

RBRVS 30-day Comment Period Chart

Section	Issue	Comment	Response	Commenter
§9789.12.3	Elimination of OWCP values	<p>Commenter states that by completely eliminating use of the OWCP table, the Division would be affecting 1012 codes, 582 of which would be inappropriately priced using the original methodology. By making all of these codes “by report” you create possibility of disputes over the value, remove them from the Independent Bill Review process and put them back in hands of judges.</p>	<p>Disagree. Under the regulation a total of 81 procedures would have been paid using the OWCP values, not 1012. And only 21 procedures would be inappropriately priced, not 582. Therefore, under the proposed regulation amendments there are only a total of 81 codes that will be paid “by report” instead of using OWCP values. Given the short time between the adoption of the RBRVS regulations, and the January 1, 2014 effective date, the Administrative Director determined that the best course of action would be to use “by report” billing for the 81 codes. Disputes over “By Report” services can be addressed by Independent Bill Review. 8 CCR section 9789.12.4 subdivision (c) states: “(c) In determining the value of a By Report procedure, consideration may be given to the value assigned to a comparable procedure or analogous code. The comparable procedure or analogous code should reflect similar amount of resources, such as practice expense, time, complexity, expertise, etc. as</p>	<p>Suzanne Honor-Vangerov, Esq. Honor Systems December 11, 2013 Written Comment</p>

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		<p>Commenter suggests a formula for using the OWCP data.</p>	<p>required for the procedure performed.” The IBR regulations allow the IBR process to resolve disputes where the fee schedule “allows for such analogous coding.” 8 CCR section 9792.5.7 subdivision (b)(2).</p> <p>Commenter’s formula is erroneous as the OWCP values inherently are set at an amount that is approximately 125% of Medicare; therefore it would not be appropriate to multiply by 1.20 as suggested by commenter. The Division intends to look at adapting the OWCP values in the future to reduce the number of “by report” bills. However, at present adopting “by report” billing for the 81 codes that would have used OWCP values is the most expedient way to eliminate the erroneous calculation of the 21 codes that are overinflated by approximately 40 times.</p>	
§9789.12.8		<p>Status Code B indicates services that are bundled into other services, including codes 99358, 99359, 99366, 99367 and 99368, codes for extended non-face-to-face time and for</p>	<p>The comment does not address the regulation amendments proposed in the 30-day comment period.</p>	<p>Suzanne Honor-Vangerov, Esq. Honor Systems December 11, 2013 Written Comment</p>

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		<p>medical team conferences. These services are performed frequently in workers' compensation and not commonly undertaken under Medicare and would not have been contemplated when making its bundling determinations. Commenter urges the Division to consider revising the regulations to allow payment for the specified 5 codes.</p>		
§9789.15.4	Physical Therapy/Occupational Therapy Multiple Procedure Payment Reduction	<p>Commenter opposes the cap on the number of payable modalities and procedures performed in one visit. Commenter requests the DWC exempt hospitals from the therapy caps, or at a minimum the number of payable modalities and procedures per visit should be applied per discipline.</p>	<p>The comment does not address the regulation amendments proposed in the 30-day comment period.</p>	<p>Amber Ott Vice President, Finance California Hospital Association December 10, 2013 Written Comment</p>
General	Elimination of OWCP values	<p>Commenter supports the state making the proposed change because from an implementation standpoint it would have been very difficult to cross-reference back to the federal fee schedule.</p>	<p>The commenter's support is noted.</p>	<p>Lisa Anne Forsythe Coventry Work Comp Services December 12, 2013 Oral Comment</p>
General	Reimbursement for Consultation Reports	<p>Commenter is an administrator for a group of specialty</p>	<p>The comment does not address the regulation amendments</p>	<p>Elainna M. Moss Med Health Services, Inc.</p>

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		<p>physicians. Commenter states that reimbursement for “consultations” should not be limited to referrals by QMEs or AMEs. Physicians often are sent extensive medical records and depositions to review in order to determine the need for treatment. The time involved is not addressed. The Evaluation and Management fees in no way compensate the physician for lack of payment for reports needed.</p>	<p>proposed in the 30-day comment period.</p>	<p>December 12, 2013 Written Comment</p>
General	Reimbursement for Reports, Record Review	<p>Commenter opposed adoption of the Medicare billing rates for workers’ compensation. Workers’ compensation doctors would not be adequately paid for record review. The compensation for narrative reports other than the P&amp;S report would not be adequate.</p>	<p>The comment does not address the regulation amendments proposed in the 30-day comment period.</p>	<p>John Don November 14, 2013 Written Comment</p>
General	Reimbursement for Reports, prolonged face-to-face time: effect on psychological services	<p>Commenter states that the modifications would have a profound negative effect of workers’ compensation psychology practice. The proposed new schedule removes code 99080, the billing code used for reports on psych claims. Commenter</p>	<p>The comment does not address the regulation amendments proposed in the 30-day comment period.</p>	<p>Linda Waters, Ph.D., QME December 12, 2013 Written Comment</p>

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		opposes limitation of consultations to cases where requested by WCAB or QME/AME. Commenter states there is no compensation for prolonged face-to-face time, medical record review.		
General	Reimbursement for review of records, consultation codes (effect of elimination of OWCP codes)	Commenter states that given the proposed changes in DWC policy (eliminating OWCP coding practices) regarding fees that are not part of CMS rules, there are two apparent unintended consequences that need attention. CMS does not pay for 99358 review of records as it is bundled into visit code, and elimination of consultation codes creates problems when a complex evaluation is required.	Disagree. Commenter appears to misinterpret the effect of the elimination of the use of OWCP values. The regulations did not allow OWCP values when a service is listed as “bundled” in the Medicare relative value file, and therefore the elimination of OWCP values does not impact those services. Section 9789.12.8 provides the following rule for Status Code B, Bundled Code: “Payment for covered services are always bundled into payment for other services not specified. If RVUs are shown, they are not used for payment. If these services are covered, payment for them is subsumed by the payment for services to which they are incident...” The elimination of the OWCP values does not impact the “Bundled” codes such as 99358. Similarly, the elimination of the OWCP values does not impact	Robert C. Blink, M.D. Co-Chair, WOEMA Legislative Committee Western Occupational & Environmental Medical Association December 12, 2013 Written Comment

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			<p>the reimbursement for consultation codes, because the OWCP values were not used for consultation codes. Section 9789.12.12 provides the method for valuing consultations (following Medicare which uses other E&amp;M codes, including office visit codes.) The OWCP values were not used for consultations; therefore the elimination of the OWCP codes does not impact consultations.</p> <p>The comment does not address the regulation amendments proposed in the 30-day comment period.</p>	
General	Reimbursement for record review and response to requests for supplemental reports	Commenter is concerned with regard to the ability to bill any type of review of records or respond to requests of supplemental reports.	The comment does not address the regulation amendments proposed in the 30-day comment period.	Sherry German Comprehensive Medical Reporting Services December 12, 2013 Oral Comment
General	Reimbursement rates	Commenter states that the new fee schedule rates are too low. It is an expensive state to do business, and the fees are significantly lower than our neighboring states. Quality doctors or businesses are going to close in the state and patients are going to have less access to quality service.	The comment does not address the regulation amendments proposed in the 30-day comment period.	Eric Rideout Open Advantage MRI and Coast to Coast Diagnostics December 12, 2013 Oral Comment

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		<p>Commenter has faxed a letter from a doctor who is ceasing practice because reimbursement rates do not cover overhead. (Letter of Steven Levine, M.D. dated December 2, 2013.)</p>		
General	<p>Reimbursement for review of records, elimination of consultation codes (Form Letter)</p>	<p>Commenter opposes the bundling of review of records (99358, 99359) which are Status Code B, resulting in the codes being non-payable. Commenter opposes elimination of the use of consultation codes. Workers' compensation assessments are vastly different from Medicare assessments. In Medicare there is no requirement to fully justify:</p> <ol style="list-style-type: none"> <li>1) AOE/COE,</li> <li>2) MTUS,</li> <li>3) Disability Status,</li> <li>4) Work Restrictions,</li> <li>5) Apportionment.</li> </ol> <p>There will be more UR denials and more IMR requests due to doctors not giving a full justification for the treatment being requested.</p>	<p>The comment does not address the regulation amendments proposed in the 30-day comment period.</p>	<p>Haim Belzer, Ph.D. November 20, 2013</p> <p>Darrell H. Burstein, M.D. November 25, 2013</p> <p>Russell L. Glauber, Esq. Glauber/Berenson LLP November 25, 2013</p> <p>Gary de Voss, Ph.D. De Voss Psychology Inc. November 21, 2013</p> <p>Harve S. Meskin, Ed.D., MFT and Letty N. Meskin, M.A. Meskin Counseling Services November 14, 2013</p> <p>Gordon MacLean, Ph.D., ABPP November 14, 2013</p> <p>Daniel J. Paveloff, M.D.</p>

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				<p>Sobol Orthopedic Medical Group, Inc. November 25, 2013</p> <p>Stephen M. Pfeiffer, Ph.D. (Undated)</p> <p>Ann Richmond Work Comp Medical Services, Inc. November 18, 2013</p> <p>Delia M. Silva, Psy.D., ABPP-CN, QME (Undated)</p> <p>Philip A. Sobol, M.D. Sobol Orthopedic Medical Group, Inc. November 25, 2013</p> <p>Thomas J. Wegman, Ph.D. November 24, 2013</p>