

purposes of the IPPS, we will continue to refer to these areas as MSAs.

Under section 1886(d)(8)(B) of the Act, hospitals in certain rural counties adjacent to one or more MSAs are considered to be located in one of the adjacent MSAs if certain standards are met. Under section 1886(d)(10) of the Act, the Medicare Geographic Classification Review Board (MGCRRB) considers applications by hospitals for geographic reclassification from a rural area to a MSA, one rural area to another rural area, or from one MSA to another MSA, for purposes of payment under the IPPS.

In a December 27, 2000 notice published in the **Federal Register** (65 FR 82228), the Office of Management and Budget (OMB) issued its revised standards for defining MSAs. In that notice, OMB indicated that it plans to announce in calendar year 2003 new definitions of "Core Based Statistical Areas" (CBSAs) based on the new standards and the Census 2000 data. The new standards establish two categories of CBSAs: (1) Metropolitan Statistical Areas (50,000 or more), and (2) Micropolitan Statistical Areas (10,000 to 49,999). After these new CBSAs are announced, we will evaluate the new area designations and their possible effects on the Medicare hospital wage index. Therefore, the earliest these new CBSA definitions would be used is the FY 2005 wage index.

Beginning October 1, 1993, section 1886(d)(3)(E) of the Act requires that we update the wage index annually. Furthermore, this section provides that the Secretary base the update on a survey of wages and wage-related costs of short-term, acute care hospitals. The survey should measure, to the extent feasible, the earnings and paid hours of employment by occupational category, and must exclude the wages and wage-related costs incurred in furnishing skilled nursing services. As discussed below in section III.F. of this preamble, we also take into account the geographic reclassification of hospitals in accordance with sections 1886(d)(8)(B) and 1886(d)(10) of the Act when calculating the wage index.

Section 1886(d)(3)(E) of the Act also provides for the collection of data every 3 years on the occupational mix of employees for each short-term, acute care hospital participating in the Medicare program, in order to construct an occupational mix adjustment to the wage index. The initial collection of these data must be completed by September 30, 2003, for application beginning October 1, 2004 (the FY 2005 wage index). In the April 4, 2003

Federal Register (68 FR 16516), we published a notice of intent to collect calendar year 2002 data from hospitals. There is a 60-day public comment period on that notice. After considering and responding to the comments we receive, we plan to send the surveys to all IPPS hospitals (and hospitals in Maryland that are under a waiver from the IPPS) through the fiscal intermediaries. We intend to collect these data to be incorporated in the FY 2005 wage index after notice and opportunity for public comment.

B. Proposed FY 2004 Wage Index Update

The proposed FY 2004 wage index values (effective for hospital discharges occurring on or after October 1, 2003 and before October 1, 2004) in section V. of the Addendum to this proposed rule are based on the data collected from the Medicare cost reports submitted by hospitals for cost reporting periods beginning in FY 2000 (the FY 2003 wage index was based on FY 1999 wage data).

The proposed FY 2004 wage index includes the following categories of data associated with costs paid under the IPPS (as well as outpatient costs), which were also included in the FY 2003 wage index:

- Salaries and hours from short-term, acute care hospitals.
- Home office costs and hours.
- Certain contract labor costs and hours.
- Wage-related costs.

Consistent with the wage index methodology for FY 2003, the proposed wage index for FY 2004 also excludes the direct and overhead salaries and hours for services not subject to IPPS payment, such as SNF services, home health services, costs related to GME (teaching physicians and residents) and certified registered nurse anesthetists (CRNAs), and other subprovider components that are not paid under the IPPS.

C. FY 2004 Wage Index Proposals

1. Elimination of Wage Costs Associated With Rural Health Clinics and Federally Qualified Health Centers

In the FY 2001 IPPS final rule, we discussed removing from the wage index the salaries, hours, and wage-related costs of hospital-based rural health clinics (RHCs) and Federally qualified health centers (FQHCs) because Medicare pays for these costs outside of the IPPS (65 FR 47074). We noted that because RHC and FQHC costs were not separately reported on Worksheet S-3 of the Medicare cost report, we could not exclude these costs

from the prior wage indexes. We further noted that we would evaluate the exclusion of RHC and FQHC wage data in developing the FY 2004 wage index. We now have revised Worksheet S-3 so that it allows for the separate reporting of RHC and FQHC wage costs and hours beginning with FY 2000. Therefore, as we now have the ability to exclude these costs from the wage index, beginning with the FY 2004 wage index, we are proposing to exclude the wage costs and hours data for RHCs and FQHCs from the hospital wage index calculation. An analysis of the effects of this change is included in the Appendix A of this proposed rule.

2. Paid Hours

It has been the longstanding policy of CMS to calculate the wage index using paid hours rather than hours worked (58 FR 46299). This policy reflects our belief that paid hours more appropriately reflect a hospital's total wage costs, which include amounts paid for actual time worked and for covered leave periods (for example, annual, sick, and holiday leave). Therefore, the inclusion of paid lunch hours in the wage index is consistent with our inclusion of other paid nonworking hours.

Several hospitals have requested that we exclude paid lunch or meal break hours from the wage index calculation. At these hospitals, the typical workday is 7½ working hours, plus a ½ hour paid meal break, for a total of 8 paid hours. These hospitals, some of which are municipal-owned and required by their overarching union contracts to provide paid lunch hours, believe they are disadvantaged by wage index policy that requires paid lunch hours to be included in calculating the wage index.

The hospitals argue that their practice of paying employees for meal breaks is not substantially different, in practice, from other hospitals whose employees do not receive paid lunch hours but who are on call during their lunch periods. These hospitals further argue that this policy causes them, in some cases due to union contracts beyond the hospital's control, to be the only hospitals with this category of nonproductive hours included in the wage index.

We are soliciting comments on our policy that paid lunch hours should be excluded from the wage index. Specifically, we would like a broader understanding of the issue of whether some hospitals may, in fact, be truly disadvantaged by this policy through no fault of their own. Any change in our policy would not be implemented until, at the earliest, the FY 2005 wage index.