

payments for FY 2003 determined in paragraph (c)(2) of this section, CMS computes a standard Federal rate for FY 2003 that reflects, as appropriate, the adjustments described in paragraph (d) of this section. The FY 2003 standard Federal rate is effective for discharges occurring in cost reporting periods beginning on or after October 1, 2002 through June 30, 2003.

(ii) *For long-term care hospital prospective payment system rate years beginning July 1, 2003 and after.* The standard Federal rate for long-term care hospital prospective payment system rate years beginning July 1, 2003 and after will be the standard Federal rate for the previous long-term care hospital prospective payment system rate year, updated by the increase factor described in paragraph (a)(2) of this section, and adjusted, as appropriate, as described in paragraph (d) of this section. For the rate year from July 1, 2003 through June 30, 2004, the updated and adjusted standard Federal rate will be offset by a budget neutrality factor to account for updating the FY 2003 standard Federal rate on July 1 rather than October 1.

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(d) * * *

(3) *One-time prospective adjustment.* The Secretary will review payments under this prospective payment system and may make a one-time prospective adjustment to the long-term care hospital prospective payment system rates by October 1, 2006, so that the effect of any significant difference between actual payments and estimated payments for the first year of the long-term care hospital prospective payment system is not perpetuated in the prospective payment rates for future years.

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■ 5. Section 412.525 is amended by revising paragraph (a) to read as follows:

§ 412.525 Adjustments to the Federal prospective payment.

(a) *Adjustments for high-cost outliers.*

(1) CMS provides for an additional payment to a long-term care hospital if its estimated costs for a patient exceed the adjusted LTC-DRG payment plus a fixed-loss amount. For each long-term care hospital rate year, CMS determines a fixed-loss amount that is the maximum loss that a hospital can incur under the prospective payment system for a case with unusually high costs.

(2) The fixed-loss amount is determined for the long-term care

hospital rate year using the LTC-DRG relative weights that are in effect on July 1 of the rate year.

(3) The additional payment equals 80 percent of the difference between the estimated cost of the patient care (determined by multiplying the hospital-specific cost-to-charge ratios by the Medicare allowable covered charge) and the sum of the adjusted Federal prospective payment for the LTC-DRG prospective payment system payment and the fixed-loss amount.

(4) No retroactive adjustments will be made to outlier payments upon cost report settlement to account for differences between the estimated cost-to-charge ratio and the actual cost-to-charge ratio of the case.

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■ 6. Section 412.529 is amended by:

■ A. Revising paragraph (c)(1) introductory text.

■ B. Redesignating paragraph (c)(4) as paragraph (c)(5) and removing the term "LTCH's" and adding the term "long-term care hospital's" in its place.

■ C. Adding a new paragraph (c)(4).

§ 412.529 Special payment provision for short-stay outliers.

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(c) *Method for determining the payment amount.*

(1) Subject to the provisions of paragraph (c)(4) of this section, the adjusted payment amount for a short-stay outlier is the least of the following amounts:

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(4) Effective for discharges occurring on or after July 1, 2003, for long-term care hospitals described under § 412.23(e)(2)(ii), the adjusted payment amount for a short-stay outlier is determined under the formula set forth in paragraph (c)(1) of this section with the following substitution of the percentages specified for the LTC-DRG specific per diem amount and the cost of the case under paragraphs (c)(1)(i) and (c)(1)(ii) of this section:

(i) For the 1st year of the transition period, as specified at § 412.533(a)(1), the percentage is 195 percent.

(ii) For the 2nd year of the transition period, as specified at § 412.533(a)(2), the percentage is 193 percent;

(iii) For the 3rd year of the transition period, as specified at § 412.533(a)(3), the percentage is 165 percent;

(iv) For the 4th year of the transition period, as specified at § 412.533(a)(4), the percentage is 136 percent;

(v) For the 5th year of the transition period and after, as specified at § 412.533(a)(5), the percentage is 120 percent.

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■ 7. Section 412.535 is revised to read as follows:

§ 412.535 Publication of the Federal prospective payment rates.

CMS publishes information pertaining to the long-term care hospital prospective payment system effective for each annual update in the **Federal Register**.

(a) Information on the unadjusted Federal payment rates and a description of the methodology and data used to calculate the payment rates are published on or before May 1 prior to the start of each long-term care hospital prospective payment system rate year which begins July 1, unless for good cause it is published after May 1, but before June 1.

(b) Information on the LTC-DRG classification and associated weighting factors is published on or before August 1 prior to the beginning of each Federal fiscal year.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: May 28, 2003.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Dated: May 28, 2003.

Tommy G. Thompson,

Secretary.

Addendum

This addendum contains the tables referred to throughout the preamble to this final rule. The tables presented below are as follows:

Table 1.—Long-Term Care Hospital Wage Index for Urban Areas for Discharges Occurring from July 1, 2003, through June 30, 2004.

Table 2.—Long-Term Care Hospital Wage Index for Rural Areas for Discharges Occurring from July 1, 2003, through June 30, 2004.

Table 3.—LTC-DRG Relative Weights, Geometric Mean Length of Stay, and Short-Stay Five-Sixths Average Length of Stay for the Period of July 1, 2003, through September 30, 2003.