
Increasing the Value of Post-Operative E/M Visits in 10- and 90-day Global Surgery Codes and Eliminating the E/M Add-On Code

In the 2020 Medicare Physician Fee Schedule (MPFS) final rule, the Centers for Medicare and Medicaid Services (CMS) finalized significant modifications in coding and increased reimbursement for standalone E/M services in 2021 but will not make corresponding increases to the value of post-operative E/M services in 10- and 90-day global surgery codes. In addition, CMS finalized an unnecessary E/M add-on code that has a significant redistributive impact on the physician fee schedule, moving value away from specialists and toward primary care. ASCRS strongly opposes the policy that would not increase the value of post-operative E/M visits in 10- and 90-day surgical global packages and the E/M add-on code. We are joining with the surgical community advocating for legislative language in a must-pass Medicare and Medicaid program extension bill in May to increase the global codes and eliminate the add-on code unless budget neutrality is waived.

Background

E/M Revaluation

In the 2020 MPFS final rule, CMS accepted the AMA Relative Value Scale Update Committee (RUC) recommendation to increase the value of standalone E/M office visits beginning in 2021 but did not accept the RUC recommendation to also increase the value of post-operative E/M visits that are bundled into 10- and 90-day global surgery codes. Currently, Medicare pays surgeons and other specialists a single fee (global payment) when they perform major or minor surgery (10- or 90-day), such as cataract surgery. This single fee covers the costs of the surgery plus related care one day prior to surgery and follow-up care within a 10- or 90-day timeframe. If CMS were to increase the value of the post-op E/M visits in the global codes, this will offset much of the recent reduction to the re-valuation of cataract surgery. In accordance with the Medicare statute, when E/M codes have been revalued in the past—three times since the inception of the fee schedule in 1992—CMS has also increased the value of the post-operative visits in the global codes.

ASCRS and the surgical community strongly oppose CMS' proposal for the following reasons:

- **Disrupts the relativity in the fee schedule:** Changing the values for some E/M services, but not for others, disrupts the relativity mandated by Congress as part of the Omnibus Budget Reconciliation Act (OBRA) of 1989 (P.L. 101-239), which implemented the Resource Based Relative Value Scale (RBRVS) in 1992 and refined over the past 27 years. Each time the payments for new and established office visits were increased, CMS also adjusted the bundled payments to account for the increased values for the E/M portion of the global codes.
- **Creates specialty differentials:** Per the Medicare statute, CMS is prohibited from paying physicians differently for the same work. Care provided during post-operative visits represents the same work, practice expense, and malpractice costs as furnishing a standalone E/M visit. Failing to adjust the global codes and paying some doctors less for providing the same E/M services is a violation of the law.

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- Violates MACRA Statute Related to Data Collection on Global Surgery Services:** CMS is continuing its study of global surgery codes as mandated by the MACRA statute and therefore asserts that it will not modify the values of visits in the global surgery payment until it can verify that the number and level of visits are accurate. As part of the ongoing study, CMS released three reports developed by the RAND Corporation: one that studied the ongoing data collection on post-operative visits; one looked at post-op care for specific procedures, including cataract; and one that recommended options for reducing the value of global codes CMS contends include post-operative visits that are not being furnished. The reports conclude that global surgery codes, for all specialties, include post-operative visits that are not being furnished, however they also found that the number of post-operative visits furnished after cataract surgery is equal to the three that were included in the recent RUC revaluation of the code and implemented in 2020.

While the MACRA statute gave CMS the authority to study global surgery codes, it also expressly indicates that CMS should continue to update individual code values—just as it did with the recent revaluation of cataract surgery. Since the standalone E/M codes were re-valued, the post-operative E/M visits included in the global codes should be as well. If CMS believes that specific codes are overvalued, then it should refer those codes as potentially misvalued to RUC for review, rather than applying this policy broadly to all surgical services.

- Ignores RUC recommendations:** The RUC, which represents the entire medical profession, voted overwhelmingly (27-1) to recommend that the full increase of work and physician time for office visits be incorporated into the global periods for each CPT code with a global period of 10 or 90 days.

E/M Add-On Code

In addition, we are advocating for a withdrawal of the E/M add-on code CMS created for patients with complex or chronic disease. The concept of an add-on code was developed by CMS as part of its original policy to collapse E/M levels 2-4 to ensure that primary care physicians were not negatively impacted. Subsequently, the 5 levels of E/M codes went through the CPT and RUC revaluation process and CMS abandoned its original policy, thus eliminating the need for the add-on code.

Impact on Ophthalmology

Because of the budget neutrality of the fee schedule and the high volume of E/M services billed, the overall increase to the standalone E/M codes is expected to have a significant redistributive effect, transferring value from procedure-based specialties to primary care. The addition of the add-on code further erodes value away from surgical specialties. Based on analysis conducted by the surgical coalition, ophthalmology is among the most negatively impacted specialties from the policies in the final rule. However, if the post-operative E/M visits are increased in the global codes and add-on code is withdrawn, ophthalmology would see a slight increase in Medicare payments for 2021.

ASCRS, AMA, and Surgical Community Advocacy

Prior to the release of the final rule, ASCRS joined with the surgical community and the AMA in a letter to CMS opposing the proposal not to increase the post-operative visits in global codes. We also met directly with CMS and advocated for bipartisan letters from both the House and Senate asking for the change.

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Following the release of the final rule, we continue to work with the surgical community. We have commissioned data analysis to determine the impact of the policy on all surgical specialties, and we have hired a law firm to provide an analysis on a potential legal challenge to the final rule. We are also advocating for legislative language to be included in a May 2020 funding bill that would extend expiring Medicare and Medicaid programs to increase the value of the post-operative visits in the global codes and eliminate the add-on code.

Increasing Values for Intermediate and Comprehensive Eye Exam Codes

ASCRS is also advocating that the values for intermediate and comprehensive eye exam codes should increase to reflect the updated values of E/M office visit codes for 2021. CMS recognized that eye exam services are linked to E/M services in the 2020 MPFS proposed rule and solicited comment on whether they should also be increased. ASCRS has submitted comprehensive comments to CMS on the proposed rule, and explained that because of similar work, practice expense and malpractice costs of furnishing the exams, the eye codes are largely based on the value of the office visit E/M codes and therefore, should be increased along with the office visit codes to preserve the relativity of these services.

Next Steps

ASCRS and ASOA members will be asked to contact their members of Congress in support of legislation to increase the value of post-operative E/M services included in global codes and to eliminate the budget-neutral E/M add-on code.