

refinement of these inputs, which, in turn, was based on the presentation made to the PEAC by the dermatology specialty society. We will, therefore, not make any further revisions to the practice expense inputs for these services in this final rule.

2. Recommendations on CPEP Inputs for 2004

In the August 15, 2003 proposed rule we included the PEAC recommendations from meetings held in September of 2002 and January 2003 as well as recommendations on the refinements to the clinical staff time for all 90-day global services. In addition, the PEAC convened a workgroup to make recommendations on the refinement of all the 116 remaining evaluation and management codes. We reviewed the submitted PEAC recommendations and proposed to accept them.

Comment: The American Osteopathic Association expressed appreciation that we supported the recommended changes for the osteopathic manipulative treatment codes and commended us for accepting the PEAC recommendations for the clinical staff times for 90-day global codes. The American College of Obstetricians and Gynecologists stated that our acceptance of the PEAC recommendations is an example of exceptional cooperation and collaboration in meeting the healthcare needs of Americans served by the Medicare program. The American Academy of Dermatology applauded our acceptance of the year's PEAC recommendations. The AMA and the American College of Radiology stated that they appreciate our recognition of the significant resources specialty societies have devoted to the practice expense refinement process and is thankful that our practice expense staff avail themselves of specialty society input. The American College of Surgeons also supported our acceptance of the PEAC recommendations, including the decision to permit exceptions to the standard pre-service times for some surgical procedures. The College other specialty societies also expressed appreciation for our commitment to the refinement process.

Response: We, in turn, are appreciative of these positive comments. We believe that it is only because of the cooperative working relationship between the specialty societies, the AMA and CMS that there has been such a high level of success in tackling practice expense refinement.

Comment: The American College of Physicians as well as other specialty societies representing surgeons,

otolaryngologists, podiatrists, geriatric psychiatrists, obstetricians and gynecologists, cataract and refractive surgeons, neurosurgeons, dermatologists, rheumatologists, radiologists and radiation oncologists supported our inclusion of the PEAC recommendations in the proposed rule because this would better enable specialty societies to address their impact and make comments prior to publication of the final rule.

However, specialty societies representing chest physicians and thoracic physicians disagreed with our decision to change our previous practice of including the PEAC recommendations in the final, rather than the proposed rule, because this meant that the recommendations from the March PEAC meeting were not included for this year. The society argued that changing this long-standing policy without announcing it in the **Federal Register** is inappropriate. The comment also contended that the specialty societies agreed to the inputs at the PEAC meeting; therefore, negative comments would not be forthcoming.

Response: We discussed this issue at the January PEAC meeting and indicated that we were considering including the PEAC recommendations in the proposed rule and that the March recommendations would most likely not be included. We made this decision because, now that the PEAC is refining such a large number of codes, the revisions to the inputs were not only changing the practice expense RVUs of the refined codes, but also the values of services that were not refined.

Therefore, we believed it was prudent that revisions be subject to comment before the revisions were implemented.

Comment: The specialty society representing podiatry identified some discrepancies between the PEAC recommendations and the inputs in the CPEP database for CPT codes 10060, 11000, 11055, 11056, 11057 and 11752 and requested that these be corrected.

Response: We have made the corrections as requested.

Comment: The American Society of Transplant Surgeons (ASTS) commented that it is not appropriate to apply either the PEAC-approved standard clinical staff times or RN/LPN/MTA staff blend for 90-day global procedures to the transplant recipient or living donor services. ASTS stated that it had been unaware that the PEAC was applying the standard to all 90-day services unless a case was made to the PEAC that the times should be increased. ASTS argued that there are substantial atypical staff times required for transplant recipients due, in large

part, to the intensive education required for the transplant patient. The commenter noted that the three new CPT codes for living donor hepatectomies, CPT codes 47140–47142, were given increased pre-service clinical staff time by the RUC and have an RN as the staff type. ASTS requested that the current clinical staff times be retained and that an RN be assigned rather than the blended staff type to the following transplant services: CPT codes 32851, 32852, 32853, 32854, 33935, 33945, 47135, 47136, 48554, 48556, 50320, 50360, 50365, 50380, 50547.

Response: It does seem reasonable that at least some of these services would have increased pre-times as do the living donor hepatectomies recently reviewed by the RUC. Therefore, we will restore the original CPEP clinical staff pre-times and use the RN staff type for the above services on an interim basis for the coming year. We anticipate that the society will bring all of these codes to the PEAC for review for either the January or March meeting to ensure that the times for the codes receive the same scrutiny as did the new transplant codes. It should be noted that a few of the codes have lower original CPEP pre-time than the PEAC standard of 60 minutes; for those codes we did not change the PEAC standard time. We also are not revising the post-procedure clinical staff times for these codes, because the current times are in line with the post-service times assigned to the new living donor hepatectomy codes recently reviewed by the RUC.

Comment: A commenter noted that high dose rate (HDR) brachytherapy CPT codes 77781, 77782, 77783 and 77784 were not listed in Addendum C of the proposed rule. Since these codes were approved by the PEAC and forwarded to CMS, ACR questioned why these codes were not listed.

Response: The CPEP data base files had been revised to reflect the PEAC recommendations for these codes. It was an oversight that they were not included in Addendum C.

Comment: The American College of Surgeons listed several possible errors in the CPEP database:

CPT code 11450—missing 1 minute of staff time

CPT codes 10080, 10081, 11770, 12032, 12035, 12046, 12047, 21550, 21920, 37609, 38300, 45300–45327, and 46600–46615—missing correct number of gloves.

CPT codes 45900, 45905, 45910, 47382, 49320, 49321, 49322, 49422, 49429—supplies listed incorrectly—have nonfacility inputs when PEAC recommended none in office setting.