

Personnel Management (OPM). In addition, in that same proposed rule we stated that if OPM releases revised COLA factors before May 1, 2003, we proposed to use them for the development of payments and publish them in this final rule.

The OPM has not released revised COLA factors for Alaska and Hawaii since the publication of the March 7, 2003, proposed rule. We received no comments on the proposed COLA factors for Alaska and Hawaii for the 2004 LTCH PPS rate year. Therefore, under § 412.525(b), we are finalizing the COLA factors for Alaska and Hawaii shown below in Table V. for the 2004 LTCH PPS rate year.

TABLE V.—COST-OF-LIVING ADJUSTMENT FACTORS FOR ALASKA AND HAWAII HOSPITALS FOR THE 2004 LTCH PPS RATE YEAR

Alaska:	
All areas	1.25
Hawaii:	
Honolulu County	1.25
Hawaii County	1.165
Kauai County	1.2325
Maui County	1.2375
Kalawao County	1.2375

3. Adjustment for High-Cost Outliers

Under § 412.525(a), we make an adjustment for additional payments for outlier cases that have extraordinarily high costs relative to the costs of most discharges. Providing additional payments for outliers strongly improves the accuracy of the LTCH PPS in determining resource costs at the patient and hospital level. These additional payments reduce the financial losses that would otherwise be caused by treating patients who require more costly care and, therefore, reduce the incentives to underserve these patients. We set the outlier threshold before the beginning of the applicable rate year so that total outlier payments are projected to equal 8 percent of total payments under the LTCH PPS.

Under § 412.525(a), we make outlier payments for any discharges if the estimated cost of a case exceeds the adjusted LTCH PPS payment for the LTC-DRG plus a fixed-loss amount. The fixed-loss amount is the amount used to limit the loss that a hospital will incur under an outlier policy. This results in Medicare and the LTCH sharing financial risk in the treatment of extraordinarily costly cases. The LTCH's loss is limited to the fixed-loss amount and the percentage of costs above the marginal cost factor. We calculate the estimated cost of a case by multiplying the overall hospital cost-to-charge ratio

by the Medicare allowable covered charge. In accordance with § 412.525(a), we pay outlier cases 80 percent of the difference between the estimated cost of the patient case and the outlier threshold (the sum of the adjusted Federal prospective payment for the LTC-DRG and the fixed-loss amount).

We determine a fixed-loss amount, that is, the maximum loss that a LTCH can incur under the LTCH PPS for a case with unusually high costs before the LTCH will receive any additional payments. We calculate the fixed-loss amount by simulating aggregate payments with and without an outlier policy. The fixed loss amount would result in estimated total outlier payments being projected to be equal to 8 percent of projected total LTCH PPS payments.

Outlier payments under the LTCH PPS are determined consistent with the IPPS outlier policy. Currently, under the IPPS, a floor and a ceiling are applied to an acute care hospital's cost-to-charge ratio and if the acute care hospital's cost-to-charge ratio is either below the floor or above the ceiling, the applicable statewide average cost-to-charge ratio is assigned to the acute care hospital. Similarly, if a LTCH's cost-to-charge ratio is below the floor or above the ceiling, currently the applicable statewide average cost-to-charge ratio is assigned to the LTCH. In addition, for LTCHs for which we are unable to compute a cost-to-charge ratio, we also assign the applicable statewide average. Currently, MedPAR claims data and cost-to-charge ratios based on the latest available cost report data from HCRIS and corresponding MedPAR claims data are used to establish a fixed-loss threshold amount under the LTCH PPS.

For FY 2003, based on FY 2001 MedPAR claims data and cost-to-charge ratios based on the latest available data from HCRIS and corresponding MedPAR claims data from FYs 1998 and 1999, we established a fixed-loss amount of \$24,450. In the March 7, 2003, proposed rule (68 FR 11251), for the proposed 2004 LTCH PPS rate year, we proposed to continue to use the March 2002 update of the FY 2001 MedPAR claims data to determine a fixed-loss threshold that would result in outlier payments projected to be equal to 8 percent of total payments, based on the policies described in that proposed rule, because these data are the best data available. We would calculate cost-to-charge ratios for determining the proposed fixed-loss amount based on the latest available cost report data in HCRIS and corresponding MedPAR claims data from FYs 1998, 1999, and 2000.

In the March 7, 2003, proposed rule (68 FR 11251), consistent with the proposed outlier policy changes for acute care hospitals under the IPPS discussed in the March 5, 2003, IPPS high-cost outlier proposed rule (68 FR 10424), we proposed to no longer assign the applicable statewide average cost-to-charge ratio when a LTCH's cost-to-charge ratio falls below the floor. We proposed this policy change because, as is the case for acute care hospitals, we believe LTCHs could arbitrarily increase their charges in order to maximize outlier payments. Even though this arbitrary increase in charges should result in a lower cost-to-charge ratio in the future (due to the lag time in cost report settlement), currently when a LTCH's actual cost-to-charge ratio falls below the floor, the LTCH's cost-to-charge ratio would be raised to the applicable statewide average. This application of the statewide average would result in inappropriately higher outlier payments. Accordingly, we proposed to apply the LTCH's actual cost-to-charge ratio to determine the cost of the case, even where the LTCH's actual cost-to-charge ratio falls below the floor.

Also, in the March 7, 2003, proposed rule (68 FR 11251), consistent with the proposed policy change for acute care hospitals under the IPPS, we proposed under § 412.525(a)(4), by cross-referencing proposed § 412.84(i), to continue to apply the applicable statewide average cost-to-charge ratio when a LTCH's cost-to-charge ratio exceeds the ceiling by adopting the proposed policy at proposed § 412.84(i)(1)(ii). As we stated in that same proposed rule, cost-to-charge ratios above this range are probably due to faulty data reporting or entry, and, therefore, should not be used to identify and make payments for outlier cases because such data are clearly errors and should not be relied upon. In addition, we also proposed to make a similar change to the short-stay outlier policy at § 412.529. Since cost-to-charge ratios are also used in determining short-stay outlier payments, the rationale for that proposed change mirrors that for high-cost outliers.

Therefore, in the March 7, 2003, proposed rule (68 FR 11251), consistent with the proposed changes to the IPPS outlier policy, in determining the proposed fixed-loss amount for the proposed 2004 LTCH PPS rate year, we proposed to use only the current combined operating and capital cost-to-charge ratio ceiling under the IPPS of 1.421 (as explained in the IPPS final rule (67 FR 50125, August 1, 2002)). We believe that using the current combined