

State of California
Department of Industrial Relations
DIVISION OF WORKERS' COMPENSATION



Order of the Acting Administrative Director of the Division of Workers' Compensation
(OMFS Update for Outpatient Hospital and Ambulatory Surgical Center (ASC) Services
Effective March 1, 2009)

Pursuant to Labor Code section 5307.1(g)(2), the Acting Administrative Director of the Division of Workers' Compensation orders that Title 8, California Code of Regulations, sections 9789.31, 9789.32, 9789.33, 9789.34 and 9789.35, pertaining to Hospital Outpatient Departments and Ambulatory Surgical Centers Fee Schedule in the Official Medical Fee Schedule, are adjusted to conform to the hospital outpatient prospective payment system (HOPPS) final rule of November 18, 2008, the wage index values in the hospital inpatient prospective payment system (IPPS) final rule of August 19, 2008, correction to the IPPS final rule published on October 3, 2008 in the Federal Register, notice to the IPPS final rule published on October 3, 2008 in the Federal Register, and the additional notice to the IPPS final rule of December 3, 2008 published in the Federal Register which change the Medicare payment system.

For services rendered on or after March 1, 2009, section 9789.31 is amended to incorporate by reference the updated calendar year 2009 versions of CMS' hospital outpatient prospective payment system (HOPPS) published in the Federal Register on November 18, 2008, the updated fiscal year 2009 versions of CMS' IPPS Tables 4A, 4B, and 4J in the notice of October 3, 2008 to the final rule published in the Federal Register, the updated fiscal year 2009 versions of CMS' IPPS Tables 2 and 4J in the notice of December 3, 2008 to the final rule published in the Federal Register, and the Fiscal Year 2009 IPPS Payment Impact File, 2009 version of CMS' Alphanumeric "Healthcare Common Procedure Coding System", and the 2009 version of the American Medical Associations' Physician "Current Procedural Terminology".

Amended sections 9789.32 and 9789.33 are adjusted to conform to the hospital outpatient prospective payment system (HOPPS) final rule of November 18, 2008. For services rendered on or after March 1, 2009, Sections 9789.32 and 9789.33 are amended to replace the previously assigned status code indicator, "Q" with status code indicators "Q1", "Q2", and "Q3", and to add status code indicators "R" and "U".

Amended section 9789.34 reflects the changes to the wage index value by county and an updated conversion factor. Amended section 9789.35 reflects the changes to the hospital-specific wage index and an updated conversion factor for the listed California Hospital Outpatient Departments. An explanation of the changes is attached.

Pursuant to Labor Code section 5307.1(g)(2), the Acting Administrative Director of the Division of Workers' Compensation orders that to the extent references to the Federal Register or Code of Federal Regulations are made in any sections starting from section 9789.30 through 9789.38 of Title 8 of the California Code of Regulations, said section is hereby amended to incorporate by reference the applicable

Federal Register final rule (including additional notices, correction notices, and revisions) and Federal Regulations in effect as of the date this Order becomes effective, to be applied to services rendered on or after March 1, 2009. In particular, to the extent a section makes reference to the CMS hospital outpatient prospective payment system final rule, said section is amended to incorporate by reference the final rule published on November 18, 2008 in the Federal Register (Vol. 73 FR 68502) and is entitled "Medicare Program: Changes to the Hospital Outpatient Prospective Payment System and CY 2009 Payment Rates; Changes to the Ambulatory Surgical Center Payment System and CY 2009 Payment Rates; Hospital Conditions of Participation: Requirements for Approval and Re-Approval of Transplant Centers To Perform Organ Transplants – Clarification of Provider and Supplier Termination Policy Medicare and Medicaid Programs: Changes to the Ambulatory Surgical Center Conditions for Coverage " (CMS-1404-FC; CMS-3887-F; CMS-3835-F-1). To the extent a section makes reference to the CMS hospital inpatient prospective payment system final rule wage index values, said section is amended to incorporate by reference the final rule published on August 19, 2008 in the Federal Register (Vol. 73 FR 48434) and is entitled "Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals" (CMS-1390-F; CMS-1531-IFC1; CMS-1531-IFC2; CMS-1385-F4). A correction to the final rule was published on October 3, 2008, in the Federal Register (Vol. 73 FR 57541), and is entitled "Medicare Program; Changes to the Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates; Payments for Graduate Medical Education in Certain Emergency Situations; Changes to Disclosure of Physician Ownership in Hospitals and Physician Self-Referral Rules; Updates to the Long-Term Care Prospective Payment System; Updates to Certain IPPS-Excluded Hospitals; and Collection of Information Regarding Financial Relationships Between Hospitals; Correction" (CMS-1390-CN; CMS-1531-CN; CMS-1385-CN2). A notice to the final rule was published on October 3, 2008 in the Federal Register (Vol. 73, FR 57888), entitled, "Medicare Program; Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates: Final Fiscal Year 2009 Wage Indices and Payment Rates Including Implementation of Section 124 of the Medicare Improvement for Patients and Providers Act of 2008; Notice" (CMS-1390-N). A notice to the final rule was published on December 3, 2008 in the Federal Register (Vol. 73, FR 73656), entitled, "Medicare Program; Hospital Inpatient Prospective Payment Systems and Fiscal Year 2009 Rates: Fiscal Year 2009 Wage Index Changes Following Implementation of Section 124 of the Medicare Improvement for Patients and Providers Act of 2008; Notice" (CMS-1390-N2).

The effective date of the new rates is for visits and procedures described in section 9789.32 rendered on or after March 1, 2009. This Order, the amended sections 9789.31, 9789.32, 9789.33, 9789.34, and 9789.35, and the explanation of the changes shall be published on the website for the Division of Workers' Compensation: <http://www.dir.ca.gov/DWC/OMFS9904.htm>

IT IS SO ORDERED.

Dated: January 26, 2009

ORIGINAL ORDER SIGNED

CARRIE NEVANS
Acting Administrative Director of the
Division of Workers' Compensation