OMFS Update for Physician and Non-Physician Practitioner Services

Attachment to Administrative Director Order dated January 30, 2023

Explanation of Changes

(Effective February 15, 2023)

# Data Sources

**CY 2023 Medicare Physician Fee Schedule Final Rule**

The Centers for Medicare and Medicaid Services’ (CMS) CY 2023 update to the Medicare physician fee schedule was published in the Federal Register on November 18, 2022 (87 Fed. Reg. 69404). It is entitled “Medicare and Medicaid Programs; CY 2023 Payment Policies Under the Physician Fee Schedule and Other Changes to Part B Payment and Coverage Policies; Medicare Shared Savings Program Requirements; Implementing Requirements for Manufacturers of Certain Single-dose Container or Single-use Package Drugs To Provide Refunds With Respect to Discarded Amounts; and COVID–19 Interim Final Rules” [CMS–1770–F.] Hereafter, the final rule will be referenced as “CY 2023 Medicare Physician Fee Schedule Final Rule, CMS-1770-F” or “Final Rule, CMS-1770-F”.

The [CY 2023 Medicare Physician Fee Schedule Final Rule, CMS-1770-F, and supporting download files](https://www.cms.gov/medicaremedicare-fee-service-paymentphysicianfeeschedpfs-federal-regulation-notices/cms-1770-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.

[Protecting Medicare and American Farmers from Sequester Cuts Act](https://www.congress.gov/bill/117th-congress/senate-bill/610/text) Public Law 117-71.

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

**Title 8 CCR § 9789.12.11. Evaluation and Management: Coding – New Patient; Established Patient; Documentation:**

This section is revised to reflect Medicare changes relating to the definition of prolonged services Healthcare Common Procedure Coding System (HCPCS) code G2212. DWC adopted Medicare’s code G2212 effective March 1, 2021, for “office/outpatient” prolonged services on the day of the office/outpatient visit in place of the CPT code 99417 for prolonged services. CMS has revised the HCPCS code G2212 descriptor as part of the Medicare Physician Fee Schedule CY 2023 update. The regulation text is modified in subdivision (c)(2) to reflect the effective dates of the original G2212 definition, and subdivision (c)(3) is adopted to set forth the revised HCPCS code G2212 and effective date.

CMS has revised code G2212 for CY 2023 to add CPT 99483 (relating to assessment and care planning for a patient with cognitive impairment) to the list of codes eligible to report prolonged services using HCPCS G2212. In addition, G2212 is revised by deleting codes 99354 (prolonged services in outpatient setting requiring direct patient contact, first hour) and 99355 (each additional 30 minutes) because these codes have been deleted from CPT 2023 by the American Medical Association.

**Title 8 CCR § 9789.12.12. Consultation Services Coding - Use of Visit Codes:**

In subdivision (a)(1), the phrase “inpatient or observation” care is added in light of Medicare’s adoption of the reorganized CPT codes that consolidate the codes for inpatient evaluation and management services provided to an admitted patient and to a patient on observation status.

The Medicare Final Rule, CMS-1770-F, adopts these CPT coding changes which consolidate the hospital inpatient care and hospital observation care codes, which were previously separate codes:

“We proposed to adopt the revised CPT codes 99221 through 99223 and 99231 through 99236.” (87 Federal Register at 69589.)

“After consideration of public comments, we are finalizing our proposal that, starting for services furnished in CY 2023, hospital inpatient and observation care furnished by practitioners will be billed using CPT codes 99221 through 99223, 99231 through 99233, 99234 through 99236, 99238 and 99239, 69596…” (87 Federal Register at 69596.)

**Update Table**

**Title 8 CCR §9789.19:** A new subdivision (j) is added, adopting updates for services rendered on or after February 15, 2023, to conform to Medicare changes, as follows:

| **Document/Data** | **Services Rendered On or After February 15, 2023 & Mid-year Updates** |
| --- | --- |
| Adjustment Factors- Services Other than Anesthesia | Updated to include the relevant 2023 Medicare adjustment factors:  2023 RVU budget neutrality adjustment factor: -1.60% (0.9840) [87 Fed. Reg. 69404, 70177, Final Rule, CMS-1770-F, Table 146]  2023 Annual increase in the Medicare Economic Index (MEI): 3.8% (1.038) [CMS’ [Actual Regulation Market Basket Updates (ZIP)](https://www.cms.gov/files/zip/actual-regulation-market-basket-updates.zip)]  Consolidated Appropriations Act, 2023, temporary increase of 2.5% (1.025) for CY 2023  [See detailed explanation set forth below this table.] |
| Adjustment Factors - Anesthesia | Updated to include the relevant 2023 Medicare adjustment factors:  2023 RVU budget neutrality adjustment factor: -1.60% (0.9840) [87 Fed. Reg. 69404, 70178, Final Rule, CMS-1770-F, Table 147]  2023 Anesthesia practice expense and malpractice adjustment factor: 0.05% (1.0005)  [87 Fed. Reg. 64404, 70177, Final Rule, CMS-1770-F, Table 147]  2023 Annual increase in the MEI: 3.8% (1.038) [CMS’ [Actual Regulation Market Basket Updates (ZIP)](https://www.cms.gov/files/zip/actual-regulation-market-basket-updates.zip)]  Consolidated Appropriations Act, 2023, temporary increase of 2.5% (1.025) for CY 2023  [See detailed explanation set forth below this table.] |
| Anesthesia Base Units by CPT Code | The anesthesia base units are unchanged for 2023. |
| California-Specific Codes | The maximum fee for each of these codes has been updated by the MEI 3.8% increase (1.038) pursuant to section 9789.12.14. |
| CMS’ Medicare National Physician Fee Schedule Relative Value File [ZIP] | Updated to the CMS’ 2023 RVU file:  RVU23A – Updated 01/18/23 (ZIP). |
| Conversion Factors adjusted for MEI, Relative Value Scale adjustment factors, and application of Consolidated Appropriations Act, 2023 | Updated the conversion factors 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 2.5% (1.025) increase for Medicare services rendered in Calendar Year 2023.  The conversion factors are also calculated to account for the expiration of the 3% increase in Medicare Physician Fee Schedule fees for CY 2022 that was provided in the Protecting Medicare and American Farmers From Sequester Cuts Act, Public Law 117-71.  The 2023 Adjusted Conversion Factor for Services Other Than Anesthesia is the Conversion Factor used in the formula to determine the maximum fees.  The base 2023 Conversion Factor for anesthesia is further adjusted to calculate the 2023 GPCI-Adjusted Anesthesia Conversion Factors set forth in Section 9789.19.1 Table A effective 2.15.2023. 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 table.] |
| Current Procedural Terminology (CPT®) | Updated to CPT® 2023. |
| Current Procedural Terminology  CPT codes that shall not be used | Unchanged from 2022, except the regulation omits CPT code 99241 and CPT code 99251 which have been deleted from the *Current Procedural Terminology 2023* by the American Medical Association. |
| Diagnostic Cardiovascular Procedure CPT codes subject to the MPPR | Updated to 2023. |
| Diagnostic Imaging Family Indicator Description | Unchanged, updated reference to 2023. |
| Diagnostic Imaging Family Procedures Subject to the MPPR | Updated to 2023. |
| Diagnostic Imaging Multiple Procedures Subject to the MPPR | Updated to 2023. |
| DWC Pharmaceutical Fee Schedule | Sets forth reference to DWC pharmaceutical fee schedule web page, which is unchanged from 2022. |
| Geographic Practice Cost Index (GPCI) by locality (Other than anesthesia services) | Updated to 2023. Adopted and incorporated by reference specified columns of files from the 2023 CMS’ Medicare National Physician Fee Schedule Relative Value File RVU23A – Updated 01/18/23 (ZIP):   * GPCI2023 (Column C (“Locality Number”), column D (“Locality Name”), column E (“2023 PW GPCI (with 1.0 Floor”)), column F (“2023 PE GPCI”), and column G (“2023 MP GPCI”) for the State of California (“CA”))   [Based on Addendum E to CY 2023 Medicare Physician Fee Schedule Final Rule, CMS-1770-F which can be accessed in [CY 2023 PFS Final Rule Addenda Updated 01/12/2023 (ZIP)](https://www.cms.gov/files/zip/cy-2023-pfs-final-rule-addenda-updated-01/12/2023.zip) on CMS website]   * 23LOCCO – Column B (“Locality Number”), column C (“State”), column D (“Fee Schedule Area”), and column E (“Counties”) for the State of California (“CA”) |
| Geographic Practice Cost Index (GPCIs) by locality and anesthesia shares (Anesthesia) | Updated to the Medicare 2023 locality GPCIs and Medicare 2023 Anesthesia Shares as set forth on the document “Section 9789.19.1 Table A effective 2.15.2023”, pursuant to title 8 CCR, section 9789.19.1.  Medicare data utilized is as follows.  GPCIs:  RVU23A – Updated 01/18/23 (ZIP)  GPCI2023 – Column C (“Locality Number”), column D (“Locality Name”), column E (“2023 PW GPCI (with 1.0 Floor)”), column F (“2023 PE GPCI”), and column G (“2023 MP GPCI”) for the State of California  Anesthesia Shares:  [2023 Anesthesia Conversion Factors [ZIP]](https://www.cms.gov/files/zip/2022-anesthesia-conversion-factors.zip)   * Anesthesia Shares excel sheet   Note that the GPCI Work, Practice Expense, and Malpractice factors set forth in the 2023 Anesthesia Conversion Factors (ZIP) file in the excel document “CY 2023 locality adjusted CF with updated CF 22DEC22”, excel sheet “Locality Adjusted CFs” are the same GPCIs set forth in the RVU23A – Updated 01/18/2023 in the GPCI2023 document.  Locality for anesthesia services determined by Medicare county to locality index.  RVU23A – Updated 01/18/2023 (County to locality index)   * 23LOCCO – 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 mapping  Zip Code files mapping zip codes to GPCI locality (for “other than anesthesia services” and anesthesia services) | Updated to the 2023 files.  The current [CMS Zip Code to Carrier Locality files](https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/FeeScheduleGenInfo/index) can be accessed on the CMS website. |
| Geographic Health Professional Shortage Area zip code data files | Updated to 2023 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 2022. 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 2022. Sets forth reference to the HRSA Geographic HPSA shortage web page query by address. |
| Incident To Codes | Updated to 2023. |
| Medi-Cal Rates – DHCS | Updated for services rendered on or after February 15, 2023, use: Medi-Cal Rates file – Updated 2/15/2022. 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 2023 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’ 2023 annual manual. |
| National Correct Coding Initiative (NCCI) Edits:  Practitioner Procedure to Procedure (PTP) Edits | Updated to 2023 “Practitioner PTP Edits, v290r1, Effective January 1, 2023; Posted 12/5/2022”. (Four ZIP files adopted for use for services on or after 2.15.2023.) |
| Ophthalmology Procedure CPT codes subject to the MPPR | Updated to 2023. |
| Physical Therapy Multiple Procedure Payment Reduction: “Always Therapy” Codes; and Acupuncture and Chiropractic Codes | Updated to 2023 Medicare list of “Always Therapy Codes”. In addition, retain the acupuncture codes and chiropractic manipulation codes, which are unchanged from 2022. |
| Physician Time | Updated to 2023. |
| 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 2022. |
| Telehealth – Services Accessible Through Telehealth (using audio and video telecommunication method and audio only telecommunication method) During the COVID-19 Public Health Emergency | Updated to the Medicare Telehealth List for Calendar Year 2023 updated 11/02/2022. |

**Adjustment Factors – Updating the Conversion Factors**

**Conversion Factor for Services Other than Anesthesia**

The 2023 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 1770-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 and the [Protecting Medicare and American Farmers from Sequester Cuts Act](https://www.congress.gov/bill/117th-congress/senate-bill/610/text), Public Law No. 117-71, 2021, impact the calculation of the 2023 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:

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(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 2023 annual increase in the Medicare Economic Index (MEI) is 3.8% (1.038). (CMS’ “[Actual Regulation Market Basket Updates (ZIP)](https://www.cms.gov/files/zip/actual-regulation-market-basket-updates.zip).”) The MEI is an input price index that accounts for annual changes in the various resources involved in providing physician services.

The 2023 Relative Value Scale (RVS) adjustment factor for all services other than anesthesia for 2023 is the Medicare 2023 RVU budget neutrality adjustment -1.60 percent (0.9840). [CY 2023 Medicare Physician Fee Schedule Final Rule, CMS-1770-F, Table 146.]

The “Statutory Update Factor” of 0.00 percent in Table 146 of CY 2023 Medicare Physician Fee Schedule Final Rule, CMS-1770-F is not applicable because Labor Code §5307.1(g)(1)(A)(iii) specifies that the physician fee schedule annual updates are to be based upon the Medicare Economic Index and any relative value scale adjustment factor, and the Statutory Update Factor is not otherwise relevant.

In December of 2021, subsequent to CMS’ adoption of the Medicare Physician Fee Schedule CY 2022 Final Rule, CMS 1751-F, Congress passed the Protecting Medicare and American Farmers from Sequester Cuts Act, Public Law No. 117-71, which provided, *inter alia*, a 3% increase in physician fees for CY 2022 only. As a result of the expiration of the 1-year 3 percent increase provided by the Protecting Medicare and American Farmers from Sequester Cuts Act, CMS calculated the Medicare CY 2023 conversion factor by applying the 2023 factors to the 2022 CF without the 3 percent increase.

CMS explained the calculation of the Medicare 2023 CF as follows:

“The PFS update adjustment factor for CY 2023, as specified in section 1848(d)(19) of the Act, is 0.00 percent before applying other adjustments. In addition, the Protecting Medicare and American Farmers from Sequester Cuts Act provided a one-time 3.00 percent increase in PFS payment amounts for services furnished on or after January 1, 2022, and before January 1, 2023 and required that the supplementary increase shall not be taken into account in determining PFS payment rates for subsequent years. The expiration of this 3.00 percent increase in payment amounts will result in the CY 2023 conversion factor being calculated as though the 3.00 percent increase for the CY 2022 conversion factor had never been applied.

To calculate the CY 2023 PFS conversion factor (CF), we took the CY 2022 conversion factor without the 1-year 3.00 percent payment increase provided by the Protecting Medicare and American Farmers from Sequester Cuts Act and multiplied it by the BN adjustment required as described in the preceding paragraphs. We estimate the CY 2023 PFS CF to be 33.0607 which reflects the -1.60 percent BN 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 expiration of the 3.00 percent payment increase for services furnished in CY 2022, as provided in the CAA.”

(87 Federal Register 69404, 70177)

CMS sets forth this calculation in table format in Table 146:

**TABLE 146: Calculation of the CY 2023 PFS Conversion Factor**

|  |  |  |
| --- | --- | --- |
| CY 2022 Conversion Factor | Empty cell | 34.6062 |
| Conversion Factor without CY 2022 Protecting Medicare and American Farmers from Sequester Cuts Act | Empty cell | 33.5983 |
| Statutory Update Factor | 0.00 percent (1.0000) | Empty cell |
| CY 2023 RVU Budget Neutrality Adjustment | -1.60 percent (0.9840) | Empty cell |
| **CY 2023 Conversion Factor** | Empty cell | **33.0607** |

(87 Federal Register 69404, 70177)

Subsequently, Congress passed the Consolidated Appropriations Act, 2023 which provided a Medicare Physician Fee Schedule increase of 2.5% for 2023. The application of the 2.5% increase resulted in a final Medicare CY 2023 Conversion Factor of 33.8872. (See [RVU23A – Updated 01/18/23 (ZIP)](https://www.cms.gov/files/zip/rvu23a-updated-01/18/23.zip), column Y.)

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

* Expiration of the one-year 3.00% increase that was set forth for CY 2022 in the Protecting Medicare and American Farmers from Sequester Cuts Act of 2021.
* CY 2023 RVU budget neutrality adjustment [-1.60 percent (0.9840)]
* CY 2023 Medicare Economic Index adjustment [3.8 percent increase (1.038)]
* CY 2023 increase set forth in the Consolidated Appropriations Act, 2023 [2.5% increase (1.025)]

The workers’ compensation CY 2022 CF without the temporary 1-year 3.00 percent payment increase provided by the Protecting Medicare and American Farmers from Sequester Cuts Act was $45.0954 (See the Explanation of Changes attached to the Administrative Director update order dated December 23, 2021, page 10, for Physician Fee Schedule 2022 Annual update.)

The 2023 CF for Services Other than Anesthesia is calculated as follows:

$45.0954 (2022 CF without 1-year 3% increase) \* 1.038 (2023 MEI) \* 0.9840 (2023 RVU Budget Neutrality Adjustment) \* 1.025 (CAA increase) = **$ 47.2115**

**Conversion Factor for Anesthesia Services**

The 2023 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 1770-F, and in light of relevant federal legislation. The federal Consolidated Appropriations Act, 2023 and the Protecting Medicare and American Farmers from Sequester Cuts Act, Public Law No. 117-71, 2021, impact the calculation of the 2023 anesthesia 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 2023 annual increase in the Medicare Economic Index (MEI) is 3.8% (1.038). (CMS’ “[Actual Regulation Market Basket Updates](https://www.cms.gov/files/zip/actual-regulation-market-basket-updates.zip) (ZIP)”.) The MEI is an input price index that accounts for annual changes in the various resources involved in providing physician services.

The 2023 Relative Value Scale (RVS) adjustment factors for anesthesia services for 2023 are the Medicare 2023 RVU budget neutrality adjustment -1.60% (0.9840) and the 2023 Anesthesia Fee Schedule Practice Expense and Malpractice Expense Adjustment 0.05% (1.0005). (2023 Medicare Physician Fee Schedule Final Rule, CMS-1770-F, Table 147.)

The “Statutory Update Factor” of 0.00 percent in Table 147 of CY 2023 Medicare Physician Fee Schedule Final Rule, CMS-1770-F is not applicable because Labor Code §5307.1(g)(1)(A)(iii) specifies that the physician fee schedule annual updates are to be based upon the Medicare Economic Index and any relative value scale adjustment factor, and the factor is not otherwise relevant.

In December of 2021, subsequent to CMS’ adoption of the Medicare Physician Fee Schedule CY 2022 Final Rule, CMS 1751-F, Congress passed the Protecting Medicare and American Farmers from Sequester Cuts Act, Public Law No. 117-71, which provided, *inter alia*, a 3% increase in physician fees for CY 2022 only. As a result of the expiration of the 1-year 3 percent increase provided by the Protecting Medicare and American Farmers from Sequester Cuts Act, CMS calculated the Medicare CY 2023 conversion factor by applying the 2023 factors to the 2022 CF without the 3 percent increase.

CMS explained the calculation of the Medicare 2023 CF as follows:

“The PFS update adjustment factor for CY 2023, as specified in section 1848(d)(19) of the Act, is 0.00 percent before applying other adjustments. In addition, the Protecting Medicare and American Farmers from Sequester Cuts Act provided a one-time 3.00 percent increase in PFS payment amounts for services furnished on or after January 1, 2022, and before January 1, 2023 and required that the supplementary increase shall not be taken into account in determining PFS payment rates for subsequent years. The expiration of this 3.00 percent increase in payment amounts will result in the CY 2023 conversion factor being calculated as though the 3.00 percent increase for the CY 2022 conversion factor had never been applied.

To calculate the CY 2023 PFS conversion factor (CF), we took the CY 2022 conversion factor without the 1-year 3.00 percent payment increase provided by the Protecting Medicare and American Farmers from Sequester Cuts Act and multiplied it by the BN adjustment required as described in the preceding paragraphs. We estimate the CY 2023 PFS CF to be 33.0607 which reflects the -1.60 percent BN 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 expiration of the 3.00 percent payment increase for services furnished in CY 2022, as provided in the CAA. We estimate the CY 2023 anesthesia CF to be 20.6097 which reflects the same overall PFS adjustments with the addition of anesthesia-specific PE and MP adjustments.”

(87 Federal Register 69404, 70177)

CMS sets forth this calculation in table format in Table 147:

**TABLE 147: Calculation of the CY 2023 Anesthesia Conversion Factor**

|  |  |  |
| --- | --- | --- |
| CY 2022 National Average Anesthesia Conversion Factor | Empty cell | 21.5623 |
| Conversion Factor without CY 2022 Protecting Medicare and American Farmers from Sequester Cuts Act | Empty cell | 20.9343 |
| Statutory Update Factor | 0.00 percent (1.0000) | Empty cell |
| CY 2023 RVU Budget Neutrality Adjustment | -1.60 percent (0.9840) | Empty cell |
| CY 2023 Anesthesia Fee Schedule Practice Expense and Malpractice Adjustment | 0.05 percent (1.0005) | Empty cell |
| **CY 2023 Conversion Factor** | Empty cell | **20.6097** |

(87 Federal Register 69404, 70178)

Subsequently, Congress passed the Consolidated Appropriations Act, 2023, which provided a Medicare Physician Fee Schedule increase of 2.5% for 2023. The application of the 2.5% increase resulted in a final Medicare CY 2023 Anesthesia Conversion Factor of 21.1249 (before locality adjustments.) (See [2023 Anesthesia Conversion Factors](https://www.cms.gov/files/zip/2023-anesthesia-conversion-factors.zip) (ZIP) – Updated 01/06/2023, column G, row 5, National Anesthesia Conversion Factor.)

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 3.00% increase that was set forth for CY 2022 in the Protecting Medicare and American Farmers from Sequester Cuts Act of 2021.
* CY 2023 RVU budget neutrality adjustment [-1.60 percent (0.9840)]
* CY 2023 Medicare Economic Index adjustment [3.8 percent increase (1.038)]
* CY 2023 Anesthesia Fee Schedule Practice Expense and Malpractice Adjustment [0.05 percent (1.0005) increase]
* CY 2023 increase set forth in the Consolidated Appropriations Act, 2023 [2.5% increase (1.025)]

The workers’ compensation CY 2022 anesthesia CF without the temporary 1-year 3.00 percent payment increase provided by the Protecting Medicare and American Farmers from Sequester Cuts Act was $27.4521 (See the Explanation of Changes attached to the Administrative Director update order dated December 23, 2021, page 12, for Physician Fee Schedule 2022 Annual update.)

The 2023 CF for Anesthesia Services (before Geographic Practice Cost Index adjustment) is calculated as follows:

$27.4521 (2022 CF without PAMA 1-year 3% increase) \* 1.038 (CY 2023 MEI) \* 0.9840 (CY 2023 RVU Budget Neutrality Adjustment) \* 1.0005 (CY 2023 Anesthesia Fee Schedule Practice Expense and Malpractice Adjustment) \* 1.025 (CAA increase) = **$ 28.7547**.

**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, 2023**

For anesthesia services the 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, 2023. The base workers' compensation 2023 Anesthesia Conversion Factor is $28.7547, 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 2.5% increase. The 2023 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 2023 locality adjusted CF with updated CF 22DEC22” within [2023 Anesthesia Conversion Factors [ZIP]](https://www.cms.gov/files/zip/2023-anesthesia-conversion-factors.zip) (updated 01/06/2023) adopted by the Medicare Physician Fee Schedule Final Rule, CMS-1770-F.

The 2023 Work GPCI, 2023 Practice Expense GPCI, 2023 Malpractice GPCI are set forth in the RVU23A zip file updated 01/18/2023 in the excel document “GPCI2023” and are also contained in the 2023 Anesthesia Conversion Factors [ZIP] (updated 01/06/2023) within the excel document “CY 2023 locality adjusted CF with updated CF 22DEC22”.

The anesthesia shares for 2023 are as follows.

| **Work** | **Practice Expense** | **Malpractice Expense** |
| --- | --- | --- |
| 0.775 | 0.163 | 0.062 |

End of Explanation of Changes