

- C. Transition Period for Implementation of the LTCH PPS
- D. Limitation on Charges to Beneficiaries
- E. System Implementation for the LTCH PPS
- II. Summary of the Major Contents of This Proposed Rule
  - A. Proposed Change in the Annual Update
  - B. Proposed Update Changes
- III. Proposed Changes in the Annual Update of the LTCH PPS
- IV. Proposed Changes in Long-Term Care Diagnosis-Related Group (LTC-DRG) Classifications and Relative Weights
  - A. Background
  - B. Patient Classifications into DRGs
  - C. Organization of DRGs
  - D. Update of LTC-DRGs
  - E. ICD-9-CM Coding System
    - 1. Uniform Hospital Discharge Data Set (UHDDS) Definitions
    - 2. Maintenance of the ICD-9-CM Coding System
    - 3. Coding Rules and Use of ICD-9-CM Codes in LTCHs
  - F. Proposed Changes to the Method for Updating the LTC-DRG Relative Weights
- V. Proposed Policy Change Relating to Payments to LTCHs That Are Satellite Facilities
- VI. Proposed Changes to the LTCH PPS Rates for the Proposed 2004 LTCH PPS Rate Year
  - A. Overview of the Development of the Proposed Payment Rates
  - B. Proposed Update to the Standard Federal Rate for the Proposed 2004 LTCH PPS Rate Year
    - 1. Proposed Standard Federal Rate Update
  - a. Description of the Proposed Market Basket for the Proposed 2004 LTCH PPS Rate Year
  - b. Proposed LTCH Market Basket Increase for the Proposed 2004 LTCH PPS Rate Year
  - 2. Proposed Standard Federal Rate for the Proposed 2004 LTCH PPS Rate Year
  - C. Calculation of Proposed LTCH Prospective Payments for the Proposed 2004 LTCH PPS Rate Year
    - 1. Proposed Adjustment for Area Wage Levels
    - 2. Proposed Adjustment for Cost-of-Living in Alaska and Hawaii
    - 3. Proposed Adjustment for High-Cost Outliers
    - 4. Proposed Adjustment for Special Cases
      - a. General
      - b. Short-Stay Outlier Cases
      - c. Interrupted Stay
      - d. Onsite Discharges and Readmittances
      - e. Treatment of Swing Beds Under the Interrupted Stay and Onsite Discharge and Readmittance Policies
    - 5. Other Proposed Payment Adjustments
    - 6. Proposed Budget Neutrality Offset to Account for the Transition Methodology
- VII. Computing the Proposed Adjusted Federal Prospective Payments
- VIII. Transition Period
- IX. Proposed Payments to New LTCHs
- X. Method of Payment
- XI. Monitoring
- XII. Collection of Information Requirements
- XIII. Regulatory Impact Analysis
  - A. Introduction

- 1. Executive Order 12866
- 2. Regulatory Flexibility Act (RFA)
- 3. Impact on Rural Hospitals
- 4. Unfunded Mandates
- 5. Federalism
- B. Anticipated Effects
  - 1. Budgetary Impact
  - 2. Impact on Providers
  - 3. Calculation of Prospective Payments
  - 4. Results
  - 5. Effect on the Medicare Program
  - 6. Effect on Medicare Beneficiaries
- C. Executive Order 12866
- XIV. Response to Public Comments
- Regulations Text
- Addendum—Tables

### Acronyms

Because of the many terms to which we refer by acronym in this proposed rule, we are listing the acronyms used and their corresponding terms in alphabetical order below:

- BBA Balanced Budget Act of 1997, Pub. L. 105–33
- BBRA Medicare, Medicaid, and SCHIP [State Children's Health Insurance Program] Balanced Budget Refinement Act of 1999, Pub. L. 106–113
- BIPA Medicare, Medicaid, and SCHIP [State Children's Health Insurance Program] Benefits Improvement and Protection Act of 2000, Pub. L. 106–554
- CMS Centers for Medicare & Medicaid Services
- DRGs Diagnosis-related groups
- FY Federal fiscal year
- HCRIS Hospital Cost Report Information System
- HHA Home health agency
- HIPAA Health Insurance Portability and Accountability Act, Pub. L. 104–191
- IPPS Acute Care Hospital Inpatient Prospective Payment System
- IRF Inpatient rehabilitation facility
- LTC-DRG Long-term care diagnosis-related group
- LTCH Long-term care hospital
- MedPAC Medicare Payment Advisory Commission
- MedPAR Medicare provider analysis and review file
- OSCAR Online Survey Certification and Reporting (System)
- PPS Prospective Payment System
- QIO Quality Improvement Organization (formerly Peer Review Organization (PRO))
- SNF Skilled nursing facility
- TEFRA Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97–248

### I. Background

*A. Legislative and Regulatory Authority*  
The Medicare, Medicaid, and SCHIP [State Children's Health Insurance

Program] Balanced Budget Refinement Act of 1999 (BBRA) (Pub. L. 106–113) and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) (Pub. L. 106–554) provide for payment for both the operating and capital-related costs of hospital inpatient stays in long-term care hospitals (LTCHs) under Medicare Part A based on prospectively set rates. The Medicare prospective payment system for LTCHs applies to hospitals described in section 1886(d)(1)(B)(iv) of the Social Security Act (the Act), effective for cost reporting periods beginning on or after October 1, 2002. Section 1886(d)(1)(B)(iv)(I) of the Act defines a LTCH as “a hospital which has an average inpatient length of stay (as determined by the Secretary) of greater than 25 days.” Section 1886(d)(1)(B)(iv)(II) of the Act also provides another definition of LTCHs: Specifically, a hospital that first received payment under section 1886(d) of the Act in 1986 and has an average inpatient length of stay (as determined by the Secretary) of greater than 20 days and has 80 percent or more of its annual Medicare inpatient discharges with a principal diagnosis that reflects a finding of neoplastic disease in the 12-month cost reporting period ending in FY 1997.

Section 123 of Pub. L. 106–113 requires the prospective payment system for LTCHs to be a per discharge system with a diagnosis-related group (DRG) based patient classification system that reflects the differences in patient resources and costs in LTCHs while maintaining budget neutrality. Section 123 also requires that the system be implemented for cost reporting periods beginning on or after October 1, 2002.

Section 307(b)(1) of Pub. L. 106–554 mandates the examination of the feasibility and the impact of basing payment under the LTCH prospective payment system (LTCH PPS) on the use of existing (or refined) hospital DRGs that have been modified to account for different resource use of LTCH patients as well as the use of the most recently available hospital discharge data. Further, section 307(b)(1) provides that the Secretary shall examine and may provide for adjustments to payments under the LTCH PPS, including adjustments to DRG weights, area wage adjustments, geographic reclassification, outliers, updates, and a disproportionate share adjustment.

In a *Federal Register* document issued on August 30, 2002 (67 FR 55954), we implemented the LTCH PPS authorized under Pub. L. 106–113 and Pub. L. 106–554. This system uses