, as provided in the CAA, 2023. We estimate the CY 2024 anesthesia CF to be 20.4349, reflecting the same overall PFS adjustments with the addition of anesthesia-specific PE and MP adjustments.” (88 Federal Register 78818, 79467)

CMS sets forth Conversion Factor calculations each year in the Final Rule. In CMS FR-1784, the Conversion Factor Table 116 contains an error in listing the CY 2024 RVU Budget Neutrality Adjustment as -2.20% instead of the correct number -2.18%, and incorrectly listing the Medicare Conversion Factor as 32.7375 instead of the correct number 32.7442. (See text of Final Rule at 88 Federal Register 78818, 79467 and Medicare Conversion Factor as listed in RVU24A – updated 01/03/2024.)

(88 Federal Register 78818, 79467)

For California workers’ compensation, the Other Services Conversion Factor calculation includes relevant adjustments to account for:

* Expiration of the one-year 2.5% increase that was set forth for Medicare CY 2023 in the Consolidated Appropriations Act, 2023
* CY 2024 one-year 1.25% (1.0125) increase that was set forth for Medicare CY 2024 in the Consolidated Appropriations Act, 2023
* CY 2024 RVU budget neutrality adjustment [-2.18 percent (0.9782)]
* CY 2024 Medicare Economic Index adjustment [4.6 percent increase (1.046)]

The workers’ compensation CY 2023 CF of $47.21, without the temporary 1-year 2.50 percent payment increase provided by the Consolidated Appropriations Act, 2023 was $46.06. (This is calculated as follows: $45.0954 (2022 CF without Protecting Medicare and American Farmers from Sequester Cuts Act 1-year 3% increase) \* 1.038 (2023 MEI) \* 0.9840 (2023 RVU Budget Neutrality Adjustment =$46.06.) (See the Explanation of Changes attached to the Administrative Director update order dated January 30, 2023, page 11, for Physician Fee Schedule 2023 Annual update.)

The workers’ compensation 2024 Conversion Factor (CF) for Services Other than Anesthesia is calculated as follows:

$46.06 (2023 CF without 1-year 2.5% increase) \* 1.046 (2024 MEI) \* 0.9782 (2024 RVU Budget Neutrality Adjustment) \* 1.0125 (CAA increase for 2024) = **$ 47.7175**

**Conversion Factor for Anesthesia Services**

The 2024 conversion factor for anesthesia services (before Geographic Practice Cost Index adjustment) is updated pursuant to Labor Code section 5307.1, subdivision (g)(1)(A) and title 8, CCR, section 9789.12.5, subdivision (c) to conform to relevant changes in the Medicare Physician Fee Schedule payment system as adopted in the Medicare Final Rule, CMS 1784-F, and in light of relevant federal legislation. The federal [Consolidated Appropriations Act, 2023](https://www.congress.gov/bill/117th-congress/house-bill/2617/text), Public Law No. 117-328 impacts the calculation of the 2024 conversion factor.

Labor Code section 5307.1, subdivision (g)(1)(A) states in part as follows:

(g) (1) (A) Notwithstanding any other law, the official medical fee schedule *shall be adjusted to conform to any relevant changes in the Medicare* and Medi-Cal payment systems no later than 60 days after the effective date of those changes, subject to the following provisions:

\*\*\*

(iii) The annual adjustment factor for physician services shall be based on the product of one plus the percentage change in the *Medicare Economic Index* and any *relative value scale adjustment factor*. [Emphasis added.]

Title 8, CCR, section 9789.12.5, subdivision (c) states:

“(c) For calendar year 2018, and annually thereafter, the Anesthesia conversion factor and the Other Services conversion factor in effect in the prior calendar year shall be updated by the Medicare Economic Index inflation rate and by the Relative Value Scale Adjustment Factor, if any.”

The 2024 annual increase in the Medicare Economic Index (MEI) is 4.6% (1.046). (CMS’ “[Actual Regulation Market Basket Updates (ZIP)](https://www.cms.gov/files/zip/actual-regulation-market-basket-updates.zip)”; CMS-1784-F, 88 Fed. Reg. 78818, 78884.) The MEI is an input price index that accounts for annual changes in the various resources involved in providing physician services.

The 2024 Relative Value Scale (RVS) adjustment factors for anesthesia services are the Medicare 2024 RVU budget neutrality adjustment -2.18% (0.9782) and the 2024 Anesthesia Fee Schedule Practice Expense and Malpractice Adjustment 0.11% (1.0011). (2024 Medicare Physician Fee Schedule Final Rule, CMS-1784-F, Table 117.)

The calculation of the 2024 Conversion Factor also takes into account two relevant provisions of the Consolidated Appropriations Act, 2023.

In December of 2022, Congress passed the Consolidated Appropriations Act, 2023, which provided, *inter alia*, a 2.50% increase in physician fees for CY 2023 only and a 1.25% increase for CY 2024 only. As a result of the expiration of the one-year 2.5 percent increase provided by the Consolidated Appropriations Act, 2023, CMS calculated the Medicare CY 2024 conversion factor by applying the 2024 factors to the 2023 CF as it would have been calculated without the 2.5 percent increase.

CMS explained the calculation of the Medicare 2024 CF as follows:

“The PFS update adjustment factor for CY 2024, as specified in section 1848(d)(19) of the Act, is 0.00 percent before applying other adjustments. In addition, the CAA, 2023 provided a one-year 2.50 percent increase in PFS payment amounts for services furnished in CY 2023, and a one-year 1.25 percent increase in PFS payment amounts for services furnished during CY 2024, and required that the supplementary percentage increases shall not be taken into account in determining PFS payment rates for subsequent years. To calculate the CY 2024 PFS conversion factor (CF), we took the CY 2023 conversion factor without the one-year 2.50 percent payment increase provided by the CAA, 2023 for CY 2023 and multiplied it by the budget neutrality adjustment required as described in the preceding paragraphs and the 1.25 percent PFS payment increase provided by the CAA, 2023 for CY 2024. We estimate the CY 2024 PFS CF to be 32.7442 which reflects the -2.18 percent budget neutrality adjustment under section 1848(c)(2)(B)(ii)(II) of the Act, the 0.00 percent update adjustment factor specified under section 1848(d)(19) of the Act, and the 1.25 percent payment increase for services furnished in CY 2024, as provided in the CAA, 2023. We estimate the CY 2024 anesthesia CF to be 20.4349, reflecting the same overall PFS adjustments with the addition of anesthesia-specific PE and MP adjustments.” (88 Federal Register 78818, 79467)

CMS sets forth this calculation in table format in Table 117:(88 Federal Register 78818, 79467)

(Medicare Physician Fee Schedule Anesthesia Conversion Factor of 20.4349 (before locality adjustments) and locality-adjusted Conversion Factors are set forth in Medicare’s file [2024 Anesthesia Conversion Factors (ZIP)](https://www.cms.gov/files/zip/cy-2024-pfs-final-rule-anesthesia-updated-01/05/2024.zip) – Updated 01/05/2024.)

For workers’ compensation, the Anesthesia Services Conversion Factor (before Geographic Practice Cost Index adjustments) includes the relevant Medicare adjustments to account for:

* Expiration of the one-year 2.50% increase for 2023 that was set forth in the Consolidated Appropriations Act, 2023
* CY 2024 RVU budget neutrality adjustment [-2.18 percent (0.9782)]
* CY 2024 Medicare Economic Index adjustment [4.6 percent increase (1.046)]
* CY 2024 Anesthesia Fee Schedule Practice Expense and Malpractice Adjustment [0.11 percent (1.0011) increase]
* CY 2024 increase set forth in the Consolidated Appropriations Act, 2023 [1.25% increase (1.0125)]

The workers’ compensation CY 2023 anesthesia CF without the temporary one-year 2.50 percent payment increase provided by the Consolidated Appropriations Act, 2023 for 2023 was $28.0533. This is calculated as follows:

$27.4521 (2022 CF without PAMA 1-year 3% increase) \* 1.038 (CY 2023 MEI) \* 0.9840 (CY 2023 RVU Budget Neutrality Adjustment) \* 1.0005 (CY 2023 Anesthesia Fee Schedule Practice Expense and Malpractice Adjustment) = $28.0533

(See the Explanation of Changes attached to the Administrative Director update order dated January 30, 2023, page 14, for Physician Fee Schedule 2023 Annual update.)

The workers’ compensation 2024 Conversion Factor (CF) for Anesthesia Services (before Geographic Practice Cost Index adjustment) is calculated as follows:

$28.0533 (2023 CF without CAA, 2023 one-year 2.50% increase) \* 1.046 (CY 2024 MEI) \* 0.9782 (CY 2024 RVU Budget Neutrality Adjustment) \* 1.0011 (CY 2024 Anesthesia Fee Schedule Practice Expense and Malpractice Adjustment) \* 1.0125 (CAA increase) = **$ 29.0948**.

The workers’ compensation base CF of $29.0948 is adjusted for each locality as set forth in Table A Effective for Services 2/15/2024.

**Title 8 CCR § 9789.19.1**

**GPCI-Adjusted Conversion Factors for Anesthesia Services – Section 9789.19.1 Table A for services on or after February 15, 2024**

For anesthesia services the Geographic Practice Cost Index (GPCI) adjustments are incorporated into the anesthesia conversion factors. Table A adopted and incorporated by reference pursuant to section 9789.19.1 contains the anesthesia conversion factors adjusted by Medicare locality GPCIs and anesthesia shares for anesthesia services rendered on or after February 15, 2024. The base workers' compensation 2024 Anesthesia Conversion Factor is $29.0948, which includes the adjustments for Medicare Economic Index inflation rate, Relative Value Scale Adjustment factors (RVU Budget Neutrality Adjustment and Anesthesia Fee Schedule Practice Expense and Malpractice Adjustment), and the Consolidated Appropriations Act, 2023 1.25% increase for 2024. The 2024 Medicare Anesthesia Shares are applied to the Work GPCI, Practice Expense GPCI, and Malpractice GPCI to derive the GPCI-Adjusted Anesthesia Conversion Factors by locality. The formula is as follows:

[(Work GPCI by locality\*Anesthesia Work Share) + (Practice Expense GPCI by locality\*Anesthesia Practice Expense Share) + (Malpractice GPCI by locality\*Anesthesia Malpractice Share)] \* Anesthesia Conversion Factor

The anesthesia shares are obtained from the Medicare anesthesia excel document “CY 2024 locality adjusted CF 04JAN24 no workfloor” within [2024 Anesthesia Conversion Factors (ZIP)](https://www.cms.gov/files/zip/cy-2024-pfs-final-rule-anesthesia-updated-01/05/2024.zip) – Updated 01/05/2024 adopted pursuant to the Medicare Physician Fee Schedule Final Rule, CMS-1784-F.

The 2024 Work GPCI, 2024 Practice Expense GPCI, 2024 Malpractice GPCI are set forth in the RVU24A zip file updated 01/03/2024 in the excel document “GPCI2024” and are also contained in the 2024 Anesthesia Conversion Factors [ZIP] (updated 01/05/2024) within the excel document “CY 2024 locality adjusted CF 04JAN24 no workfloor”.

The anesthesia shares for 2024 are as follows.

| **Work** | **Practice Expense** | **Malpractice Expense** |
| --- | --- | --- |
| 0.774 | 0.162 | 0.064 |

End of Explanation of Changes