

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-1233-N]

RIN 0938-AM67

Medicare Program; Hospice Wage Index for Fiscal Year 2004

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the annual update to the hospice wage index as required by statute. This fiscal year 2004 update is effective from October 1, 2003 through September 30, 2004. The wage index is used to reflect local differences in wage levels. The hospice wage index methodology and values are based on recommendations of a negotiated rulemaking advisory committee and were originally published in the August 8, 1997 **Federal Register**.

EFFECTIVE DATE: October 1, 2003.

FOR FURTHER INFORMATION CONTACT: Terri Deutsch, (410) 786-9462.

SUPPLEMENTARY INFORMATION:

I. Background

Hospice care is an approach to treatment that recognizes that the impending death of an individual warrants a change in the focus from curative care to palliative care (relief of pain and other uncomfortable symptoms). The goal of hospice care is to help terminally ill individuals continue life with minimal disruption to normal activities while remaining primarily in the home environment. A hospice uses an interdisciplinary approach to deliver medical, social, psychological, emotional, and spiritual services through use of a broad spectrum of professional and other caregivers, with the goal of making the individual as physically and emotionally comfortable as possible. Counseling and inpatient respite services are available to the family of the hospice patient. Hospice programs consider both the patient and the family as a unit of care.

Section 1861(dd) of the Social Security Act (the Act) provides for coverage of hospice care for terminally ill Medicare beneficiaries who elect to receive care from a participating hospice. The statutory authority for payment to hospices participating in the Medicare program is contained in section 1814(i) of the Act.

Our existing regulations under 42 CFR part 418 establish eligibility requirements and payment standards and procedures, define covered services, and delineate the conditions a hospice must meet to be approved for participation in the Medicare program. Subpart G of part 418 provides for payment to hospices based on one of four prospectively determined rates for each day in which a qualified Medicare beneficiary is under the care of a hospice. The four rate categories are routine home care, continuous home care, inpatient respite care, and general inpatient care. Payment rates are established for each category.

The regulations at § 418.306(c), which require the rates to be adjusted by a wage index, were revised in the August 8, 1997 final rule (62 FR 42860). This rule implemented a new methodology for calculating the hospice wage index based on the recommendations of a negotiated rulemaking committee. The committee reached consensus on the methodology. We included the resulting committee statement, describing that consensus, as an appendix to the August 8, 1997 final rule (62 FR 42883). The provisions of the final hospice wage index rule are as follows:

- The revised hospice wage index will be calculated using the most current available hospital wage data.
- The revised hospice wage index was phased in over a 3-year transition period. For the first year of the transition period, October 1, 1997 through September 30, 1998, a blended index was calculated by adding two-thirds of the 1983 index value for an area to one-third of the revised wage index value for that area. During the second year of the transition period, October 1, 1998 through September 30, 1999, the calculation was similar, except that the blend was one-third of the 1983 index value and two-thirds of the revised wage index value for that area. We fully implemented the revised wage index during the third year of the transition period, October 1, 1999 through September 30, 2000.

Payments to hospices under the revised wage index (as published in the August 8, 1997 final hospice wage index rule) are subject to a budget neutrality adjustment to ensure that aggregate payments are not greater than they would have been using the original 1983 wage index. To achieve this budget neutrality, the hospice wage index is multiplied by a budget-neutrality factor. The budget neutrality factor is computed and applied annually.

The hospice budget-neutrality adjustment is not applied uniformly to all providers in calculating payments.

Based on the methodology developed and signed by the negotiated rulemaking committee and adopted by CMS, a hospice's area wage index is adjusted using either the budget-neutrality factor or the hospice wage index floor described below.

Hospice wage index values of 0.8 or greater are multiplied by the budget neutrality factor.

Hospice wage index values below 0.8 are adjusted by the greater of: (1) the hospice budget neutrality factor; or (2) the hospice wage index floor (a 15 percent increase, subject to a maximum wage index value of 0.8).

The wage index is to be updated annually, in the **Federal Register**, based on the most current available hospital wage data. These data will include any changes to the definitions of Metropolitan Statistical Areas (MSAs).

Section 4441(a) of the Balanced Budget Act of 1997 (BBA) amended section 1814(i)(1)(C)(ii) of the Act to establish updates to hospice rates for fiscal years (FYs) 1998 through 2002. Hospice rates were to be updated by a factor equal to the market basket index, minus 1 percentage point. However, neither the BBA nor subsequent legislation specified the market basket adjustment to be used to compute payment for FY 2004. Therefore, payment rates for FY 2004 will be updated according to section 1814(i)(1)(C)(ii)(VII) of the Act, which states that the update to the payment rates after 2002 will be the market basket percentage for the FY. Accordingly, the FY 2004 rates will be the full market basket percentage increase for the FY 2004. This rate update is implemented through a separate program memorandum and is not part of this notice. Historically the rate update has been published through a separate program memorandum issued annually in July to provide adequate time to implement system change requirements. For FY 2004 the hospice rates were published on July 3, 2003. The wage index in this notice is applied to the labor portion of the rates published in the program memorandum in order for providers to determine their payment rates.

II. Provisions of the Notice

A. Update to the Hospice Wage Index

This annual update is effective October 1, 2003 through September 30, 2004. In accordance with the agreement we signed with other members of the Hospice Wage Index Negotiated Rulemaking Committee, we are using the most current hospital data available to us, including any changes to the