Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
General Comment	Commenter illustrates one of the many inequalities of the present fee schedule. On many occasions on a routine follow up visit, a physician, under the current official fee schedule, will be reimbursed $12.50 for seeing the patient and states that he is also expected to provide some sort of written record as part of that fee. An interpreter, if present, will be paid about $50 and a nurse case manager, if present, will be paid even more. Commenter questions if the Division feels that their services, for which there is far less training and responsibility, are more valuable that those of the physicians?	George Balfour, MD December 15, 2006 Written Comment	Commenter is incorrect as to the current level of payment. There is no Evaluation and Management procedure for an office visit that pays as low as $12.50.	No action required.
General Comment	Commenter references the notice of proposed rulemaking but does not make any substantive comment regarding the proposed regulation. Instead commenter complained about his/her workers' compensation case and the Information and Assistance manager replied directly.	Un-named December 17, 2006 Written Comment		No action required.
General Comment	Commenter applauds the DWC for finally increasing medical fees. Although only affecting primary care fees, this is a start. Commenter states that there must be an increase in all other fees soon as well. There has not been an increase in medical fees for a decade. While inflation rises and all costs associated with the practice of medicine go up, the doctors are making the same amount of money that they did 10 years ago. It is becoming increasingly difficult to provide quality medicine, and it is illusory to think that just paying doctors less saves money. Low reimbursement chases the quality practitioners out, leaving cut-rate operations	Robert Power, MD January 27, 2007 Written Comment	The Commenter does not suggest a change to the procedure codes which are the subject of the regulation, but suggests that the reimbursement rates for other procedure codes should also be increased. The Division is considering increasing reimbursement rates for other procedure codes as part of a total revision of the physician fee schedule.	No action required.

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	and work comp mills in place. Patients deserve to be seen by a doctor that is paid for the time and training invested in proper care. Unless all fees are raised substantially, there will be an acceleration of the exodus of quality practitioners, to be replaced by quantity based practices. There must be urgent attention to surgical and ancillary fees, or it will be impossible to find quality care for work-related injuries.			
General Comment	The prompt provision of appropriate medical treatment is the key to an effective workers' compensation system. Providing needed care is obviously essential for injured workers, but is also critically important for employers as it minimizes disability, both temporary and permanent. Because our system depends upon proper medical care, it is critically important to maintain the ability of the system to attract good physicians. Unfortunately, countless problems have plagued the system over the past several years, and this has taken a heavy toll on physicians. The unfortunate result has been a growing exodus of good physicians from our system. Just to name a few of these problems, the misapplication of ACOEM Guidelines, the improper use of utilization review, and the unfair assignment to Medical Provider Networks are causing both frustration and anger among physicians. On top of these problems, physicians have also been operating under a fee schedule that was clearly inadequate in some areas. As noted in the Initial Statement of Reasons, rates	Linda F. Atcherley, President via Mark Gerlach California Applicants' Attorneys Association January 20, 2007 Written Comment	Commenter supports the proposal.	No action required.

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	for these ten E&M codes had not been affected by the five percent reduction mandated by SB 228 because these codes were already at or below the Medicare fee levels of 2003. Consequently, for over three years fees in these ten codes have been at or below the 2003 Medicare fee level! Commenter believes that continuation of these fees at below Medicare would cause more physicians to give up and quit the workers' compensation system, and for this reason commenter supports the proposed increase in fees.			
General Comment	As the Background to the Regulatory Proceedings state, the work and complexity involved in evaluating injured workers after the recent reforms has increased significantly. Commenter appreciates and supports the Division's proposed increases to the New Patient – 90201-90205 and Follow-up Patient codes 90211- 90215. Commenter is confident that the Division realizes this is only an intermediate step and that the Evaluation Management codes require a significantly higher increase to compensate physicians for the actual additional work involved in evaluating an injured worker versus a Medicare patient. As the Lewin Group report on the "Study of the Relative Work Content of Evaluation and Management Codes" indicated, prior to the reforms, the work involved in evaluating injured workers was 28% higher than Medicare patients. This study included few specialty practices and did not take into	Larry Herron, MD President – via Diane Przepiorski California Orthopaedic Association Letter dated January 13, 2007 – received January 23, 2007 Written and Oral Comment	Commenter supports the proposal. The Commenter does not suggest a change to the procedure codes which are the subject of the regulation, but suggests that the reimbursement rates for other procedure codes should also be increased. The Division is considering increasing reimbursement rates for other procedure codes as part of a total revision of the physician fee schedule.	No action required.

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	consideration any of the post-surgical work involved, so we anticipate that for specialists, the additional costs are even higher. It is also important to note that The Lewin Study included all Evaluation and Management consultation codes including consultation codes, 99241-99245. They concluded that if all of the Evaluation and Management codes were increased 28%, costs would increase by just over 3%. They cited this as a relatively modest increase given the importance of physician evaluation of injured workers. It is for this reason that commenter respectfully requests that the Division also consider an increase for Evaluation and Management consultation codes 99241-99245. While Evaluation and Management codes 99201-99205 and 99211-99215 are currently reimbursed at less than Medicare rates, the consultation codes do not fare much better. The most commonly billed consultation codes, 99243, 99244, and 99245 range only 1.3%-5.5% above 2006 Medicare rates for Area 99. This reimbursement is also woefully below The Lewin Group's projection of at least 28% higher costs for evaluating injured workers. In addition, it is important to note that The Lewin Group issued their report in April, 2003. Cost-of-living increases alone from April, 2003 – November, 2006 for			

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	California were 10.67% according to the Department of Labor and would increase the additional costs from 28% to 38.67%. Increases proposed in these regulations for New Patient or Follow-Patient Evaluation and Management codes will primarily benefit the Primary Treating Physician, not specialists. Commenter respectfully urges the Division to also increase the consultation codes – 99241-99245 – in an amount equal to the increase proposed for the new patient codes at the same level so that specialists also receive the benefit of an E&M increase: 99241 – 2.1% increase 99242 – 21.4% increase 99243 – 35.8% increase 99244 – 33.3% increase 99245 – 28.5% increase			
General Comment	Commenter supports the interim fee schedule increase for evaluation and management codes DWC has proposed. Commenter understands that the Division contemplates a complete review of the official medical fee schedule, and converting it to the Resource Based Relative Value System (RBRVS). But in the interim the proposed increase to ten procedure codes are very welcome. As noted in the 2006 WCRI: *Benchmarks of Designing Workers' Compensation Fee Schedules*, California E&M fees are currently the third lowest in the nation, or 13% below comparable Medicare fees. At the same time,	Brent A. Barnhart Senior Counsel Kaiser Permanente January 23, 2007 Written Comment	Commenter supports the proposal. The Commenter does not suggest a change to the procedure codes which are the subject of the regulation, but suggests that the reimbursement rates for other procedure codes should also be increased. The Division is considering increasing reimbursement rates for other procedure codes as part of a total revision of the physician fee schedule.	No action required.

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	as shown by a Lewin Group report in 2003, practice expenses incurred for treating occupational patients are 28% higher than the practice expenses for treating non-occupational patients. The Division's interim proposal, therefore, is vital to maintain the availability of primary care physicians for injured workers in California during the time that a comprehensive review and revision of the official medical fee schedule can be completed.			
General Comment	Commenter much appreciates the proposal by the Division of Workers' Compensation to increase reimbursement for 10 Evaluation and Management codes. The historical underpayment for E&M codes under OMFS is well-recognized, and WOEMA has long-supported the conversion of the schedule to RBRVS-based methodology. Commenter believes that the wide disparity between how cognitive and procedural services are valued has only grown in recent years. Commenter also believes the impending update of the Lewin Group's work will show the urgency of adopting a new schedule – one which properly aligns incentives in the system while also ensuring participation by an adequate number of Primary Treating Physicians. Commenter would like to thank DWC officials and staff for their interest and efforts in this area. Commenter looks forward to working with the Division and other stakeholders in our shared pursuit of a fair,	Don Schinske Legislative Advocate Western Occupational & Environmental Medical Association (WOEMA) January 24, 2007 Written Comment	Commenter supports the proposal.	No action required.

	effective fee schedule.			
General Comment	Commenter concurs that it is appropriate for the Division to increase the fee schedule for physicians' services per the 2006 Medicare levels. Commenter believes that this will ensure that employers will continue to have access to qualified physicians to treat their injured employees.	Tina Coakley Legislative and Regulatory Analyst The Boeing Company January 24, 2007 Written Comment	Commenter supports the proposal.	No action required.
General Comment	Commenter thanks the Division for its work on fee schedule updates and offers his on-going support.	Jose Ruiz Operations Claims Manager State Compensation Insurance Fund (SCIF) January 24, 2007 Written Comment	Commenter supports the proposal.	No action required.
Section 9789.11(f)	Commenter recommends that the Division revise the entire physician's portion of the Official Medical Fee Schedule instead of only 10 evaluation and management codes. If the Administrative Director cannot revise the entire schedule at this time but decides to proceed with changes to the evaluation and management section of the schedule, the following modification to proposed changes to section 9789.11 are recommended: "(f) For physician services rendered on or after February 15, 2007, the maximum allowable reimbursement amounts for procedure codes 99201 through ~~99205 and 99211 through 99215~~ 99499 are set forth in the February, 2007 Addendum to Table A, "OMFS Physician Services Fees for Services Rendered on or after February 15, 2007." The February, 2007 Addendum to Table A, "OMFS	Brenda Ramirez Claims & Medical Director California Workers' Compensation Institute (CWCI) January 24, 2007 Written Comment	Commenter supports the proposal. The Commenter does not suggest a change to the procedure codes which are the subject of the regulation, but suggests that the reimbursement rates for other procedure codes should be re-evaluated. The Division is considering increasing reimbursement rates for other procedure codes as part of a total revision of the physician fee schedule. The Commenter suggests raising the reimbursement rates for all Evaluation and Management procedure codes. The Division has determined that the ten procedure codes it revised were so commonly used, and so far below Medicare	No action required.

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Physician Services Fees for Services Rendered on or after February 15, 2007," which sets forth individual procedure codes with the corresponding maximum reimbursable fees, is incorporated by reference. **Discussion** **Additional Time and Reporting** The Initial Statement of Reasons for the proposed regulation states that increased reimbursement for the ten evaluation and management (E&M) office visit services is necessary because *"the adoption by the legislature of the American Medical Association's Guides to the Evaluation of Permanent Impairment and of utilization review procedures substantially increased the time required to be expended by treating physicians in the workers' compensation system."* Mechanisms that separately reimburse additional time, if any, are already in place and in use. They include the prolonged service codes and modifier-21. The Statement of Reasons also refers to *"added reporting requirements of recent regulation."* Commenter notes that required reports (except for the Doctor's First Report) are separately reimbursed under Special Service Section codes in the Official Medical Fee Schedule (OMFS). Commenter therefore does not agree that changes to E&M allowances are necessary to address the issues described in the Statement of Reasons. The OMFS already contains sufficient flexibility to address added workload or complexity. Any additional increase in discrete service codes would be		rates, that they could easily be revised at this time. To revise the reimbursement rates for many more procedure codes would entail substantial commitment of resources for further study, and would unnecessarily delay the implementation of the increases to procedure codes for which there is almost universal agreement among participants in the California workers' compensation system. The Division has determined that it is essential to the continued functioning of the workers' compensation system that the reimbursement rates for these procedure codes be increased without incurring the necessary delay in first evaluating other increases.	

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	redundant and would tend to defeat the structure of the fee schedule. **RBRVS** Commenter supports the Administrative Director's decision to make the physician's portion of the Official Medical Fee Schedule a resource-based relative value scale (RBRVS) schedule. That policy decision ensures maximum reasonable fees for services in the schedule will be based on the physician's work (time and skill required), practice expenses (staff time and overhead costs), and malpractice expenses. Such a schedule will remove financial incentives for under or over utilization of services that exist when some services are under or over valued in relation to others. There is also value in the ease of administration of an RBRVS schedule, as an RBRVS schedule for workers' compensation would parallel the reimbursement system already used by Medicare. This would allow workers' compensation claims administrators to transfer review and payment tools from the Medicare system, and make it easier for physicians who are already organized to bill under Medicare to understand the mandates of the workers' compensation system. Unlike the present schedule that uses CPT codes more than ten years out of date, an RBRVS schedule would allow medical providers to bill with current CPT codes the way they do in all other venues. In contrast to the physician's portion of the			

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	current OMFS, which bases reimbursement values on historical charges, an RBRVS schedule such as the one used by Medicare would assign lower relative values for some classes of services, such as surgical procedures, and higher relative values for others, particularly evaluation and management services. Thus, under an RBRVS schedule, costs that are expected to rise for evaluation and management services would be offset by lower costs in other classes of services such as surgery. For this reason commenter recommends revising the whole schedule at one time so that California employers do not bear the burden of increases without offsets. If the Administrative Director cannot or does not revise the entire physician portion of the OMFS to an RBRVS schedule at this time, but instead decides to move forward with changes to the E&M section of the fee schedule, commenter recommends revising the entire E&M section, not just a portion of it as proposed. Current OMFS maximum allowances for some E&M services, including the most frequently used codes, are as much as 26.3% below maximum Medicare allowances. Others, however, are as much as 153% above the Medicare rates. Therefore, adopting Medicare's RBRVS based rates for just some of the codes in the E&M section would compound the inconsistencies within the E&M section and increase costs without providing any offsetting reductions in the			

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	higher cost E&M services. On the other hand, if the state were to adopt Medicare rates for all E&M services, maximum allowances for the 10 E&M services would still be raised as proposed, and the entire E&M section would be internally consistent. Furthermore, the Institute's analysis shows that revising the 10 E&M codes as the DWC proposes will result in a $78.7M increase in annual costs, whereas revising the entire E&M section will result in a $68.6M increase in annual costs. As currently written, the proposed fee schedule changes will cost 14.7% more than the CWCI alternative recommendation. Recommendation – February 2007 Addendum to Table A, "OMFS Physician Services Fees for Services Rendered on or after February 15, 2007." If the administrative director decides to move forward with changes to the E&M section of the fee schedule, replace the proposed Table A with the recommended Table A attached to this document (document is part of the complete rulemaking file). **Discussion** The recommended Table A includes all E&M CPT codes – including the ten in the Table A proposed by The Division -- along with maximum reasonable allowances from the 2006 Ventura County Medicare schedule. The Institute recommends using the Medicare schedule for Ventura County because it			

	provides average values closest to the California weighted average values calculated in the attached report. The Fee Schedule Analysis report detailing the methodology for the calculations and data relied upon is attached (document is part of the complete rulemaking file). **Conclusion** The modification CWCI proposes will not only increase the maximum fees for the 10 E&M services as proposed, it will also add consistency and fairness to the E&M fee schedule section, and at a cost that will be less burdensome for California employers. If adopted, it will be a significant step towards the goal of converting to an RBRVS physician schedule.			
General Comment	Commenter strongly supports the proposed amendment. The proposed increases in reimbursement are certainly welcome, in light of the many difficulties occupational health providers are encountering in management MPN requirements, correct and appropriate application of the ACOEM Guidelines, utilization review and denial of clinically-indicated care, and the proposed pending change in reimbursement for physician-dispensed medications. Although the 99200 series of codes address much of the clinical care and services provided in occupational health facilities, there are other common procedures and services provided to injured and ill workers in	Leonard Okun, MD President US HealthWorks Letter dated January 18, 2007 – received January 24, 2007 Written Comment	Commenter supports the proposal. The Commenter does not suggest a change to the procedure codes which are the subject of the regulation, but suggests that the reimbursement rates for other procedure codes should be re-evaluated. The Division is considering increasing reimbursement rates for other procedure codes as part of a total revision of the physician fee schedule.	No action required.

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	our state for which the current OMFS rates are bellow the average Medicare reimbursement in California. The following is a partial list of some of these common procedures/services: I&D and/or other Skin Procedures – 10060 – 11012; Laceration Repairs – 12001-13153; Burn Treatments 16020 – 16030; Injections/Aspirations/Arthrocentesis of Tendons/Joints – 20550-20610; Application of Casts/Splints & Strapping – 29000 – 29580; Foreign Body Removal – Eye Procedures – 65205 -65222. Commenter request that the Division reevaluate current reimbursement for these and other CPT codes for which the OMFS fee schedule is lower than the average Medicare fee schedule amount. Commenter requests that the Division consider a weighted increase in fees for these procedures/services in proportion to the proposed changes to the 99200 series of codes, i.e., twenty three percent, and for these changes to be effective February 15, 2007.			
General Comment	Commenter applauds the Division's initiative beginning the migration of physician reimbursement up to adequate levels for Evaluation and Management (E & M) codes	Steven J. Cattolica Director of Government Relations – AdvoCal January 23, 2007	Commenter supports the proposal.	No action required.

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	99201 through 99205 and 9921 1 through 99215. Due to the complexity and length of time needed to appropriately implement a conversion of the present Official Medical Fee Schedule (OMFS) to a Resource Based, Relative Value System (RBRVS), it is appropriate for the Division to provide an interim increase in OMFS reimbursement of physician fees as soon as possible. The Division states that its purpose for the increase in physician fees is, in part, to "fairly compensate physicians for the additional time incurred because of reporting requirements and the utilization review process adopted in recent legislation." Commenter does not dispute that an increasing amount of physician time is consumed by the utilization review process and goes un-reimbursed. However, commenter is concerned by this statement of the Division's rationale because physician reimbursement in the California workers' compensation system was demonstrated to be inadequate many years prior to the advent of the utilization review system called for by SB 228 (Alarc6n). In addition inflation and the attendant costs of doing business across California have increased 35% since the early 1990s. Many of the fees that will be subject to conversion to the RBRVS system have not been adjusted since the mid-1980s. If the proposed interim increases are meant to represent reimbursement for added time due to utilization review, administrative burdens and complex reporting, then it is clear that this necessary increase is only a half-step towards	Written Comment		

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	appropriate reimbursement for the value received by injured workers and the employers of California alike. The Division received testimony during the public comment period concerning physician dispensed pharmaceutical reimbursement (CCR Title 8, Section 9789.40) that linked revenue from dispensing of prescription drugs with low reimbursement for E & M codes, stating in concept, that low E & M reimbursement caused physicians to seek other sources of revenue to stay in business. Commenter does not necessarily dispute that testimony. However, since CCR Section 9789.40 remains under consideration, commenter wishes to go on record that he does not accept the notion that the pending, interim increase in E & M reimbursement is, in any manner, justification for a decision by the Division to ignore a separate, higher dispensing fee for physicians when they dispense from their office. The proposed physician dispensing fee was not based on the concept that physicians deserve more income because visit charges are too low. Instead, commenter thoughtfully, factually and completely established that when physicians dispense from their office, regardless of the reimbursement rate for the underlying office visit, there are increased resources required, greater value delivered and greater benefit received. Commenter again requests that the Division adopt our proposal of a separate physicians' dispensing fee as it completes promulgation, of the physician dispensed pharmaceutical reimbursement formula.		The Commenter is suggesting changes beyond the scope of the current regulatory proposal.	No action required.

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
General Comment	Commenter understands from a member of its staff, that the California Workers' Compensation Institute (CWCI), in its own written comments to the Division, encouraged the Division to expand the number of the codes that the Division considers for increase. In similar fashion to the written testimony received from his client, U.S. Healthworks, Inc., CWCI recognized that there is a significant number of OMFS codes currently reimbursed well below Medicare that should be provided the same weighted average increase as the E & M codes considered within the current rule making. I stated in my testimony that we agree with this position and thus encourage the Division to immediately look beyond the current E & M codes to include all under-reimbursed codes. Commenter testified that the Division would likely be encouraged by some stakeholders to increase reimbursement to a higher multiple than the currently proposed parity with Medicare. Having had an opportunity to inspect the CWCI summary data provided to the Division and based on CWCI staff testimony at the public hearing, and is encouraged that the Institute apparently agrees, as they emphasized the Ventura regional value of a 24.3% percent weighted average increase - a slight increase to the current proposal of a weighted average of 23%. However, when the aforementioned is combined with your announcement that the	Stephen J. Cattolica Director of Government Relations – AdvoCal January 24, 2007 Oral Testimony	Commenter supports the proposal. The Commenter does not suggest a change to the procedure codes which are the subject of the regulation, but suggests that the reimbursement rates for other procedure codes should be re-evaluated. The Division is considering increasing reimbursement rates for other procedure codes as part of a total revision of the physician fee schedule.	No action required.

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Division's conversion to an RBRVS system and the updating of the Official Medical Fee Schedule is now to be further delayed, we are compelled to urge that the Division consider raising the multiple immediately and substantially higher than parity with Medicare reimbursement. The Division must consider that despite the fact that the initial Lewin Group study is now five years old, its finding that there exists an approximate 30% difference in resources and costs necessary to deliver health care to injured workers in California is more true now than when first published. If not addressed quickly, the effect of another prolonged period of time before reimbursement is appropriately adjusted will cancel out any benefit from the current proposal and the current erosion of access will continue. The Division must consider the effect of MPN and PPO contract discounts, now averaging 10 - 15% and more, when arriving at the final recommended reimbursement increase. By way of example, please consider that the CWCI cost increase estimates (Table 4, "Estimated Impact of Medicare Fees on 2005 E & M Reimbursement") indicate that the current proposal's impact is a weighted average increase of 23% or approximately $78.6 million. However, in terms of real payments to physicians, mandatory MPN and PPO contract discounts erode that number anywhere from $7.8 million (1 0% discount) to perhaps as much as $1 1.8 million (1 5% discount) or more. Physicians will not receive			

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	the intended increase and the real cost to insurers will be significantly less than the CWCI data indicate. Commenter is confident that the Division understands that much of the $7.8 to $1 1.8 million difference attributable to network discounts will actually end up right back in the pockets of the carriers. Since medical management fees resulting from adjudication of MPN and PPO discounts are charged to the claim file, these fees increase subsequent premium calculations to match. In the case of self-insured employers, their third party administrators (TPAs) often see these fees as an additional profit center because medical management fees are charged directly to the self-insured employer as a service provided by the TPA. TPAs, in effect, pay themselves while their self-insured customers do not realize the full savings. In either situation, employers bear the brunt of increased administrative costs as fee schedules rise, physicians do not realize the reimbursement intended, and paid data is skewed as a result. Commenter recommends that any increase to the E & M codes, and any subsequent consideration given to additional codes, be increased so that physicians will actually realize the increased reimbursement that the Division intended to provide. Procedurally, should the Division agree to			

	move forward with these recommendations, it is vital to maintain the imperative with respect to the current proposal. The February 15, 2007, effective date must be retained. Taking the next step, the Division can then adopt, in a new regulatory proceeding, a strategy of expanding the number of codes, increasing the Medicare multiple and accounting for erosion of reimbursement due to mandatory contracted rates immediately.			
General Comment	Commenter presented preliminary data from a study conducted on behalf of the Administrative Director on health care reimbursement levels in the state of California which is currently being finalized by his organization (a complete copy is housed in the rulemaking file).	Alex Swedlow Executive Vice President California Workers' Compensation Institute January 24, 2007 Oral Testimony	Commenter supports the proposal.	No action required.
General Comment	Commenter supports the proposed regulation changes that increase fees for ten Evaluation and Management codes for service provided on or after February 15, 2007 because the fees have been too low for several years.	Mark Hayes, President VotersInjuredatWork.org January 24, 2007 Written & Oral	Commenter supports the proposal.	No action required.
General Comment	Commenter strongly supports the proposed regulations to increase reimbursement of the 10 most commonly used E&M procedure codes to Medicare levels with an effective date of February 15, 2007. Commenter's organization has been vocal over the years regarding the increasing costs of treating injured workers while reimbursement for the E&M procedure codes were not adjusted to compensate for the increasing costs to deliver high quality occupations health care. A recent WCRI report, *"Benchmarks for Designing Workers' Compensation Fee Schedules; 2006,"* lists	Ronald Crowell, MD President California Occupational Medicine Physicians January 21 and 24, 2007 Written & Oral	Commenter supports the proposal.	No action required.

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	California E&M fees the third lowest in the nation, 13% below Medicare E&M fees. The study also points out that when reimbursement rates are too low quality of care and access issues may arise. A California Medical Association survey found that "sixty-three percent of physicians in their survey indicate they intend to leave or reduce participation in workers' compensation. Of these, one third plan to quite entirely." These proposed regulations will help sustain many physicians' occupational practices while the division review the entire Official Medical Fee Schedule (OMFS) in its efforts to transition to the resource based relative value system (RBRVS) methodology. Commenter believes the proposed regulations should be the first step in ensuring more quality physicians do not leave the Workers' Compensation system. Looking again at the WCRI report, commenter notes that even with the proposed increase in E&M codes to Medicare levels California would be ranked seventh lowest. Commenter reviews the division's decision to convert the OMFS To RBRVS as integral in order to fully recognize the true costs associated with providing care within the workers' compensation system. Commenter is encouraged to learn that the Division is updated the Lewin Group study, "A Study of the Relative Work Content of Evaluation and Management Codes"; from			

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	2003 that found the costs for delivering E&M procedures under the California Workers' Compensation system are 28% higher than that for other types of patients. Commenter anticipates that this update will find the costs of providing care have risen even further since 2003. As the division conducts a more thorough review of the fee schedule, commenter believes there are still a number of steps to consider. These include: • Minimum conversion factor of 120% of Medicare, using Medicare's RBRVS values and conversion factor as of January 1, 2007. • That the January 1, 2007, conversion factor be set in regulation or statute, and not tied to subsequent changes in Medicare's conversion factor. This will eliminate artificial changes in Medicare' conversion factor made to balance the federal budget. • That the conversion factor be increased or decreased annually according to changes in an appropriate CPI or Medicare Economic Index (MEI). • That there is an automatic, annual update of the RBRVS methodology changes made to Medicare [such as new and revised RBRVS, new CPT code, etc.]. Medicare makes such changes on January 1 of each year. • That the AD adopts The Lewin Group Report 2003 recommendation for increase the Relative Value Units (RVUs) for the 18 identified E&M Codes. The Lewin report found that			

Official Medical Fee Schedule – Physician Fees	RULEMAKING COMMENTS 45 DAY COMMENT PERIOD	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	the costs of providing medical care services to Workers' Compensation patients for these 18 E&M Code exceeded the costs of providing the services to Medicare patients and, as such, additional increases are warranted.			
General Comment	Commenter supports the proposed fee increase and urges the Division to continue down the pathway of developing and reforming the existing fee schedule.	Greg Gilbert Senior Vice President Reimbursement & Governmental Relations Concentra Health Services January 24, 2007 Oral Testimony	Commenter supports the proposal.	No action required.