

obtained from the 2003 Milliman USA, Inc., Health Cost Guidelines, a publication that includes nationwide skilled nursing facility charges (Milliman USA, Inc., 1301 5th Avenue, Suite 3800, Seattle, WA 98101-2605). That average per diem billed charge is then multiplied by the 80th percentile adjustment factor set forth in paragraph (c)(2)(i) of this section to obtain a nationwide 80th percentile charge level. Finally, the resulting charge is trended forward to the effective time period for the charges, as set forth in paragraph (c)(2)(ii) of this section.

(i) *80th percentile.* Using the 1995 Medicare Standard Analytical File 5% Sample, the median per diem accommodation charge is calculated for each provider. For each State, the ratio of the 80th percentile of provider median charges to the average statewide charges for accommodations is calculated. The State ratios are averaged to produce a nationwide 80th percentile adjustment factor.

(ii) *Trending forward.* The 80th percentile charge is trended forward to the midpoint of the calendar year in which the charges will be effective, based on the projected change in Medicare reimbursement from the Annual Report of the Boards of Trustees of the Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds (this report can be found on the Internet site of the Centers for Medicare & Medicaid Services (CMS) at <http://www.cms.gov/publications/trusteesreport>).

(3) *Geographic area adjustment factors.* A ratio of the average per diem charge for each State to the nationwide average per diem charge is obtained (these ratios are set forth in the 2002 Milliman USA, Inc., Health Cost Guidelines, a database of nationwide commercial insurance charges and relative costs) (Milliman USA, Inc., 1301 5th Avenue, Suite 3800, Seattle, WA 98101-2605). The geographic area adjustment factor for charges for each VA facility is the ratio for the State in which the facility is located.

(d) *Outpatient facility charges.* When VA provides or furnishes outpatient facility services that are within the scope of care referred to in paragraph (a)(1) of this section and are not customarily performed in an independent clinician's office, the outpatient facility charges billed for such services will be determined in accordance with the provisions of this paragraph. This consists of outpatient facility charges for procedures, tests, and evaluation and management services, including the subset of evaluation and management codes

which are designated as "Office or Other Outpatient Services" when those evaluation and management services are provided in the outpatient department of a hospital. Except for prosthetic devices and durable medical equipment, whose charges will be made separately at actual cost to VA, charges for outpatient facility services will vary by VA facility and by CPT procedure code. These charges will be calculated as follows:

(1) *Formula.* For each outpatient facility charge CPT procedure code, multiply the nationwide charge as set forth in paragraph (d)(2) of this section by the appropriate geographic area adjustment factor as set forth in paragraph (d)(4) of this section. The result constitutes the facility-specific outpatient facility charge. When multiple surgical procedures are performed during the same outpatient encounter by a provider or provider team, the outpatient facility charges for such procedures will be reduced as set forth in paragraph (d)(5) of this section.

(2) *Nationwide 80th percentile charges by CPT procedure code.* For each CPT procedure code for which outpatient facility charges apply, the 1998 practice expense RVUs (these RVUs can be found in the 1998 St. Anthony's Complete RBRVS, available from Ingenix Publishing Group, 5225 Wiley Post Way, Salt Lake City, UT 84116) are used as the outpatient facility RVUs. For each CPT procedure code, the outpatient facility RVU is multiplied by the charge amount for each incremental RVU as set forth in paragraph (d)(3) of this section. The resulting charge is adjusted by a fixed charge amount as also set forth in paragraph (d)(3) of this section to obtain the nationwide 80th percentile charge.

(3) *Charge factors.* Using the 1997 MedStat claims database of nationwide commercial insurance (available from the MedStat Group, 777 E. Eisenhower Parkway, Ann Arbor, MI 48108), the median billed facility charge is calculated for each applicable CPT procedure code. All outpatient facility CPT procedure codes are then separated into one of the 45 outpatient facility CPT procedure code groups as set forth in paragraph (d)(3)(i) of this section. Then, for each CPT procedure code in each such group, the median charge is adjusted to the 80th percentile as set forth in paragraph (d)(3)(ii) of this section. The resulting 80th percentile charge for each CPT procedure code is trended forward to the effective time period for the charges as set forth in paragraph (d)(3)(iii) of this section. Using the resulting charges and the RVUs, mathematical approximation

methodology based on least squares techniques are applied to the data for each CPT procedure code group to derive outpatient facility charges. For each CPT procedure code, the charge amount is calculated as an amount per incremental RVU and a fixed charge amount adjustment.

(i) *Outpatient facility CPT procedure code groups.*

(A) Surgery—Integumentary System—Skin, Subcutaneous and Accessory Structures—Incision and Drainage, Excision-Debridement, Paring or Cutting, Biopsy, Removal of Skin Tags, Shaving of Epidermal or Dermal Lesions, and Surgery—Integumentary System—Nails;

(B) Surgery—Integumentary System—Skin, Subcutaneous & Accessory Structures—Excision-Benign Lesions, Excision-Malignant Lesions; and Surgery—Integumentary System—Nails—Introduction;

(C) Surgery—Integumentary System—Repair—Simple, Intermediate, Complex, Adjacent Tissue Transfer or Rearrangement;

(D) Surgery—Integumentary System—Repair—Free Skin Grafts, Flaps, Other Flaps and Grafts, Other Procedures, Pressure Ulcers;

(E) Surgery—Integumentary System—Repair—Burns, Local Treatment;

(F) Surgery—Integumentary System—Destruction;

(G) Surgery—Integumentary System—Breast;

(H) Surgery—Musculoskeletal System—All Body Regions—Incision, Excision, Introduction or Removal;

(I) Surgery—Musculoskeletal System—All Body Regions—Repair, Revision and/or Reconstruction, Arthrodesis, Manipulation, Amputation, Wound Exploration, Replantation, Grafts, Spinal Instrumentation;

(J) Surgery—Musculoskeletal System—All Body Regions—Fracture and/or Dislocation—Closed Treatments (Except for Head, Neck [Soft Tissues] and Thorax);

(K) Surgery—Musculoskeletal System—All Body Regions—Fracture and/or Dislocation—Open Treatments, and Surgery—Musculoskeletal System—Head, Neck (Soft Tissues) and Thorax—Fracture and/or Dislocation—Closed Treatments;

(L) Surgery—Musculoskeletal System—Application of Casts and Strapping;

(M) Surgery—Musculoskeletal System—Endoscopy/Arthroscopy;

(N) Surgery—Respiratory System;

(O) Surgery—Cardiovascular System;

(P) Surgery—Digestive System—All Body Regions—All procedures except Endoscopy;