reflect a judgment regarding the appropriateness of the site where the service is performed or to encourage performance of procedures in the less costly office setting or to create a financial disincentive for the physician to select the most appropriate site. Inclusion on this list merely recognizes where the service is being furnished the majority of the time. We recognize that although the majority of the procedures we proposed to add to the site-of-service list are performed in a physician's office, the ASC setting is sometimes appropriate. That is the reason they remain on the ASC list. It is not the purpose of this policy to dictate where a physician should perform the service. The policy reflects the lower practice costs incurred by physicians when these services are performed in an ASC or a

Comment: One commenter objected to including urodynamic evaluation CPT codes 51725, 51726, and 51772 on the site-of-service payment differential list. Another commenter provided information demonstrating that 21 other proposed procedures should not be on the list because more recent data indicate that the procedures are not performed in the office more than 50 percent of the time.

Response: We agree with the comment that urodynamic evaluation codes do not belong on the list and have removed CPT codes 51725, 51726, 51772, and 51785 from the list. We also agree with the comment that some of the proposed procedures are not performed in the office setting more than 50 percent of the time based on the most current data available. Therefore, we have removed the following CPT codes from the list: 13150, 14020, 14060, 15740, 21208, 21440, 23066, 26645, 28030, 28043, 28092, 28261, 40510, 41805, 42408, 46220, 46610, 63600, 64420, 65270, and 67921.

Comment: Some commenters stated that the site-of-service payment differential should not apply to services furnished in an ASC for which no facility payment is made. Another commenter said that many ASCs are considered extensions of a physician's office, not a free-standing facility, and physicians are responsible for ASC overhead.

Response: We agree with these comments. Therefore, we have clarified the proposal to state that when a service that is not on the ASC list is performed in an ASC, the site-of-service payment differential does not apply. In this case, we view the ASC as an extension of the physician's office and, for purposes of this provision, view this as an office service.

Comment: Some commenters said that there is no difference in practice costs between the office setting and the ASC. In some cases, costs may be higher in the ASC because of more complicated cases, the delivery of anesthesia services, and physician travel costs. Other commenters said it is unjustified to conclude that there is no office overhead for physicians performing procedures in another setting.

Some commenters recommended that we make no changes to the site-of-service payment differential before the implementation of resource-based practice expense RVUs in 1998. One commenter requested that we suspend the site-of-service payment differential altogether. Others recommended increasing practice expense payments for procedures performed in the office to discourage physicians from using hospital ASCs. Other commenters said we should exempt codes that are reduced by the interim practice expense reduction of OBRA 1993.

*Response:* The site-of-service payment differential is a long established policy that aims to avoid duplicate payments for overhead while, at the same time, recognizes that some office overhead is incurred when physicians perform procedures outside the office setting. For this reason, the practice expense RVUs are reduced by only 50 percent. While we will implement resourcebased practice expense RVUs in 1998, we see no reason to postpone applying the payment differential to ASCs until then. The site-of-service policy currently applies to both inpatient and outpatient hospital settings. We see no justification for continuing to exempt services provided in ASCs.

Section 13513 of OBRA 1993 provided for reductions in practice expense RVUs for services for which practice expense RVUs exceeded 128 percent of the work RVUs and that are performed less than 75 percent of the time in an office setting. This reduction was based on the Congress' determination that practice expense RVUs were too high for some procedures. This reduction is independent of the long standing site-of-service payment differential.

Comment: Many commenters stated that the proposal would result in reduced quality of care. Other commenters said it did not encourage placement of patients in the most appropriate and cost-effective setting to address the patient's medical needs. Several commenters indicated that since we have determined that the proposed procedures are appropriate for ASCs based on medical review and patient safety outcome data, it would be

inconsistent to apply the site-of-service payment differential.

Some commenters indicated that many of the proposed procedures cannot be performed safely in an office. They indicated that offices are not certified to meet the same standards of care or health care outcomes as ASCs, which are generally safer places to perform procedures. They believed the proposal creates a disincentive for physicians to use ASCs even when it is in the patient's best interest to do so. Other commenters said procedures are performed in an ASC because of patient choice or for a patient's safety and comfort. They believed that paying less for the most complicated cases will discourage doctors from doing such cases, thereby creating serious access problems for patients.

Response: We disagree that application of the site-of-service payment differential will penalize a physician who has valid clinical reasons for performing a procedure in an ASC. Rather, we believe the payment differential will appropriately reflect that the physician incurs fewer costs when furnishing service in an ASC. We believe that physicians consider the welfare of the beneficiary in selecting the appropriate site to perform the service. We do not believe that physicians will make inappropriate decisions regarding the health and well being of their patients because of a reduction in their payment.

Comment: Many commenters said that the proposal will encourage physicians to buy costly equipment for their offices, such as that required for urologic and arthroscopic procedures, which most do not have.

Response: We believe the payment differential is incentive neutral with regard to selecting a practice site. That is, we do not believe that the payment differential will induce physicians to purchase additional equipment to enable them to furnish services in the office.

Comment: One commenter stated that a large number of procedures proposed for addition to the site-of-service list were originally exempt from the list because they were performed less than 50 percent of the time in a physician's office. Therefore, the practice expense values already reflect the costs of furnishing the procedures outside the office setting.

Response: Physicians shift the place of service for procedures from the hospital setting to the office setting for various reasons. Two reasons are (1) that advances in technology, technique, or other factors make it now feasible to do many services in the office setting that