

MSA Code Number	Nonurban Area	Wage Index <sup>3</sup>
9946	Utah	0.9882
9947	Vermont	0.9917
9948	Virgin Islands	1.0200
9949	Virginia	0.9025
9950	Washington	1.0802
9951	West Virginia	0.8463
9952	Wisconsin	0.9723
9953	Wyoming	0.9559
9965	Guam	0.8325

<sup>3</sup> Wage index values are based on FY 2000 hospital cost report data before reclassification. This wage index is further adjusted. Wage index values greater than 0.8 are subject to a budget-neutrality adjustment calculated by multiplying the hospital wage index value for a given area by a budget-neutrality factor of 1.061238. Wage index values below 0.8 are adjusted to be the greater of a 15-percent increase, subject to a maximum wage index value of 0.8, or a budget-neutrality adjustment calculated by multiplying the hospital wage index value for a given area by the budget-neutrality factor. We have completed all of these adjustments and included them in the wage index values reflected in this table.

<sup>4</sup> All counties within the State are classified as urban.

BILLING CODE 4120-01-C

### III. Waiver of Proposed Rulemaking and Waiver of 30-Day Delay in Effective Date

We are waiving notice and comment rulemaking, as well as the 30-day delay in the effective date, before the provisions of this notice take effect. We may waive notice and comment rulemaking procedures if we find good cause to do so (that is, notice and comment procedures are impracticable, unnecessary, or contrary to the public interest) and the agency incorporates a statement of the finding and the reasons for waiver in the notice issued.

In addition, under the Administrative Procedure Act (5 U.S.C. section 553 (d)), an agency may waive the 30-day delay in the effective date if the agency finds good cause to do so (meaning, once again, that the delay is impracticable, unnecessary, or contrary to the public interest), and the agency incorporates a statement of the finding and its reasons in the rule at the time it is issued.

We find it unnecessary to undertake notice and comment rulemaking because the methodologies used to determine the hospice wage index have been previously subjected to public comments, and this notice merely reflects the application of those previously established methodologies.

In this notice, we are not changing the methodologies, but merely performing the ministerial function of applying methodologies previously subject to notice and public comment. Therefore, we believe it is unnecessary to engage in notice and comment rulemaking and for good cause, we waive notice and comment procedures.

We also believe that good cause exists to waive both notice and comment rulemaking and the 30-day delay in the effective date, because it is in the public interest to make this notice effective on October 1, 2003. The statute in 1814(i)(1)(C)(ii)(VII) of the Act requires annual updates to the hospice payment rates and wage indices. In addition, the Federal Regulations at 42 CFR 418.306(b)(2) and (c) require annual updates to hospice wage indices and require that such updates be effective for the FY, beginning on October 1. We do not have sufficient time to either engage in notice and comment rulemaking or apply a 30-day delay in the effective date prior to such date. Moreover, if we do not make this notice effective on the implementation date of October 1, 2003, the hospice agencies would be required to continue to use the previous 2003 FY wage index for the 2004 payment rates.

Finally, for the reasons stated above, at this time, we believe it would be

impracticable to both meet the requirement that updated rates be in effect by October 1, 2003, and also engage in notice and comment rulemaking or apply the 30-day delay in the effective date prior to that date.

Therefore, for the reasons stated above, we find there is good cause to waive notice and comment procedures, as well as the 30-day delay in the effective date of the Administrative Procedure Act.

### IV. Regulatory Impact Analysis

#### A. Overall Impact

We have examined the impacts of this notice as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96-354), section 1102(b) of the Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), and Executive Order 13132. In this notice, we identified the impact on hospices as a result of updating the hospice wage index. The methodology for computing the wage index for FY 2004 was determined through a negotiated rulemaking committee and implemented in the August 8, 1997 final rule (62 FR 42860). This notice only updates the hospice wage index in accordance with that methodology. We