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## Evaluating the 2023 Medicare Physician Fee Schedule (MPFS) Proposed Rule

### Overview

On July 7<sup>th</sup>, the Centers for Medicare and Medicaid Services (CMS) issued their proposed rule for the Medicare Physician Fee Schedule (MPFS) which goes into effect January 1<sup>st</sup>, 2023. This proposed rule includes adjustments to the proper rank order of clinical labor rates for histotechnologists and laboratory technicians, which has been received positively by advocates.

However, estimates suggest that the overall payments to pathology would decrease by 1% from 2022 to 2023 if the proposed rule is finalized in its current form. This is largely due to the 4.4% decrease to the 2023 conversion factor, which is proposed to be \$33.0775. That said, the negative impact to payments will likely be larger for practitioners who bill mostly for professional components, as that is where the most significant cuts are proposed.

The 4.4% decrease also accounts for the expiration of the 3% increase to fee schedule payments for 2022 and budget neutrality requirements. For more on those, see our earlier [update on Medicare cuts](#).

### Notable Code Changes

Many codes are slated for revision in the proposed rule, but some of the more significant proposed changes for pathologists are as follows:

CPT® Code	Service	Current 2022	Proposed 2023	% Change
88173	Cytopath eval fna report	\$159.53	\$159.76	0%
88173 – 26	Cytopath eval fna report	\$70.25	\$66.82	-5%
88173 – TC	Cytopath eval fna report	\$89.28	\$92.95	4%
88302	Tissue exam by pathologist	\$32.18	\$32.42	1%
88302 – 26	Tissue exam by pathologist	\$6.92	\$6.62	-4%
88302 – TC	Tissue exam by pathologist	\$25.26	\$25.80	2%
88304	Tissue exam by pathologist	\$42.22	\$42.01	-1%
88304 – 26	Tissue exam by pathologist	\$11.42	\$10.92	-4%
88304 – TC	Tissue exam by pathologist	\$30.80	\$31.09	1%
88305	Tissue exam by pathologist	\$71.98	\$70.79	-2%
88305 – 26	Tissue exam by pathologist	\$37.37	\$36.05	-4%
88305 – TC	Tissue exam by pathologist	\$34.61	\$34.73	0%
88307	Tissue exam by pathologist	\$290.69	\$286.78	-1%
88307 – 26	Tissue exam by pathologist	\$82.36	\$78.39	-5%
88307 – TC	Tissue exam by pathologist	\$208.33	\$208.39	0%
88309	Tissue exam by pathologist	\$441.58	\$433.32	-2%
88309 – 26	Tissue exam by pathologist	\$144.65	\$137.93	-5%
88309 – TC	Tissue exam by pathologist	\$296.92	\$295.38	-1%



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CPT Code	Service	Current 2022	Proposed 2023	% Change
88341	Immunohisto antb addl slide	\$89.63	\$85.01	-5%
88341 – 26	Immunohisto antb addl slide	\$28.03	\$26.79	-4%
88341 – TC	Immunohisto antb addl slide	\$61.60	\$58.55	-5%
88342	Immunohisto antb 1 <sup>st</sup> stain	\$102.43	\$99.23	-3%
88342 – 26	Immunohisto antb 1 <sup>st</sup> stain	\$34.61	\$33.41	-3%
88342 – TC	Immunohisto antb 1 <sup>st</sup> stain	\$67.83	\$65.82	-3%
88360	Tumor IHC/manual	\$122.51	\$117.09	-4%
88360 – 26	Tumor IHC/manual	\$41.53	\$40.02	-4%
88360 – TC	Tumor IHC/manual	\$80.98	\$77.07	-5%
88361	Tumor IHC/comput	\$122.16	\$117.09	-4%
88361 – 26	Tumor IHC/comput	\$43.60	\$42.01	-4%
88361 – TC	Tumor IHC/comput	\$78.56	\$75.09	-4%

Notably, most of the proposed changes to these codes are negative, meaning most practitioners, particularly those who bill mostly for professional components, will experience a significant decrease in payment if this proposed rule goes into effect as is. Advocates such as the College of American Pathologists are working to resist or mitigate these cuts.

### MIPS Updates

Along with the proposed changes to CPT billing, developments continue to take place in the Merit-based Incentive Payment System (MIPS). With the release of the proposed rule, the CMS forwarded a plan to make the MIPS performance thresholds more challenging for pathologists, which could also have a noticeable and negative impact on payments.

With the proposed 2023 Quality Payment Program (QPP), the performance threshold would continue to be 75 points, but reaching that goal would become more difficult. Quality measures that once ranged between 3 and 7 points could now be worth as little as 1 point. Failing to meet the 75-point threshold could result in Medicare payment penalties up to 9% in 2025.

Additionally, there is no longer a bonus pool for exceptional performance, so the proposed changes to MIPS reporting will be largely negative for pathologist payments on the whole.

The proposed rule is open to comments for 90 days, which means advocates will have until early October to recommend changes to the proposal and resist elements of the proposal that would unfairly punish pathologists.

APS will continue to monitor these discussions and advocate on behalf of our clients' interests. Please contact your Practice Manager with any questions or concerns.