

1886(d)(8) and (d)(10) of the Act, as shown in Tables 1 and 2 of the Addendum to this final rule.

In the August 30, 2002, final rule (67 FR 56018), for FY 2003 we used the same data used to compute the FY 2002 acute care hospital inpatient wage index without taking into account geographic reclassifications under sections 1886(d)(8) and (d)(10) of the Act. The same data is also used in the IRF PPS and the SNF PPS. As we discussed in the August 30, 2002, final rule (67 FR 56019), since hospitals that are excluded from the IPPS are not required to provide wage-related information on the Medicare cost report and we would need to establish instructions for the collection of such LTCH data in order to establish a geographic reclassification adjustment under the LTCH PPS, the wage adjustment established under the LTCH PPS is based on a LTCH's actual location without regard to the urban or rural designation of any related or affiliated provider. In this final rule, we are establishing that for the 2004 LTCH PPS rate year, the same data used to compute the FY 2003 acute care hospital inpatient wage index without taking into account geographic reclassifications under sections 1886(d)(8) and (d)(10) of the Act will be used to determine the applicable wage index values under the LTCH PPS, because it is the most recent available complete data. This is the same wage data that were used to compute the FY 2003 wage indices currently used under the IPPS. The final LTCH wage index values for July 1, 2003, through June 30, 2004, are shown in Table 1 (for urban areas) and Table 2 (for rural areas) in the Addendum to this final rule.

As noted above, for cost reporting periods beginning on or after October 1, 2002, and before September 30, 2003 (FY 2003), the labor portion of the standard Federal rate is adjusted by one-fifth of the applicable wage index value (that is, for LTCH PPS discharges on or after July 1, 2003, through June 30, 2004, one-fifth of the full FY 2003 acute care hospital inpatient wage index data, without taking into account geographic reclassifications under sections 1886(d)(8) and (d)(10) of the Act). For cost reporting periods beginning on or after October 1, 2003, and before October 1, 2004 (FY 2004), the LTCH wage index is two-fifths of the applicable wage index value. Therefore, for LTCHs with cost reporting periods beginning on or after October 1, 2003, through September 30, 2004, for discharges occurring on or after July 1, 2003, through June 30, 2004, the labor portion of the standard Federal rate is adjusted by two-fifths of the full FY

2003 acute care hospital inpatient wage index data, without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act.

In conjunction with our proposal to revise and rebase the excluded hospital with capital market basket from an FY 1992 to an FY 1997 base year (as discussed above in section VII.B.1.a. of this preamble), in the March 7, 2003, proposed rule (68 FR 11249–11250), we also proposed to use a labor-related share that is determined based on the FY 1997-based excluded hospital with capital market basket. In the August 30, 2002, final rule (67 FR 56016), we established a labor-related share of 72.885 percent based on the relative importance of the labor-related share of operating and capital costs of the excluded hospital with capital market basket with an FY 1992 base-year. In the March 7, 2003, proposed rule, we proposed a labor-related share of 72.612 percent based on the relative importance of the labor-related share of operating costs (wages and salaries, employee benefits, professional fees, postal services, and all other labor-intensive services) and capital costs in the proposed FY 1997 rebased excluded hospital with capital market basket. (For further details on the development of the proposed labor share of 72.612 percent, refer to the March 7, 2003, proposed rule (68 FR 11249–11250).)

*Comment:* Two commenters noted that the proposed revising and rebasing of the LTCH PPS market basket coincided with the revisions made to the IPPS market basket for FY 2003 where FY 1992 data was replaced with FY 1997 data and other proxies used to measure changes in costs were replaced (see the August 1, 2002, IPPS final rule; 67 FR 50041–50042). While we received no comments on the effect of the proposed revising and rebasing of the LTCH PPS market basket on the LTCH PPS update factor, the commenters noted that the proposed change under the LTCH PPS, resulted in a decrease to the labor share from 72.885 percent to 72.612 percent, while under the IPPS, the use of this new data resulted in an increase in the labor share. However, under the IPPS, CMS decided not to use the updated data pending further analysis. Thus, the commenters believe that a change in the labor share under the LTCH PPS should be delayed, pending the results of the analysis being performed under the IPPS.

*Response:* The methodology used to determine the labor-related share presented in the March 7, 2003, proposed rule is consistent with our historical methodology of determining

the labor-related share in the past for the IPPS market basket and the excluded hospital market basket, which is the summation of cost categories from the market basket deemed to vary with the local labor market. The concerns expressed by the commenters regarding the proposed revising of the LTCH PPS labor-related share are the same concerns expressed by commenters in the August 1, 2002, IPPS final rule (67 FR 50041–50042) when we proposed to revise the IPPS market basket and the excluded hospital market basket. In response to those comments in that same IPPS final rule, we stated that we are in the process of conducting further analysis to determine the most appropriate methodology for determining the labor-related share.

In the May 19, 2003, IPPS proposed rule (68 FR 27226), we explain that we have not yet completed our research into the appropriateness of this measure. In that same IPPS proposed rule, we discuss two ways that we are currently reviewing for establishing the labor-related share—(1) updating the regression analysis that was done when the IPPS was originally developed and (2) reevaluating the methodology we currently use for determining the labor-related share using the hospital market basket. While each of these alternatives have strengths and weaknesses, it is not clear at this point that any one alternative is superior to the current methodology. Thus, we want to continue researching these alternatives, in part, because changing from the current labor share methodology would impact the labor-related shares for other Medicare prospective payment systems, since they use a similar methodology.

Therefore, we agree with the commenter that it would be inappropriate to change the LTCH PPS labor share until the results of this research and analysis are complete. Accordingly, we are adopting the commenters' recommendation and the labor share for the 2004 LTCH PPS rate year will remain 72.885 percent.

## 2. Adjustment for Cost-of-Living in Alaska and Hawaii

Under § 412.525(b), we make a cost-of-living adjustment (COLA) for LTCHs located in Alaska and Hawaii to account for the higher costs incurred in those States. In the March 7, 2003, proposed rule (68 FR 11250), for the proposed 2004 LTCH PPS rate year, we proposed to make a COLA to payments for LTCHs located in Alaska and Hawaii by multiplying the standard Federal payment rate by the appropriate factor listed in Table V. below. These factors are obtained from the U.S. Office of