

incomplete actual expenditure data for 2003, we are using an estimate for this period. Any difference between current

estimates and final figures will be taken into account in determining the update adjustment factor for future years.

We are using figures from table 13 in the statutory formula illustrated below:

$$UAF = \frac{\text{Target}_{03} - \text{Actual}_{03}}{\text{Actual}_{03}} \times .75 + \frac{\text{Target}_{4/96-12/03} - \text{Actual}_{4/96-12/03}}{\text{Actual}_{03} \times \text{SGR}_{04}} \times .33$$

UAF = Update Adjustment Factor
Target₀₃ = Allowed Expenditures for 2003 or \$71.7 billion
Actual₀₃ = Estimated Actual Expenditures for 2003 = \$77.8 billion

Target_{4/96-12/03} = Allowed Expenditures from 4/1/1996–12/31/2002 = \$454.2 billion
Actual_{4/96-12/02} = Estimated Actual Expenditures from 4/1/1996–12/31/2003 = \$462.0 billion

SGR₀₃ = 7.4 percent (1.074)

$$\frac{\$71.7 - \$77.8}{\$77.8} \times .75 + \frac{\$454.2 - \$462.0}{\$77.8 \times 1.074} \times .33 = -.090$$

Section 1848(d)(4)(D) of the Act indicates that the UAF determined under section 1848(d)(4)(B) of the Act for a year may not be less than –0.070 or greater than 0.03. The calculated UAF of –0.090 is less than the statutory limit of –0.070. Therefore, the UAF for 2004 will be –0.070.

Section 1848(d)(4)(A)(ii) of the Act indicates that 1 should be added to the UAF determined under section 1848(d)(4)(B) of the Act. Thus, adding 1 to –0.070 makes the update adjustment factor equal to 0.930.

VII. Allowed Expenditures for Physicians' Services and the Sustainable Growth Rate

A. Medicare Sustainable Growth Rate

The SGR is an annual growth rate that applies to physicians' services paid for by Medicare. The use of the SGR is intended to control growth in aggregate Medicare expenditures for physicians' services. Payments for services are not withheld if the percentage increase in actual expenditures exceeds the SGR. Rather, the physician fee schedule update, as specified in section 1848(d)(4) of the Act, is adjusted based on a comparison of allowed expenditures (determined using the SGR) and actual expenditures. If actual expenditures exceed allowed expenditures, the update is reduced. If actual expenditures are less than allowed expenditures, the update is increased.

Section 1848(f)(2) of the Act specifies that the SGR for a year (beginning with 2001) is equal to the product of the following four factors:

- (1) The estimated change in fees for physicians' services.
- (2) The estimated change in the average number of Medicare fee-for-service beneficiaries.

(3) The estimated projected growth in real GDP per capita.

(4) The estimated change in expenditures due to changes in law or regulations.

In general, section 1848(f)(3) of the Act requires us to publish SGRs for 3 different time periods, no later than November 1 of each year, using the best data available as of September 1 of each year. Under section 1848(f)(3)(C)(i) of the Act, the SGR is estimated and subsequently revised twice (beginning with the FY and CY 2000 SGRs) based on later data. (The Consolidated Appropriations Reduction Resolution of 2003 (P.L. 108–7) contained a provision permitting revision of the FY 1998 and FY 1999 SGRs. See the February 28, 2003 **Federal Register** (68 FR 9567) for a discussion of these SGRs. Under section 1848(f)(3)(C)(ii) of the Act, there are no further revisions to the SGR once it has been estimated and subsequently revised in each of the 2 years following the preliminary estimate. In this final rule, we are making our preliminary estimate of the 2004 SGR, a revision to the 2003 SGR, and our final revision to the 2002 SGR.

B. Physicians' Services

Section 1848(f)(4)(A) of the Act defines the scope of physicians' services covered by the SGR. The statute indicates that the term "physicians' services" includes other items and services (such as clinical diagnostic laboratory tests and radiology services), specified by the Secretary, that are commonly performed or furnished by a physician or in a physician's office, but does not include services furnished to a Medicare+Choice plan enrollee. We published a definition of physicians' services for use in the SGR in the **Federal Register** (66 FR 55316) on

November 1, 2001. We defined "physicians' services" to include many of the medical and other health services listed in section 1861(s) of the Act. For purposes of determining allowed expenditures, actual expenditures, and SGRs through December 31, 2002, we have specified that "physicians' services" include the following medical and other health services if bills for the items and services are processed and paid by Medicare carriers (and those items and services paid through intermediaries where specified):

- Physicians' services.
- Services and supplies furnished incident to physicians' services.
- Outpatient physical therapy services and outpatient occupational therapy services.
- Antigens prepared by or under the direct supervision of a physician.
- Services of physician assistants, certified registered nurse anesthetists, certified nurse midwives, clinical psychologists, clinical social workers, nurse practitioners, and clinical nurse specialists.
- Screening tests for prostate cancer, colorectal cancer, and glaucoma.
- Screening mammography, screening pap smears, and screening pelvic exams.
- Diabetes outpatient self-management training services.
- Medical nutrition therapy services.
- Diagnostic x-ray tests, diagnostic laboratory tests, and other diagnostic tests (including outpatient diagnostic laboratory tests paid through intermediaries).
- X-ray, radium, and radioactive isotope therapy.
- Surgical dressings, splints, casts, and other devices used for the reduction of fractures and dislocations.
- Bone mass measurements.