

are included in the E/M service with which the add-on codes will be billed. Accordingly, to assign interim work RVUs to each of the new psychotherapy add-on CPT codes, we started with the interim work RVU of the corresponding new stand-alone psychotherapy CPT code, and then reduced that RVU by 0.27 RVUs, to capture the 12 minutes less time assigned to these services (12 minutes at an intensity of 0.0224 RVUs per minute = 0.27 RVUs). Specifically, we are assigning an interim work RVU of 0.98 to CPT code 90833; an interim work RVU of 1.60 for CPT code 90836; and an interim work RVU of 2.56 for CPT code 90838.

Like the stand-alone psychotherapy services, we note that the CY 2012 CPT codes describe time spent face-to-face with the patient, while the CY 2013 CPT codes describe time spent with the patient and/or family member. As discussed above, Medicare only pays for services provided to diagnose or treat a Medicare beneficiary. Obtaining information from relatives or close associates is appropriate in some circumstances, but should not substitute for direct treatment of the beneficiary. We would expect psychotherapy to be billed only when the beneficiary is present for a significant portion of the service.

Additionally, the CY 2013 coding structure includes a new add-on CPT code for interactive complexity, CPT code 90785 (Interactive complexity (list separately in addition to the code for primary procedure)). The interactive complexity add-on CPT code, when billed with a psychotherapy service, replaces the CY 2012 CPT codes for interactive psychotherapy. As stated above, this service has not yet been surveyed by the related specialty societies, and the AMA RUC recommended contractor pricing this service for CY 2013. However, given that services involving interactive complexity are nationally priced in the CY 2012 coding structure, we believe we have enough information to assign interim work RVUs for CPT code 90785 for CY 2013. In the 2012 coding structure, there are CPT codes for outpatient and inpatient psychotherapy services and corresponding CPT codes for outpatient and inpatient interactive psychotherapy services. For both the outpatient and inpatient services, the interactive service has a work RVU that is 0.11 RVUs higher than the corresponding service that is not interactive. We believe this reflects the current value of interactive services. Therefore, we are assigning an interim work RVU of 0.11 to CPT code 90785 for CY 2013. We are assigning this service

0 minutes of physician time because the work RVU of 0.11 reflects only the incremental difference in intensity of the base procedure; the time of this service is captured in the time of the procedure with which it is billed.

Regarding coding and payment for CPT code 90785, the CPT prefatory language for this service states that psychiatric procedures may be reported with interactive complexity for “* * * Use of play equipment, other physical devices, interpreter or translator to communicate with the patient to overcome barriers to therapeutic or diagnostic interaction between the physician or other qualified health care professional and a patient who is not fluent in the same language as the physician or other qualified health care professional, or has not developed, or has lost, either the expressive language communication skills to explain his/her symptoms and response to treatment, or the receptive communication skills to understand the physician or other qualified health care professional if he/she were to use typical language for communication.” Given this language, we would like to clarify that CPT code 90785 generally should not be billed solely for the purpose of translation or interpretation services. Federal laws prohibit discrimination, which in this case would take the form of higher beneficiary payments and copayments for the same service, based on disability or ethnicity. Billing for this service solely for translation or interpretation related to a beneficiary’s disability could implicate section 504 of the Rehabilitation Act of 1973 and the Americans with Disabilities Act, and billing for this service solely for translation or interpretation related to foreign language could implicate Title VI of the Civil Rights Act of 1964.

The CPT Editorial Panel has created two new CPT codes for psychotherapy when a patient is in crisis, CPT codes 90839 (Psychotherapy for crisis; first 60 minutes) and 90840 (Psychotherapy for crisis; each additional 30 minutes (list separately in addition to code for primary service)). As these CPT codes have not yet been surveyed, the AMA RUC has recommended contractor pricing for CPT codes 90839 and 90840 for CY 2013. We agree and are assigning CPT codes 90839 and 90840 a PFS procedure status of C (Contractors price the code. Contractors establish RVUs and payment amounts for these services on an interim basis for CY 2013).

Additionally, for CY 2013, the CPT Editorial Panel has deleted CPT code 90862 (Pharmacologic management, including prescription, use, and review of medication with no more than

minimal medical psychotherapy). For CY 2013, psychiatrists will now bill the appropriate E/M code when furnishing pharmacologic management services. The CPT Editorial Panel also created CPT add-on code 90863 (Pharmacologic management, including prescription and review of medication, when performed with psychotherapy services (list separately in addition to the code for primary procedure) to describe medication management by a nonphysician when furnished with psychotherapy. We understand from our past meetings with stakeholders that the ability to prescribe medicine is predicated upon first providing evaluation and management (E/M) services. We have discussed in previous rulemaking that Medicare does not recognize clinical psychologists to bill E/M services because they are not authorized to furnish those services under their state scope of practice (62 FR 59057). While clinical psychologists have been granted prescribing privileges in Louisiana and New Mexico, they are not licensed or authorized under their State scope of practice to furnish the full range of traditional E/M services. CPT code 90862 describes pharmacologic management, including prescription, use, and review of medication with no more than minimal medical psychotherapy. This descriptor reference to “medical psychotherapy” implies that the service furnished under CPT code 90862 is an E/M service, and therefore, clinical psychologists cannot bill Medicare for CPT code 90862. We also believe that clinical psychologists would continue to be precluded from billing Medicare for pharmacologic management services under new CPT code 90863, even in the absence of the reference to “medical psychotherapy” because pharmacologic management services require some knowledge and ability to perform evaluation and management services. Even though clinical psychologists in Louisiana and New Mexico have been granted prescribing privileges, clinical psychologists in those and other states are not licensed or authorized to furnish E/M services. Accordingly, on an interim basis for CY 2013, we are assigning CPT code 90863 a PFS procedure status indicator of I (Not valid for Medicare purposes. Medicare uses another code for the reporting of and the payment for these services.). We invite public comment on our interim assignment of this procedure status.

Finally, under the new coding structure, existing psychotherapy CPT codes 90845 (Psychoanalysis), 90846 (Family psychotherapy (without the