

We did not adopt the options that would allow no adjustments for items separately paid in 2003 where the costs declined because we were convinced by the many commenters on this topic that such fluctuations create problems for the hospitals. We were also convinced by the commenters that a less generous give-back, such as 50 percent, would not adequately address the very real concerns about patient access to some of these drugs, particularly for cancer chemotherapy. We believe that, for the majority of items paid separately in 2003 for which the more recent hospital data indicates a reduction in excess of

15 percent, the adjustment methodology we proposed and that we are adopting for this final rule provides an adequate buffer for the hospitals against dramatic fluctuations in payment amounts while at the same time not significantly affecting the budget neutrality scalar applied to the relative weights for all services.

We believe that either the use of our unadjusted medians or, where applicable, a median adjusted to limit reductions greater than 15 percent methodology, will not adversely impact beneficiary access. However, we were convinced by the external data meeting our preferred criteria and the related

comments that we received for several items, the payment rates resulting from our data alone could provide a disincentive for hospitals to provide these particular therapies. Therefore, we have determined that we will use this credible and relevant external data to establish a median cost for the following items listed in table 15. For these items, as with the few device-related APCs for which we are considering external data, we have calculated an adjusted median cost by blending the median cost derived from our dampening methodology with the cost data from the external sources on a one-to-one ratio.

TABLE 12.—LIST OF DRUGS, BIOLOGICALS, AND RADIOPHARMACEUTICALS FOR WHICH BLENDED DATA WERE USED TO DETERMINE 2004 PAYMENT RATES

APC	HCCPS	Short descriptor	2004 adjusted median cost	External acquisition cost	2004 1:1 Blended median cost
0909	J1825	Interferon beta-1a	\$159.16	\$231.25	\$195.21
9022	Q3025	IM inj interferon beta-1a	53.05	77.08	65.07
0902	J0585	Botulinum toxin a	2.86	3.92	3.39
7000	J0207	Amifostine	241.95	369.49	305.72
1624	Q3007	Sodium phosphate p32	49.18	100.00	74.59
1625	Q3008	Indium 111-in pentetreotide	400.41	550.00	475.21
1305	C1305	Apligraf	659.55	1,077.57	868.56

We note that we also received external data for other items, which we did not use for rate setting. In those cases, we determined the data was not reliable because the data did not meet the preferred criteria set forth in the August 12, 2003 proposed rule.

Comment: One commenter raised a concern about our proposal to limit reductions in the median costs of non-pass-through drugs and biologicals to one-fourth of the difference between the actual decline and 15% less than the 2003 adjusted median. While expressing support for an initiative that reduces significant fluctuation in APC payment rates from one year to the next, the commenter expressed uncertainty about the size of the reduction limitation and suggested that CMS consider a less generous dampening approach since the budget-neutral dampening would negatively affect other APCs.

Response: While we believe that a general limitation on reductions in payments for certain drugs and biologicals is warranted for reasons discussed elsewhere in this final rule, we also recognize the commenter's concerns about the effect that such a policy would have on other APCs. We have decided to address the commenter's concern by placing an upper limit on adjustments to the median costs used to calculate the 2004 payment rates. We believe that it is reasonable to place such an upper limit on the dampening so that the resulting adjusted median is no greater than 95 percent of AWP or the 2004 unadjusted median. We reviewed the drugs, biologicals, and radiopharmaceuticals whose median costs decreased by more than 15 percent from 2003 to 2004. We then compared the adjusted median (after dampening) to 95 percent of AWP for each of the items. In cases where 95

percent of AWP was higher than the adjusted median, we capped the adjusted median at a value that was the higher of 95 percent of AWP or the 2004 unadjusted median. The 95 percent of AWP for these drugs and radiopharmaceuticals were calculated using AWP values from the Redbook that were effective as of April 1, 2003. We reviewed the drugs, biologicals, and radiopharmaceuticals whose median costs decreased by more than 15 percent from 2003 to 2004. We then compared the adjusted median (after dampening) to 95 percent of AWP for each of the items. In cases where 95 percent of AWP was higher than the adjusted median, we capped the adjusted median at a value that was the higher of 95 percent of the AWP or the 2004 unadjusted median. The drugs, biologicals, and radiopharmaceuticals affected by this policy are listed in the table below.

TABLE 13.—ITEMS WHOSE 2004 ADJUSTED MEDIANS ARE CAPPED AT THE HIGHER OF 95 PERCENT OF AWP OR THEIR 2004 UNADJUSTED MEDIAN

APC	Description	2004 adjusted median	95% AWP	2004 unadjusted median
1095	Technetium TC 99m depreotide	\$216.26	\$40.00	\$17.18
0820	Daunorubicin	89.80	78.14	65.81
0961	Albumin (human), 5%, 50 ml	41.86	15.31	16.15
0963	Albumin (human), 5%, 250 ml	204.03	58.00	62.83
0964	Albumin (human), 25%, 20 ml	46.10	15.31	21.86
0965	Albumin (human), 25%, 50 ml	114.36	30.63	51.12