

categories were illustrated in Table 10.A, Table 10.B, and Appendix A, along with other relevant information, in the July 31, 2001 **Federal Register**.

Each year, we calculate a revised labor-related share based on the relative importance of labor-related cost categories in the input price index. Table 10 summarizes the updated labor-related share for FY 2004. The forecasted rates of growth used to compute the proposed SNF market basket percentage described in section II.D of this proposed rule are shown in Table 11.

TABLE 10.—FY 2004 LABOR-RELATED SHARE

Cost category	FY 2003 relative importance	FY 2004 relative importance
Wages and Salaries	54.796	55.143
Employee Benefits	11.232	11.269
Nonmedical Professional Fees	2.652	2.661
Labor-intensive Services	4.124	4.137
Capital-related	3.324	3.226
Total	76.128	76.435

TABLE 11.—SNF TOTAL COST MARKET BASKET CHANGE FY 1998 THROUGH FY 2004

Fiscal years beginning October 1	Skilled nursing facility total cost market basket
October 1997, FY 1998	2.8
October 1998, FY 1999	3.0
October 1999, FY 2000	4.0
October 2000, FY 2001	4.9
October 2001, FY 2002	3.4
October 2002, FY 2003	3.1
October 2003, FY 2004	2.9

Source: (Table 10) Global Insights, Inc., DRI-WEFA, 4th Quarter, 2002.

Source: (Table 11) Global Insights Inc., DRI-WEFA, 4th Quarter, 2002.

@USAMACRO/MODTREND@CISSIM/CNTL25R2.SIM

Released by CMS, OACT, National Health Statistics Group.

A. Use of the Skilled Nursing Facility Market Basket Percentage

Section 1888(e)(5)(B) of the Act defines the SNF market basket percentage as the percentage change in the SNF market basket index, as described in the previous section, from the average index level of the prior fiscal year to the average index level of the current fiscal year. For the Federal rates established in this proposed rule,

this percentage increase in the SNF market basket index would be used to compute the update factor occurring between FY 2003 and FY 2004. We used the Global Insights, Inc. (formerly DRI-WEFA), 4th quarter 2002 forecasted percentage increase in the FY 1997-based SNF market basket index for routine, ancillary, and capital-related expenses, described in the previous section, to compute the update factor.

B. Federal Rate Update Factor

Section 1888(e)(4)(E)(ii)(IV) of the Act requires that the update factor used to establish the FY 2004 Federal rates be at a level equal to the full market basket percentage change. Accordingly, to establish the update factor, we determined the total growth from the average market basket level for the period of October 1, 2002 through September 30, 2003 to the average market basket level for the period of October 1, 2003 through September 30, 2004. Using this process, the update factor for FY 2004 SNF Federal rates is 2.9 percent.

We used this revised update factor to compute the Federal portion of the SNF PPS rate shown in Tables 1 and 2.

IV. Consolidated Billing

As established by section 4432(b) of the BBA, the consolidated billing requirement places with the SNF the Medicare billing responsibility for virtually all of the services that the SNF's residents receive, except for a small number of services that the statute specifically identifies as being excluded from this provision. Section 103 of the BBRA amended this provision by further excluding a number of high-cost, low probability services (identified by Healthcare Common Procedure Coding System (HCPCS) codes) within several broader categories that otherwise remained subject to the provision. Section 313 of the BIPA further amended this provision by repealing its Part B aspect, that is, its applicability to services furnished to a resident during a SNF stay that Medicare does not cover. (However, physical, occupational, and speech-language therapy remain subject to consolidated billing, regardless of whether the resident who receives these services is in a covered Part A stay.)

To date, the Congress has enacted no further legislation affecting the consolidated billing provision. However, as we noted in the proposed rule of April 10, 2000 (65 FR 19232), section 1888(e)(2)(A)(iii) of the Act, as added by section 103 of the BBRA, not only identified for exclusion from this provision a number of particular service

codes within four specified categories (that is, chemotherapy items, chemotherapy administration services, radioisotope services, and customized prosthetic devices), but “ * * * also gives the Secretary the authority to designate additional, individual services for exclusion within each of the specified service categories.” In that proposed rule, we also noted that the BBRA Conference report (H.R. Conf. Rep. No. 106–479 at 854) characterizes the individual services that this legislation targets for exclusion as “ * * * high-cost, low probability events that could have devastating financial impacts because their costs far exceed the payment [SNFs] receive under the prospective payment system * * *.” According to the conferees, section 103(a) “is an attempt to exclude from the PPS certain services and costly items that are provided infrequently in SNFs * * *.” By contrast, we noted that the Congress declined to designate for exclusion any of the remaining services within those four categories (thus leaving all of those services subject to SNF consolidated billing), because they are relatively inexpensive and are furnished routinely in SNFs.

As we further explained in the final rule of July 31, 2000 (65 FR 46790), any additional service codes that we might designate for exclusion under our discretionary authority must meet the same criteria that the Congress used in identifying the original codes excluded from consolidated billing under section 103(a) of the BBRA: they must fall within one of the four service categories specified in the BBRA, and they also must meet the same standards of high cost and low probability in the SNF setting. Accordingly, we characterized this statutory authority to identify additional service codes for exclusion “ * * * as essentially affording the flexibility to revise the list of excluded codes in response to changes of major significance that may occur over time (for example, the development of new medical technologies or other advances in the state of medical practice)” (65 FR 46791). In view of the amount of time that has elapsed since we made that statement, we believe it is appropriate at this point to invite public comments that identify codes in any of these four service categories representing recent medical advances that might meet the BBRA criteria for exclusion from SNF consolidated billing.

We note that the original BBRA legislation (as well as the implementing regulations) identified a set of excluded services by means of specifying HCPCS codes that were in effect as of a particular date (that is, July 1, 1999).