

in the March 7, 2003, proposed rule (68 FR 11248), based on Global Insights' (formerly DRI-WEFA) fourth quarter 2002 forecast of the proposed revised and rebased FY 1997-based excluded hospital with capital market basket we proposed an update of 2.5 percent for the 2004 LTCH PPS rate year.

We received no comments on our proposed methodology for calculating the market basket increase for the 2004 LTCH PPS rate year. Therefore, consistent with our historical practice of estimating market basket increases, based on Global Insights' (formerly DRI-WEFA) first quarter 2003 forecast of the revised and rebased FY 1997-based excluded hospital with capital market basket, in this final rule using the methodology described above, we determined an update of 2.5 percent (as shown in Table IV. below) for the 2004 LTCH PPS rate year.

TABLE IV.—CALCULATION OF MARKET BASKET INCREASE FOR THE 2004 LTCH PROSPECTIVE PAYMENT SYSTEM RATE YEAR

	Percent
Full 12-month market basket with capital increase	3.3
Adjustment for the change in the update cycle *	–0.8
2004 rate year market basket increase **	2.5

* Projected market basket increase for the 3-month period of July 1, 2003, through September 30, 2003, already included in the FY 2003 standard Federal rate.

** Projected market basket increase for the 12-month period of July 1, 2003, through June 30, 2004, from FY 2003.

In addition, as we discussed in the March 7, 2003, proposed rule (68 FR 11248), based on the best available data for 194 LTCHs, we estimated that LTCH prospective payment system payments would be approximately \$1.960 billion for the proposed 2004 LTCH PPS rate year. Furthermore, as we discussed in the August 30, 2002, final rule (67 FR 56027), we proposed that the proposed change to the annual update of the FY 2003 factors and rates from a rate year beginning October 1, 2003, to a rate year beginning July 1, 2003, would maintain budget neutrality. In that same final rule, we explained that, as required by statute, total estimated LTCH PPS payments in FY 2003 will equal estimated payments that would have been made under the reasonable cost-based principles if the LTCH PPS were not implemented. Therefore, in order to maintain budget neutrality for the proposed change in the rate update cycle, in the March 7, 2003, proposed

rule (68 FR 11248), under proposed § 412.523(c)(3)(ii), we proposed to adjust the standard Federal rate by a factor of 0.997 (((\$1.960 billion – \$5.66 million)/\$1.960 billion) or –0.003 to account for the resulting additional cost of \$5.66 million to the FY 2003 Federal budget that we estimated based on the most recent data for the 3-month period from July 1, 2003, through September 30, 2003. Also, in that same proposed rule, we proposed to revise this adjustment factor in this final rule based on the best available data.

In this final rule, based on the best available data for 194 LTCHs, we estimated that LTCH prospective payment system payments would be approximately \$1.960 billion for the 2004 LTCH PPS rate year. As we proposed in the March 7, 2003, proposed rule (68 FR 11248), the proposed change to the annual update of the FY 2003 factors and rates from a rate year beginning October 1, 2003, to a rate year beginning July 1, 2003, would be budget neutral because, as we noted above, total estimated LTCH PPS payments in FY 2003 must equal estimated payments that would have been made under the reasonable cost-based principles, if the LTCH PPS were not implemented. Therefore, in order to maintain budget neutrality for the change in the rate update cycle, in this final rule based on updated data and the final policies discussed in this final rule, under § 412.523(c)(3)(ii), we have adjusted the 2004 LTCH PPS rate year standard Federal rate by a factor of 0.997 (((\$1.960 billion – \$5.68 million)/\$1.960 billion) or –0.003 to account for the resulting additional cost of \$5.68 million to the FY 2003 Federal budget that we estimated based on the most recent data for the 3-month period from July 1, 2003, through September 30, 2003, for 194 LTCHs.

In the March 7, 2003, proposed rule (68 FR 11248), we proposed to update the current standard Federal rate (\$34,956.15) established in the August 30, 2002, final rule (67 FR 56033) by 2.2 percent (2.5 percent minus 0.3 percent) for discharges paid under the LTCH PPS that occur on or after July 1, 2003, through June 30, 2004. The proposed update represented the most recent estimate of the increase in the excluded hospital with capital market basket for the proposed 2004 LTCH PPS rate year, adjusted by the above described factor to transition to the proposed change in the rate update cycle to July 1, and is based on the best available data for 194 LTCHs.

Comment: One commenter stated that the proposed 2.2 percent increase in the LTCH PPS standard Federal rate from

\$34,956.15 to \$35,726.64 does not reflect the inflation of input hospital costs.

Response: As noted above, the proposed update of 2.2 percent was based on the most recent estimate of the increase in the proposed excluded hospital with capital market basket for the proposed 2004 LTCH PPS rate year, adjusted as explained above to transition to the proposed change in the rate update cycle to July 1. The proposed update and adjustment were based on the best available data for 194 LTCHs contained in our database. The most recent estimate of the increase in the excluded hospital with capital market basket for the 2004 LTCH PPS rate year was determined in a manner that is consistent with our historical practice of estimating market basket increases for other Medicare prospective payment systems (inpatient acute care hospitals, IRFs, SNFs, and HHAs), that is, using Global Insights' (formerly DRI-WEFA) most recent forecast of the applicable PPS market basket. Furthermore, we believe it is appropriate to adjust the most recent estimate of the 12-month increase in the LTCH PPS market basket for July 1, 2003, through June 30, 2004, because as we explained above, the FY 2003 standard Federal rate (\$34,956.15) already includes inflation for the 3-month period from July 1, 2003, through September 30, 2003. Thus, the projected market basket increase for this 3-month period needs to be deducted from the projected market basket increase for the 12-month period of July 1, 2003, through June 30, 2004.

In addition, as we explained above, it is necessary that the market basket increase be further adjusted so that the proposed change in updating the FY 2003 rate 3 months early (July 1, 2003, instead of October 1, 2003) be budget neutral, as mandated by section 123 of Public Law 106–113 (that is, total estimated LTCH PPS payments in FY 2003 will equal estimated payments that would have been made under the reasonable cost-based principles if the LTCH PPS were not implemented). Therefore, we believe that the proposed methodology for determining the proposed 2.2 percent update for the 2004 LTCH PPS rate year is appropriate.

Comment: A few commenters stated that the proposed 2004 LTCH PPS rate year standardized amount of \$35,726.64 is based on the identification of costs related to short-stay outlier cases which have been derived from cost-to-charge ratios that do not account for the proposed change to the short-stay outlier policy under proposed § 412.529. Specifically, in the March 7, 2003,