

#### *D. Number of Pages Copied Annually*

In this final rule, we are using 364,320 pages per year in the calculation of the annual labor cost. In the October 20, 1992, rule, we determined that 364,320 was the number of pages that could reasonably be expected to be copied in a year. Earlier, in the proposed rule "Changes to Peer Review Organizations Regulations", published on March 16, 1988, at 53 FR 8654, we had proposed the use of 748,000 pages per year in the calculation of the annual labor cost. This initial figure was determined based on copying documents at a rate of six pages per minute for each hour in an 8 hour day, 5 days a week, 52 weeks per year. The estimate was based on hand feeding of documents into the photocopying machine for duplication, although we recognized that there are many photocopying tasks that may be accomplished through automatic feeds. Automatic feeds greatly increase the number of pages that can be generated by a machine on an hourly basis, and as a result, greatly decrease the cost of photocopying per page.

In response to comments received on the March 16, 1988, proposed rule (53 FR 8654), we revised the 748,000 figure in the October 20, 1992, final rule to account for time spent by the photocopy machine operator in search and retrieval tasks, and time away from work on annual vacation, sick, and holiday leave. This resulted in a reduction from 748,000 to 364,320 in our estimate of the number of pages that may be reasonably expected to be made annually, and a corresponding increase in the per-page labor rate.

We are unaware of any significant changes in technology since the October 20, 1992, final rule (57 FR 47779) that would lead to either a significant decrease or increase in the annual number of pages that may be copied. Nor are we aware of any changes that would significantly increase or decrease the time allocated to search and retrieval tasks. Therefore, we continue to use the 364,320 figure to calculate the per-page labor cost.

#### *E. Calculation of Per-Page Labor Costs*

To determine the per-page labor cost, the total of salary (\$28,727) and fringe benefits (\$8,532) costs, which amount to \$37,259, was divided by 364,320 pages, the number of copies made in a year, resulting in an annual labor cost per page of 10 cents (\$37,259/364,320 pages).

#### *F. Supply Costs*

In the proposed rule, we proposed a total supply cost of 2.3 cents per page.

This is based on a per-page paper cost of 0.5 cents and a developer and toner cartridge cost of 1.8 cents per page. The paper costs were calculated based on \$23 per case of paper with 5,000 sheets in a case. This equates to 0.5 cents per page (\$23/5,000).

In this rule, we used an objective methodology to calculate the per-page cost for toner and developer that can also be used in future updates. We calculated these costs using estimates of the costs for toner cartridges and developer drums contained in the General Services Administration (GSA) supply catalogue, and on the basis of a photocopy machine producing 364,320 pages annually.

#### *G. Payment Rate Per Page*

Consistent with § 476.78(c)(3), the payment rate per page is the total of the per-page labor cost and the per-page supply cost, which is equivalent to 12 cents. The established calculation methodology actually results in a cost of 12.3 cents per page, however, consistent with our policy and generally accepted mathematics principles, we chose to round down to 12 cents. We believe this decision is both reasonable and supportable, based on the fact that the higher amount substantially exceeds all published OMB inflation indexes, including the Consumer Price Index (CPI)-Wage index (photocopying expense is largely comprised of labor costs).

#### *H. Future Updates to Rate of Photocopy Reimbursement*

In addition to updating the rate of reimbursement for photocopies, we are also amending the existing regulation to permit the rate to be adjusted without undergoing notice-and-comment rulemaking each time it needs to be adjusted to reflect inflationary or technology changes.

We intend to review and adjust the rate periodically in accordance with the same factors considered in establishing the rate in the October 20, 1992, final rule and the updated rate in this final rule. This review will include an examination of the labor and supply components of the formula, and we will update the rate as necessary to account for significant inflationary changes to these components.

Absent some compelling reason, in future updates, we will continue to deem the salary and fringe benefits of a Federal government GS-5 midlevel secretary as representative of the salary and fringe benefits of a photocopy machine operator and use those values to calculate the reimbursement rate. Also, absent some compelling reason or

major technological change that would lead to a significant increase or decrease in the number of pages that can be made annually, we will not change the number of pages used in calculating the rate.

#### *I. Reimbursement to Other PPS Providers of the Cost of Photocopying*

We will provide for the payment of the expenses of furnishing photocopies to QIOs, to other providers subject to a PPS (for example, skilled nursing facilities (SNFs) and home health agencies (HHAs)), in accordance with the rules established at § 476.78 for reimbursing PPS hospitals for these expenses.

Current regulations do not address reimbursement for providers other than hospitals for costs of photocopying medical records in cooperation with QIO review activities because in the past QIO review of providers other than hospitals was relatively insignificant. To the extent that this review activity took place, it was minimal, and the related costs were included on the provider's cost report. SNFs, HHAs, and other providers have recently converted from the cost-based reimbursement system to a PPS. Because QIO review of these providers has been minimal or nonexistent, costs related to this activity are not adequately reflected in the base PPS rate. Therefore, we believe it is appropriate to provide for a means of paying for these costs when they occur. To accomplish this change, we will replace the more narrow term "hospitals" with "providers," in § 476.78(b)(2) and (c), to include other providers subject to a PPS.

Additionally, we will revise the payment provisions for SNFs and HHAs by adding a paragraph at § 413.355 and § 484.265, that authorizes reimbursement for the costs of photocopying and mailing medical records required for QIO review, to SNFs and HHAs.

We will amend § 476.78(d) to provide that, as with other disputes regarding Medicare payment to providers, disputes concerning payments for costs related to QIO review under § 476.78 and the other payment provisions of the Medicare statute and regulations must be presented in accordance with the administrative and judicial review requirements of section 1878 of the Act and subpart R of 42 CFR part 405.

#### **III. Analysis of and Responses to Public Comments**

We received three timely items of correspondence in response to the proposed rule published on November 22, 2002. A summary of the major issues