

of \$50 million for FY 2003. Furthermore, in order to maintain budget neutrality, we indicated that, in the future, we would propose a budget neutrality offset for each of the remaining years of the transition period to account for the estimated payments for the respective fiscal year. Based on the data available at that time, in the August 30, 2002 final rule (67 FR 56037) we estimated the following budget neutrality offsets to LTCH payments during the remainder of transition period: 5.0 percent (0.950) in FY 2004; 3.4 percent (0.996) in FY 2005; and 1.7 percent (0.983) in FY 2006. We also stated that no budget neutrality offset is necessary in the 5th year of the transition period (FY 2007) because under the transition methodology at § 412.533, all LTCHs will be paid based on 100 percent of the standard Federal rate and zero percent of the TEFRA rate.

For the proposed 2004 LTCH PPS rate year, based on the best available data and the policies presented in this proposed rule, we project that approximately 49 percent of LTCHs would be paid based on 100 percent of the proposed standard Federal rate rather than receive payment under the transition blend methodology. Using the same methodology described in the August 30, 2002 final rule (67 FR 56034), this projection, which uses updated data and inflation factors, is based on our estimate that LTCHs would receive higher payments based on 100 percent of the proposed standard Federal rate compared to the payments they would receive under the transition blend methodology. Similarly, we project that the remaining 51 percent of LTCHs would choose to be paid based on the transition blend methodology (80 percent of TEFRA and 20 percent of the PPS for cost reporting periods beginning during FY 2003; and 60 percent of TEFRA and 40 percent of the PPS for cost reporting periods beginning during FY 2004 in accordance with § 412.533(a)) because they would receive higher payments than if they were paid based on 100 percent of the proposed standard Federal rate. We note that, as discussed in section VIII. of this preamble, we are not proposing to change the 5-year transition period set forth in § 412.533(a) in conjunction with the proposed change in the proposed 2004 LTCH PPS rate update discussed in detail in section III. of this preamble. Therefore, the applicable transition blend percentage will apply for a LTCH's entire cost reporting period beginning on or after October 1 (unless the LTCH elects payment based on 100 percent of the Federal rate).

In this proposed rule, based on the best available data and the proposed policy revisions described, we project that the full effect of the remaining 4 years of the transition period (including the election option) would result in a cost to the Medicare program of \$300 million as follows:

Proposed LTCH PPS rate year	Estimated cost (in millions)
2004	\$120
2005	90
2006	60
2007	30

Therefore, we are proposing a 5.7 percent reduction (0.943) to all LTCHs' payments for discharges occurring on or after July 1, 2003 and through June 30, 2004, to account for the estimated cost of the \$120 million for the proposed 2004 LTCH PPS rate year. We emphasize that the budget neutrality offset to account for the transition methodology is calculated based on and effective for payments made for discharges occurring during the proposed 2004 LTCH PPS rate year of July 1, 2003 through June 30, 2004, not the Federal FY 2004 of October 1, 2003 through September 30, 2004.

As we stated above, in order to maintain budget neutrality, we indicated that we would propose a budget neutrality offset for each of the remaining years of the transition period to account for the estimated costs for the respective fiscal year. Based on the best available data at this time, we are proposing the following budget neutrality offsets to LTCH payments during the transition period: 4.4 percent (0.956) in proposed 2005 LTCH PPS rate year; 2.9 percent (0.971) in proposed 2006 LTCH PPS rate year; and 1.2 percent (0.988) in proposed 2007 LTCH PPS rate year.

As we discussed in the August 30, 2002 final rule (67 FR 56036), consistent with the statutory requirement for budget neutrality in section 123(a)(1) of Pub. L. 106–113, we intend for estimated aggregate payments under the LTCH PPS to equal the estimated aggregate payments that would be made if the LTCH PPS was not implemented. Our methodology for estimating proposed payments for purposes of the proposed budget neutrality calculations used the best available data at this time and necessarily reflects assumptions. As the LTCH PPS progresses, we are monitoring payment data and will evaluate the ultimate accuracy of the assumptions used in the budget neutrality calculations (for example, inflation factors, intensity of services

provided, or behavioral response to the implementation of the LTCH PPS) described in the August 30, 2002 final rule (67 FR 56027–56037). To the extent these assumptions significantly differ from actual experience, the aggregate amount of actual payments may turn out to be significantly higher or lower than the estimates on which the budget neutrality calculations were based.

Section 123 of Pub. L. 106–113 and section 307 of Pub. L. 106–554 provide the Secretary broad authority in developing the LTCH PPS, including the authority for appropriate adjustments. Under this broad authority, as implemented in the regulations at § 412.523(d)(3), we have provided for the possibility of making a one-time prospective adjustment to the LTCH PPS rates by October 1, 2006, so that the effect of any significant difference between actual payments and estimated payments for the first year of the LTCH PPS would not be perpetuated in the PPS rates for future years.

In the August 30, 2002 final rule (67 FR 56037), we estimated that total Medicare program payments for LTCH services over 5 years would be \$1.59 billion for FY 2003; \$1.69 billion for FY 2004; \$1.79 billion for FY 2005; \$1.90 billion for FY 2006; and \$2.00 billion for FY 2007. In this proposed rule, based on the best available data, we estimate that total Medicare program payments for LTCH services from the proposed LTCH PPS rate years of 2004 through 2008 would be:

Proposed LTCH PPS rate year	Estimated payments (\$ in billions)
2004	\$2.17
2005	2.29
2006	2.42
2007	2.56
2008	2.71

As in our August 30, 2002 final rule (67 FR 56037), these estimates are based on the projection that 49 percent of LTCHs would elect to be paid based on 100 percent of the proposed standard Federal rate rather than the transition blend, and an update of our estimate of proposed 2004 LTCH PPS rate year payments to LTCHs using our Office of the Actuary's most recent estimate of the excluded hospital with capital market basket of 2.5 percent for proposed 2004 LTCH PPS rate year (adjusted to account for the proposed change in the rate update cycle discussed in section VI.B.1.b. of this preamble), 3.1 percent for proposed 2005 LTCH PPS rate year, 3.0 percent for proposed 2006 LTCH PPS rate year, 2.9 percent for proposed 2007 LTCH