

DG (deleted with grace). These codes are not deleted for 2004, and the condition should be blank. We correct the condition on page 63490 for codes 00546, 00548, 00550, 00560, 00562, 00563, and 00566; and page 63539 for codes 47135, 47136, 47300, and 47350; and page 63619 for E0165. See Table 2—Corrections to Addendum B of the November 7, 2003, Final Rule for corrections to Addendum B for the codes identified above.

On page 63569, CPT/HCPCS 76977 was inadvertently assigned an incorrect status indicator. We remove status indicator S and insert status indicator X. The payment rates are correct as is. See Table 2—Corrections to Addendum B of the November 7, 2003, Final Rule for corrections to Addendum B for the code identified above.

On page 63590, CPT/HCPCS 92019 was assigned an incorrect status indicator. We remove status indicator S and insert status indicator T. The payment rates are correct as is. See Table 2—Corrections to Addendum B of the November 7, 2003, Final Rule for corrections to Addendum B for the code identified above.

On page 63608, CPT/HCPCS A9700 was incorrectly assigned an APC, relative weight, payment rate, and copayment. A9700 is not payable under OPPS, and no payment should be made for this service. We remove the APC, relative weight, payment rate, and minimum unadjusted copayment. See Table 2—Corrections to Addendum B of the November 7, 2003, Final Rule for corrections to Addendum B for the code identified above.

On page 63588, CPT/HCPCS codes 90296 and 90581 are incorrectly assigned a status indicator, APC, relative weight, payment rate, and copayment. Effective 1/1/04, codes 90296 and 90581 are packaged services and therefore are assigned status indicator N. For codes 90296 and 90581, we remove status indicator K, APC, payment rate, and minimum unadjusted copayment, and insert status indicator N. See Table 2—Corrections to Addendum B of the November 7, 2003, Final Rule for corrections to Addendum B for the codes identified above.

On page 63623, CPT/HCPCS code E1065 omits condition DG. This code is

deleted with grace period effective January 1, 2004. We correct this by inserting DG in the condition column.

Many codes were incorrectly listed with status indicator A that should be listed with the new status indicator Y, indicating that the code is not paid under OPPS, but should be billed to the Durable Medical Equipment Regional Carrier (DMERC). They are listed in Tables 3–5. In addition, codes A4232, A4632, E0188, E0189, E0218, E0602, E0740, E0760, E0765, K0610, K0611, K0612, and K0613 were incorrectly listed with status indicator E, but should be listed with status indicator Y. Codes E0967, E0969, E0977, E0980, E0994, E0997, E0998, E0999, E1001, E1035, E1065, and E1227 were incorrectly listed with status indicator B, but should be listed with status indicator Y. For all these codes, we remove the current status indicator and insert status indicator Y. See Tables 3–5 for a list of codes for which the status indicator has changed from A, E, or B to Y.

On page 63471 of the November 7, 2002 Final Rule, we specify that HCPCS codes for drugs, biologicals, and radiopharmaceuticals that are new for 2004 yet have no predecessor will be assigned packaged status for 2004.

On pages 63608 and 63652, HCPCS codes A9526 and Q4078, respectively, were incorrectly assigned a status indicator, APC, relative weight, payment rate, and copayment. Effective 1/1/04, codes A9526 and Q4078 are packaged services and therefore are assigned status indicator N. For these codes, we remove status indicator K, APC, payment rate, and minimum unadjusted copayment, and insert status indicator N.

On page 63415 of the November 7, 2003 Final Rule, we state that we plan to delete HCPCS C1088 effective 1/1/04. Addendum B does not list this code as deleted. For HCPCS C1088, we remove status indicator T, APC, payment rate, and minimum unadjusted copayment, and insert status indicator D and condition DNG (deleted with no grace period).

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

We ordinarily provide a 30-day delay in the effective date of the provisions of

a notice. Section 553(d) of the Administrative Procedure Act (5 U.S.C. 553(d)) ordinarily requires a 30-day delay in the effective date of final rules after the date of their publication in the **Federal Register**. This 30-day delay in effective date can be waived, however, if an agency finds good cause that the delay is impracticable, unnecessary, or contrary to the public interest. In addition, section 1871(e)(1) of the Social Security Act, as amended by section 903(b)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (DIMA), also requires that a substantive change in a regulation shall not become effective before the end of the 30-day period that begins on the date that the Secretary has issued or published the substantive change. Section 1871(e)(1) of the Social Security Act, as amended by section 903(b)(1) of DIMA, provides an exception to that requirement if the Secretary finds that the waiver of such 30-day period is necessary to comply with statutory requirements or that the application of such 30-day period is contrary to the public interest. The agency must incorporate a statement of the good cause finding and rationale in the published rule.

In this case, we believe that it is in the public interest to make the corrections identified above effective January 1, 2004 without the 30-day delay in effective date. In most cases, these errors were the result of our inadvertent failure to address a number of public comments that were received timely, incorrect or potentially misleading responses, and omissions and typographical errors in Addenda A and B. In addition, we have added information to the addenda that was not available when we published the November 7, 2003 final rule. This information does not affect payment under the OPPS. A delay in the effective date of this notice would result, in most cases, in underpayment of hospitals beginning January 1, 2004. If we did not make these changes, hospitals would be paid improperly, and beneficiaries' access to care may be impeded. Therefore, we find good cause to waive the 30-day delay in effective date.

TABLE 1.—ADDENDUM A CORRECTIONS AS CORRECTED BY THIS FEDERAL REGISTER DOCUMENT

APC	Group title	Status indicator	Relative weight	Payment rate	National unadjusted copayment	Minimum unadjusted copayment
0012 .....	Level I Debridement & Destruction	T .....	0.7612	41.53	11.18	8.31
0013 .....	Level II Debridement & Destruction	T .....	1.1302	61.66	14.20	12.33