

computed the change in average case mix for hospitals paid under the Medicare prospective payment system in fiscal year 2003 compared to fiscal year 2002. (We excluded from this calculation hospitals excluded from the prospective payment system because their payments are based on reasonable costs. We used bills from prospective payment hospitals received in CMS as of July 2003. These bills represent a total of about 9.0 million discharges for fiscal year 2003 and provide the most recent case mix data available at this time. Based on these bills, the change in average case mix in fiscal year 2003 is 0.87 percent. Based on past experience, we expect the overall case mix change to be 1 percent as the year progresses and more fiscal year 2003 data become available.

Section 1813 of the Act requires that the inpatient hospital deductible be adjusted only by that portion of the case mix change that is determined to be real. We estimate that the change in real

case mix for fiscal year 2003 is 1 percent.

Thus, the estimate of the payment-weighted average of the applicable percentage increases used for updating the payment rates is 3.4 percent, and the real case mix adjustment factor for the deductible is 1 percent. Therefore, under the statutory formula, the inpatient hospital deductible for services furnished in calendar year 2004 is \$876. This deductible amount is determined by multiplying \$840 (the inpatient hospital deductible for 2003) by the payment-weighted average increase in the payment rates of 1.034 multiplied by the increase in real case mix of 1.01, which equals \$877 and is rounded to \$876.

### III. Computing the Inpatient Hospital and Extended Care Services Coinsurance Amounts for 2004

The coinsurance amounts provided for in section 1813 of the Act are defined as fixed percentages of the

inpatient hospital deductible for services furnished in the same calendar year. Thus, the increase in the deductible generates increases in the coinsurance amounts. For inpatient hospital and extended care services furnished in 2004, in accordance with the fixed percentages defined in the law, the daily coinsurance for the 61st through 90th day of hospitalization in a benefit period will be \$219 (one-fourth of the inpatient hospital deductible); the daily coinsurance for lifetime reserve days will be \$438 (one-half of the inpatient hospital deductible); and the daily coinsurance for the 21st through 100th day of extended care services in a skilled nursing facility in a benefit period will be \$109.50 (one-eighth of the inpatient hospital deductible).

### IV. Cost to Beneficiaries

Table 1 summarizes the deductible and coinsurance amounts for 2003 and 2004, as well as the number of each that is estimated to be paid.

TABLE 1.—PART A DEDUCTIBLE AND COINSURANCE AMOUNTS FOR CALENDAR YEARS 2003 AND 2004

| Type of Cost Sharing                              | Value  |        | Number paid (in millions) |       |
|---|--------|--------|---------------------------|-------|
|   | 2003   | 2004   | 2003                      | 2004  |
| Inpatient hospital deductible .....               | \$840  | \$876  | 9.22                      | 9.40  |
| Daily coinsurance for 61st–90th Day .....         | 210    | 219    | 2.46                      | 2.50  |
| Daily coinsurance for lifetime reserve days ..... | 420    | 438    | 1.14                      | 1.16  |
| SNF coinsurance .....                             | 105.00 | 109.50 | 27.73                     | 28.18 |

The estimated total increase in cost to beneficiaries is about \$720 million (rounded to the nearest \$10 million), due to (1) the increase in the deductible and coinsurance amounts and (2) the change in the number of deductibles and daily coinsurance amounts paid.

### V. Waiver of Proposed Notice and Comment Period

The Medicare statute, as discussed previously, requires publication of the Medicare Part A inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services for each calendar year. The amounts are determined according to the statute. As has been our custom, we use general notices, rather than notice and comment rulemaking procedures, to make the announcements. In doing so, we acknowledge that, under the Administrative Procedure Act, interpretive rules, general statements of policy, and rules of agency organization, procedure, or practice are excepted from the requirements of notice and comment rulemaking.

We considered publishing a proposed notice to provide a period for public comment. However, we may waive that procedure if we find good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. We find that the procedure for notice and comment is unnecessary because the formulae used to calculate the inpatient hospital deductible and hospital and extended care services coinsurance amounts are statutorily directed, and we can exercise no discretion in following those formulae. Moreover, the statute establishes the time period for which the deductible and coinsurance amounts will apply and delaying publication would be contrary to the public interest. Therefore, we find good cause to waive publication of a proposed notice and solicitation of public comments.

### VI. Regulatory Impact Statement

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 Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). As stated in Section IV, we estimate that the total increase in costs to beneficiaries associated with this notice is about \$720 million due to (1) the increase in the deductible and coinsurance amounts and (2) the change in the number of deductibles and daily coinsurance amounts paid. Therefore, this notice is a major rule as defined in Title 5, United States Code, section 804(2) and is an economically significant rule under Executive Order 12866.

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses,