

data that lowered payments to SNFs located in the Baltimore MSA.

*Response:* The SNF PPS does not include a methodology for retroactive adjustments to the wage index. The payment rates and wage indices are applied prospectively. Similarly, any corrections to the wage indices are also applied prospectively. We rely on the best available data reported by hospitals and audited by our fiscal intermediaries. Clearly, retroactive application of these wage index changes would jeopardize the prospective nature of the system and introduce an even higher level of instability.

The commenters cited § 412.63(x)(2) of the regulations to support their request for this retroactive adjustment. However, this section applies solely to mid-year corrections of the wage index for inpatient hospitals and applies only in cases where the FI or CMS made an error in tabulating the hospital data. In this case, the error was made by the providers and not by either the FI or by CMS. Moreover, the errors in the as-reported data were subject to public review and comment before adoption under the SNF PPS. In fact, this public process has facilitated correction of the data going forward. Unfortunately, the errors in this case were not identified until the data were audited. By that time, it was too late to make a mid-year rate correction. While we regret the impact on Maryland providers, we note that this situation is inherent in a system that uses more recent data. Under a policy of using the most recently published wage index values, the correction to the Baltimore MSA could have been incorporated in the published wage index and resulted in revised reimbursement to providers in the Baltimore MSA.

*Comment:* Several commenters expressed concern that we may have discarded the SNF-specific wage index without further work or development to ensure its accuracy. Another pointed out that we already have the legal authority to develop and collect data necessary to establish an SNF wage index through the Social Security Act Amendments of 1994 (Pub. L. 103-432). These commenters urged us to work with the industry to educate SNF providers, improve the cost reporting tools we use to collect the data, and immediately seek funding for the full-scale auditing of SNF data that would be needed to create and validate an SNF-specific wage index. A few commenters suggested that we should commit the resources required to implement an SNF-specific wage index not later than FY 2006. One commenter expressed concern that the SNF community does

not participate in the hospital wage data collection process. However, a few commenters cautioned us against a precipitous conversion until we are sure that the SNF-specific wage index has been tested to ensure a high level of stability and accuracy.

*Response:* As we discussed in the May 10, 2001 proposed rule (66 FR 24010 through 24011), there is a great deal of volatility in the SNF-specific wage index prototype—not only between it and the hospital wage data, but also between the 2 years of data that we used in developing the SNF-specific wage index prototype. As many commenters suggested, the data could be improved if we were to establish better controls, edits, and screens of the data, and insist that more of the provider's data be audited to ensure its accuracy. We are committed to a process to ensure the accuracy of the data and have already implemented several edits and screens to improve the quality of data reported. We have made several corrections and changes to the cost reports/edits/screens as a result of consultation with industry representatives. However, these changes were made prospectively, and the full year's data needed to evaluate these efforts are not yet available. Moreover, while we are proceeding with our analysis, we still have concerns about the accuracy of the data being reported. Hospitals have been reporting wage and hourly data for years, yet the FIs and providers must still spend a considerable amount of time resolving problems and changes to the data to derive the published hospital wage index. The problem experienced by Maryland providers in FY 2001 illustrates the difficulty of timely verification of wage data, which often results in changes being made to the wage index even after the update regulations are published.

We agree that auditing all SNFs would provide more accurate and reliable data; however, this approach involves a significant commitment of our resources and our contractors and may place a significant recordkeeping and reporting burden on providers. Developing a desk review and audit program similar to what is required in the hospital setting would, at a minimum, require significant resources. The FIs that are involved in preparing the hospital wage data currently spend considerable resources to ensure the accuracy of the wage data submitted by approximately 6,000 hospitals. As we noted in the July 31, 2001 final rule (66 FR 39579), this process involves editing, reviewing, auditing, and performing desk reviews of the data. Requiring FIs

to do the same for the approximately 14,000 SNFs would nearly triple the contractors' workload and budgets in this area. While we have noted the industry concerns and funding needs, there are no funds currently available to develop this system to the point where we could rely on the data that any such system would produce. We are committed to continuing our investigation of an SNF-specific wage index that would enhance our current payment methodology.

However, we do not expect to propose a SNF-specific wage index until we can demonstrate that it would significantly improve our ability to determine payments for facilities, and justify the resources required to collect the data, as well as the increased burden on providers. We also want to point out that the development of the hospital wage data can also be scrutinized and evaluated by the SNF industry when commenting on the hospital proposed rule that is published each spring. Therefore, because of the problems associated with the current SNF-specific data, and our inability to demonstrate that an SNF-specific wage index would be more reflective of the wages and salaries paid in a specific area, we continue to believe that hospital wage data are the most appropriate data for adjusting payments made to SNFs.

*Comment:* A small number of commenters suggested that if SNFs are going to use the hospital wage index, several components of the hospital PPS should be immediately applied to SNFs. For example, one commenter suggested that we ensure that no MSA wage index value is lower than the State-wide rural wage index. Other commenters recommended an immediate change in SNF PPS methodology to allow provider reclassification.

*Response:* As discussed above, the calculation of the wage indices must be made in a budget neutral manner. If we adopted this hospital PPS provision and established a wage index floor, there would be no change in the aggregate reimbursement for SNFs. While we are not convinced a state-wide floor would provide a more accurate wage index, we encourage input from the industry on why this could provide a more accurate wage index, noting that the redistribution of funds would reduce payments to some providers while it increased payments to others.

Under section 315 of the BIPA, the Congress authorized the use of a reclassification methodology in the SNF PPS that would allow providers to seek geographic reclassification. However, the statute specifically noted that such reclassification could not be