DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1523–NC]

RIN 0938–AP84

Medicare Program; Hospice Wage Index for Fiscal Year 2011

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice with comment period.

SUMMARY: This notice with comment period announces the annual update to the hospice wage index for fiscal year 2011 and continues the phase out of the wage index budget neutrality adjustment factor (BNAF), with an additional 15 percent BNAF reduction, for a total BNAF reduction in FY 2011 of 25 percent. The BNAF phase-out will continue with successive 15 percent reductions from FY 2012 through FY 2016.

DATES: *Effective Date:* These regulations are effective on October 1, 2010.

Comment Date: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on September 20, 2010.

ADDRESSES: In commenting, please refer to file code CMS–1523–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the instructions under the "More Search Options" tab.

2. *By regular mail.* You may mail written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–*1523*–NC, P.O. Box 8012, Baltimore, MD 21244–*1850.*

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–*1523*–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, *see* the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Randy Throndset, (410) 786–0131 or Katie Lucas (410) 786–7723.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on issues set forth in section III.B of this notice to assist us in fully considering issues and developing policies. You can assist us by referencing the file code CMS–1523–NC and the specific "issue identifier" that precedes the section on which you choose to comment.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

Table of Contents

I. Background

A. General

1. Hospice Care

Hospice care is an approach to treatment that recognizes that the impending death of an individual warrants a change in the focus from curative care to palliative care for relief of pain and for symptom management. The goal of hospice care is to help terminally ill individuals continue life with minimal disruption to normal activities while remaining primarily in the home environment. A hospice uses an interdisciplinary approach to deliver medical, nursing, social, psychological, emotional, and spiritual services through use of a broad spectrum of professional and other caregivers, with the goal of making the individual as physically and emotionally comfortable as possible. Counseling services and inpatient respite services are available to the family of the hospice patient. Hospice programs consider both the patient and the family as a unit of care.

Section 1861(dd) of the Social Security Act (the Act) provides for coverage of hospice care for terminally ill Medicare beneficiaries who elect to receive care from a participating hospice. Section 1814(i) of the Act provides payment for Medicare participating hospices.

2. Medicare Payment for Hospice Care

Our regulations at 42 CFR part 418 establish eligibility requirements, payment standards and procedures, define covered services, and delineate the conditions a hospice must meet to be approved for participation in the Medicare program. Part 418 subpart G provides for payment in one of four prospectively-determined rate categories (routine home care, continuous home care, inpatient respite care, and general inpatient care) to hospices based on each day a qualified Medicare beneficiary is under a hospice election.

B. Hospice Wage Index

Our regulations at § 418.306(c) require each hospice's labor market to be established using the most current hospital wage data available, including any changes by OMB to the Metropolitan Statistical Areas (MSAs) definitions. OMB revised the MSA definitions beginning in 2003 with new designations called the Core Based Statistical Areas (CBSAs). For the purposes of the hospice benefit, the term "MSA-based" refers to wage index values and designations based on the previous MSA designations before 2003. Conversely, the term "CBSA-based" refers to wage index values and designations based on the OMB revised MSA designations in 2003, which now include CBSAs. In the August 11, 2004 IPPS final rule (69 FR 48916, 49026), revised labor market area definitions were adopted at § 412.64(b), which were effective October 1, 2004 for acute care hospitals. We also revised the labor market areas for hospices using the new OMB standards that included CBSAs. In the FY 2006 hospice wage index final rule (70 FR 45130), we implemented a 1-year transition policy using a 50/50 blend of the CBSA-based wage index values and the Metropolitan Statistical Area (MSA)-based wage index values for FY 2006. The one-year transition policy ended on September 30, 2006. For FY 2007 through FY 2010 we used wage index values based on CBSA designations.

The hospice wage index is used to adjust payment rates for hospice agencies under the Medicare program to reflect local differences in area wage levels. The original hospice wage index was based on the 1981 Bureau of Labor Statistics hospital data and had not been updated since 1983. In 1994, because of disparity in wages from one geographical location to another, a committee was formulated to negotiate a wage index methodology that could be accepted by the industry and the government. This committee, functioning under a process established by the Negotiated Rulemaking Act of 1990, was comprised of national hospice associations; rural, urban, large and small hospices; multi-site hospices; consumer groups; and a government representative. On April 13, 1995, the Hospice Wage Index Negotiated Rulemaking Committee signed an agreement for the methodology to be used for updating the hospice wage index.

In the August 8, 1997 **Federal Register** (62 FR 42860), we published a final rule implementing a new methodology for calculating the hospice wage index based on the recommendations of the negotiated rulemaking committee. The committee statement was included in the appendix of that final rule (62 FR 42883).

The reduction in overall Medicare payments if a new wage index were adopted was noted in the November 29, 1995 notice transmitting the recommendations of the negotiated rulemaking committee (60 FR 61264). Therefore, the Committee also decided that for each year in updating the hospice wage index, aggregate Medicare payments to hospices would remain budget neutral to payments as if the 1983 wage index had been used.

As decided upon by the Committee, budget neutrality means that, in a given year, estimated aggregate payments for Medicare hospice services using the updated hospice values will equal estimated payments that would have been made for these services if the 1983 hospice wage index values had remained in effect. Although payments to individual hospice programs may change each year, the total payments each year to hospices would not be affected by using the updated hospice wage index because total payments would be budget neutral as if the 1983 wage index had been used. To implement this policy, a BNAF would be computed and applied annually to the pre-floor, pre-reclassified hospital wage index, when deriving the hospice wage index.

The BNAF is calculated by computing estimated payments using the most recent completed year of hospice claims data. The units (days or hours) from those claims are multiplied by the updated hospice payment rates to calculate estimated payments. For the FY 2010 Hospice Wage Index Final Rule, that meant estimating payments for FY 2010 using FY 2008 hospice claims data, and applying the FY 2010 hospice payment rates (updating the FY 2009 rates by the FY 2010 hospital market basket update). The FY 2010 hospice wage index values are then applied to the labor portion of the payment rates only. The procedure is repeated using the same claims data and payment rates, but using the 1983 BLS-based wage index instead of the updated raw pre-floor, pre-reclassified hospital wage index (note that both wage indices include their respective floor adjustments). The total payments are then compared, and the adjustment required to make total payments equal is computed; that adjustment factor is the BNAF.

The August 8, 2008 FY 2009 Hospice Wage Index final rule (73 FR 46464) implemented a phase-out of the hospice BNAF over 3 years, beginning with a 25 percent reduction in the BNAF in FY 2009, an additional 50 percent reduction for a total of 75 percent in FY 2010, and complete phase out of the BNAF in FY 2011. However, subsequent to the publication of the above rule, the American Recovery and Reinvestment Act of 2009 (Pub. L. 111–5) (ARRA) eliminated the BNAF phase-out for FY 2009. Specifically, division B, section 4301(a) of ARRA prohibited the Secretary from phasing out or eliminating the BNAF in the Medicare hospice wage index before October 1, 2009, and instructed the Secretary to recompute and apply the final Medicare hospice wage index for FY 2009 as if there had been no reduction in the BNAF. While ARRA eliminated the BNAF phase-out for FY 2009, it neither changed the 75 percent reduction in the BNAF for FY 2010, nor prohibited the elimination of the BNAF in FY 2011 that were previously implemented in the August 8, 2008 Hospice Wage Index final rule.

In 2009 rulemaking for FY 2010, we accepted comments on the BNAF phase-out previously promulgated in 2008 rulemaking. As a result of those comments, a more gradual phase-out was promulgated in the FY 2010 final rule. Specifically, in the Hospice Wage Index for FY 2010 Final Rule, published on August 6, 2009 (74 FR 39384), we implemented a 7-year phase-out the BNAF, with a 10 percent reduction in FY 2010, an additional 15 percent reduction for a total of 25 percent in FY 2011, an additional 15 percent reduction for a total of 40 percent in FY 2012, an additional 15 percent reduction for a total of 55 percent in FY 2013, an additional 15 percent

reduction for a total of 70 percent in FY 2014, an additional 15 percent reduction for a total of 85 percent in FY 2015, and an additional 15 percent reduction for complete elimination in FY 2016.

The hospice wage index is updated annually. Our most recent annual hospice wage index final rule, published in the **Federal Register** (74 FR 39384) on August 6, 2009, set forth updates to the hospice wage index for FY 2010. As noted previously, that update also finalized a provision for a 7-year phase-out of the BNAF, which was applied to the wage index values. The BNAF was reduced by 10 percent in FY 2010, and will be reduced by an additional 15 percent in each of the next 6 years, for complete phase out in 2016.

1. Raw Wage Index Values (Pre-Floor, Pre-Reclassified Hospital Wage Index)

As described in the August 8, 1997 hospice wage index final rule (62 FR 42860), the pre-floor and pre-reclassified hospital wage index is used as the raw wage index for the hospice benefit. These raw wage index values are then subject to either a budget neutrality adjustment or application of the hospice floor to compute the hospice wage index used to determine payments to hospices.

Pre-floor, pre-reclassified hospital wage index values of 0.8 or greater are currently adjusted by a reduced BNAF. Pre-floor, pre-reclassified hospital wage index values below 0.8 are adjusted by the greater of: (1) The hospice BNAF, reduced by 10 percent for FY 2010; or (2) the hospice floor (which is a 15 percent increase) subject to a maximum wage index value of 0.8. For example, if County A has a pre-floor, pre-reclassified hospital wage index (raw wage index) value of 0.4000, we would perform the following calculations using the budget neutrality factor (which for this example is 0.061775 less 10 percent, or 0.055598) and the hospice floor to determine County A's hospice wage index:

Pre-floor, pre-reclassified hospital wage index value below 0.8 multiplied by the 10 percent reduced BNAF: ($0.4000 \times 1.055598 = 0.4222$)

Pre-floor, pre-reclassified hospital wage index value below 0.8 multiplied by the hospice floor: ($0.4000 \times 1.15 = 0.4600$)

Based on these calculations, County A's hospice wage index would be 0.4600.

The BNAF has been computed and applied annually, in full or in reduced form, to the labor portion of the hospice payment. Currently, the labor portion of the payment rates is as follows: For Routine Home Care, 68.71 percent; for Continuous Home Care, 68.71 percent; for General Inpatient Care, 64.01 percent; and for Respite Care, 54.13 percent. The non-labor portion is equal to 100 percent minus the labor portion for each level of care. Therefore the non-labor portion of the payment rates is as follows: For Routine Home Care, 31.29 percent; for Continuous Home Care, 31.29 percent; for General Inpatient Care, 35.99 percent; and for Respite Care, 45.87 percent.

2. Changes to Core Based Statistical Area (CBSA) Designations

The annual update to the hospice wage index is published in the **Federal Register** and is based on the most current available hospital wage data, as well as any changes by the Office of Management and Budget (OMB) to the definitions of MSAs, which now include CBSA designations. The August 4, 2005 final rule (70 FR 45130) set forth the adoption of the changes discussed in the OMB Bulletin No. 03–04 (June 6, 2003), which announced revised definitions for Micropolitan Statistical Areas and the creation of MSAs and Combined Statistical Areas. In adopting the OMB CBSA geographic designations, we provided for a 1-year transition with a blended hospice wage index for all hospices for FY 2006. For FY 2006, the hospice wage index for each provider consisted of a blend of 50 percent of the FY 2006 MSA-based hospice wage index and 50 percent of the FY 2006 CBSA based hospice wage index. Subsequent fiscal years have used the full CBSA-based hospice wage index.

3. Definition of Rural and Urban Areas

Each hospice's labor market is determined based on definitions of MSAs issued by OMB. In general, an urban area is defined as an MSA or New England County Metropolitan Area (NECMA) as defined by OMB. Under § 412.64(b)(1)(ii)(C), a rural area is defined as any area outside of the urban area. The urban and rural area geographic classifications are defined in § 412.64(b)(1)(ii)(A) through (C), and have been used for the Medicare hospice benefit since implementation.

In the August 22, 2007 FY 2008 Inpatient Prospective Payment System (IPPS) final rule with comment period (72 FR 47130), § 412.64(b)(1)(ii)(B) was revised such that the two "New England deemed Counties" that had been considered rural under the OMB definitions (Litchfield County, CT and Merrimack County, NH) but deemed urban, were no longer considered urban effective for discharges occurring on or after October 1, 2007. Therefore, these two counties are now considered rural in accordance with § 412.64(b)(1)(ii)(C).

The requirement to adjust payments to reflect local differences in wages is codified in § 418.306(c) of our regulations; however there had been no explicit reference to § 412.64 in § 418.306(c) before implementation of the August 8, 2008 FY 2009 Hospice Wage Index final rule. Although § 412.64 had not been explicitly referred to, the hospice program has used the definition of "urban" in § 412.64(b)(1)(ii)(A) and (b)(1)(ii)(B), and the definition of "rural" as any area outside of an urban area in § 412.64(b)(1)(ii)(C). With the implementation of the August 8, 2008 FY 2009 Wage Index final rule, we now explicitly refer to those provisions in § 412.64 to make it absolutely clear how we define "urban" and "rural" for purposes of the hospice wage index.

When the raw pre-floor, pre-reclassified hospital wage index was adopted for use in deriving the hospice wage index, it was decided not to take into account IPPS geographic reclassifications. This policy of following OMB designations of rural or urban, rather than considering some Counties to be "deemed" urban, is consistent with our policy of not taking into account IPPS geographic reclassifications in determining payments under the hospice wage index.

4. Areas Without Hospital Wage Data

When adopting OMB's new labor market designations in FY 2006, we identified some geographic areas where there were no hospitals, and thus, no hospital wage index data on which to base the calculation of the hospice wage index. Beginning in FY 2006, we adopted a policy to use the FY 2005 pre-floor, pre-reclassified hospital wage index value for rural areas when no hospital wage data were available. We also adopted the policy that for urban labor markets without a hospital from which hospital wage index data could be derived, all of the CBSAs within the State would be used to calculate a statewide urban average pre-floor, pre-reclassified hospital wage index value to use as a reasonable proxy for these areas. Consequently, in subsequent fiscal years, we applied the average pre-floor, pre-reclassified hospital wage index data from all urban areas in that state, to urban areas without a hospital. From FY 2007 to FY 2010, the only such CBSA was 25980, Hinesville-Fort Stewart, Georgia.

Under the CBSA labor market areas, there are no hospitals in rural locations

in Massachusetts and Puerto Rico. Since there was no rural proxy for more recent rural data within those areas, in the FY 2006 hospice wage index proposed rule (70 FR 22394, 22398), we proposed applying the FY 2005 pre-floor, pre-reclassified hospital wage index value to rural areas where no hospital wage data were available. In the FY 2006 final rule and in the FY 2007 update notice, we applied the FY 2005 pre-floor, pre-reclassified hospital wage index data for areas lacking hospital wage data in both FY 2006 and FY 2007 for rural Massachusetts and rural Puerto Rico.

In the FY 2008 final rule (72 FR 50214, 50217) we considered alternatives to our methodology to update the pre-floor, pre-reclassified hospital wage index for rural areas without hospital wage data. We indicated that we believed that the best imputed proxy for rural areas, would: (1) Use pre-floor, pre-reclassified hospital data; (2) use the most local data available to impute a rural pre-floor, pre-reclassified hospital wage index; (3) be easy to evaluate; and, (4) be easy to update from year-to-year.

Therefore, in FY 2008 through FY 2010, in cases where there was a rural area without rural hospital wage data, we used the average pre-floor, pre-reclassified hospital wage index data from all contiguous CBSAs to represent a reasonable proxy for the rural area. This approach does not use rural data; however, the approach uses pre-floor, pre-reclassified hospital wage data, is easy to evaluate, is easy to update from year-to-year, and uses the most local data available. In the FY 2008 rule (72 FR at 50217), we noted that in determining an imputed rural pre-floor, pre-reclassified hospital wage index, we interpret the term "contiguous" to mean sharing a border. For example, in the case of Massachusetts, the entire rural area consists of Dukes and Nantucket counties. We determined that the borders of Dukes and Nantucket counties are contiguous with Barnstable and Bristol counties. Under the adopted methodology, the pre-floor, pre-reclassified hospital wage index values for the counties of Barnstable (CBSA 12700, Barnstable Town, MA) and Bristol (CBSA 39300, Providence-New Bedford-Fall River, RI-MA) would be averaged resulting in an imputed pre-floor, pre-reclassified rural hospital wage index for FY 2008. We noted in the FY 2008 final hospice wage index rule that while we believe that this policy could be readily applied to other rural areas that lack hospital wage data (possibly due to hospitals converting to a different provider type, such as a Critical Access Hospital, that does not submit the appropriate wage data), if a similar situation arose in the future, we would re-examine this policy.

We also noted that we do not believe that this policy would be appropriate for Puerto Rico, as there are sufficient economic differences between hospitals in the United States and those in Puerto Rico, including the payment of hospitals in Puerto Rico using blended Federal/Commonwealth-specific rates. Therefore we believe that a separate and distinct policy for Puerto Rico is necessary. Any alternative methodology for imputing a pre-floor, pre-reclassified hospital wage index for rural Puerto Rico would need to take into account the economic differences between hospitals in the United States and those in Puerto Rico. Our policy of imputing a rural pre-floor, pre-reclassified hospital wage index based on the pre-floor, pre-reclassified hospital wage index(es) of CBSAs contiguous to the rural area in question does not recognize the unique circumstances of Puerto Rico. While we have not yet identified an alternative methodology for imputing a pre-floor, pre-reclassified hospital wage index for rural Puerto Rico, we will continue to evaluate the feasibility of using existing hospital wage data and, possibly, wage data from other sources. For FY 2008 through FY 2010, we have used the most recent pre-floor, pre-reclassified hospital wage index available for Puerto Rico, which is 0.4047.

5. CBSA Nomenclature Changes

The Office of Management and Budget (OMB) regularly publishes a bulletin that updates the titles of certain CBSAs. In the FY 2008 Final Rule (72 FR 50218) we noted that the FY 2008 rule and all subsequent hospice wage index rules and notices would incorporate CBSA changes from the most recent OMB bulletins. The OMB bulletins may be accessed at *http://www.whitehouse.gov/omb/bulletins/index.html.*

6. Wage Data From Multi-Campus Hospitals

Historically, under the Medicare hospice benefit, we have established hospice wage index values calculated from the raw pre-floor, pre-reclassified hospital wage data (also called the IPPS wage index) without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act. The wage adjustment established under the Medicare hospice benefit is based on the location where services are furnished without any reclassification.

For FY 2010, the data collected from cost reports submitted by hospitals for cost reporting periods beginning during FY 2005 were used to compute the 2009 raw pre-floor, pre-reclassified hospital wage index data without taking into account geographic reclassification under sections 1886(d)(8) and (d)(10) of the Act. This 2009 raw pre-floor, pre-reclassified hospital wage index was used to derive the applicable wage index values for the hospice wage index because these data (FY 2005) are the most recent complete cost data.

Beginning in FY 2008, the IPPS apportioned the wage data for multi-campus hospitals located in different labor market areas (CBSAs) to each CBSA where the campuses were located (*see* the FY 2008 IPPS final rule with comment period 72 FR 47317 through 47320)). We are continuing to use the raw pre-floor, pre-reclassified hospital wage data as a basis to determine the hospice wage index values because hospitals and hospices both compete in the same labor markets, and therefore, experience similar wage-related costs. We note that the use of raw pre-floor, pre-reclassified hospital (IPPS) wage data, used to derive the FY 2011 hospice wage index values, reflects the application of our policy to use that data to establish the hospice wage index. The FY 2011 hospice wage index values presented in this notice with comment period were computed consistent with our raw pre-floor, pre-reclassified hospital (IPPS) wage index policy (that is, our historical policy of not taking into account IPPS geographic reclassifications in determining payments for hospice). As implemented in the August 8, 2008 FY 2009 Hospice Wage Index final rule, for the FY 2009 Medicare hospice benefit, the hospice wage index was computed from IPPS wage data (submitted by hospitals for cost reporting periods beginning in FY 2004 (as was the FY 2008 IPPS wage index)), which allocated salaries and hours to the campuses of two multi-campus hospitals with campuses that are located in different labor areas, one in Massachusetts and another in Illinois. Thus, in FY 2009 and subsequent fiscal years, hospice wage index values for the following CBSAs have been affected by this policy: Boston-Quincy, MA (CBSA 14484), Providence-New Bedford-Falls River, RI-MA (CBSA 39300), Chicago-Naperville-Joliet, IL (CBSA 16974), and Lake County-Kenosha County, IL-WI (CBSA 29404).

7. Hospice Payment Rates

Section 4441(a) of the Balanced Budget Act of 1997 (BBA) amended section 1814(i)(1)(C)(ii) of the Act to establish updates to hospice rates for FYs 1998 through 2002. Hospice rates were to be updated by a factor equal to the market basket index, minus 1

percentage point. Payment rates for FYs since 2002 have been updated according to section 1814(i)(1)(C)(ii)(VII) of the Act, which states that the update to the payment rates for subsequent fiscal years will be the market basket percentage for the fiscal year. It has been longstanding practice to use the inpatient hospital market basket as a proxy for a hospice market basket.

Historically, the rate update has been published through a separate administrative instruction issued annually in the summer to provide adequate time to implement system change requirements. Providers determine their payments by applying the hospice wage index in this notice with comment period to the labor portion of the published hospice rates.

II. Provisions of the Notice With Comment Period

A. FY 2011 Hospice Wage Index

1. Background

The hospice final rule published in the **Federal Register** on December 16, 1983 (48 FR 56008) provided for adjustment to hospice payment rates to reflect differences in area wage levels. We apply the appropriate hospice wage index value to the labor portion of the hospice payment rates based on the geographic area where hospice care was furnished. As noted earlier, each hospice's labor market area is based on definitions of MSAs issued by the OMB. For this notice with comment period, we used the pre-floor, pre-reclassified hospital wage index, based solely on the CBSA designations, as the basis for determining wage index values for the FY 2011 hospice wage index.

As noted above, our hospice payment rules utilize the wage adjustment factors used by the Secretary for purposes of section 1886(d)(3)(E) of the Act for hospital wage adjustments. We are again using the pre-floor and pre-reclassified hospital wage index data as the basis to determine the hospice wage index, which is then used to adjust the labor portion of the hospice payment rates based on the geographic area where the beneficiary receives hospice care. We believe the use of the pre-floor, pre-reclassified hospital wage index data, as a basis for the hospice wage index, results in the appropriate adjustment to the labor portion of the costs. For the FY 2011 update to the hospice wage index, we are continuing to use the most recent pre-floor, pre-reclassified hospital wage index available at the time of publication.

2. Areas Without Hospital Wage Data

In adopting the CBSA designations, we identified some geographic areas where there are no hospitals, and no hospital wage data on which to base the calculation of the hospice wage index. These areas are described in section I.B.4 of this notice with comment period. Beginning in FY 2006, we adopted a policy that, for urban labor markets without an urban hospital from which a pre-floor, pre-reclassified hospital wage index can be derived, all of the urban CBSA pre-floor, pre-reclassified hospital wage index values within the State would be used to calculate a statewide urban average pre-floor, pre-reclassified hospital wage index to use as a reasonable proxy for these areas. Currently, the only CBSA that would be affected by this policy is CBSA 25980, Hinesville-Fort Stewart, Georgia. We are continuing this policy for FY 2011.

Currently, the only rural areas where there are no hospitals from which to calculate a pre-floor, pre-reclassified hospital wage index are Massachusetts and Puerto Rico. In August 2007 (72 FR 50217) we adopted a methodology for imputing rural pre-floor, pre-reclassified hospital wage index values for areas where no hospital wage data are available as an acceptable proxy; that methodology is also described in section I.B.4 of this notice with comment period. In FY 2011, Dukes and Nantucket Counties are the only areas in rural Massachusetts which are affected. We are again applying this methodology for imputing a rural pre-floor, pre-reclassified hospital wage index for those rural areas without rural hospital wage data in FY 2011.

However, as we noted in section I.B.4 of this notice with comment period, we do not believe that this policy is appropriate for Puerto Rico. For FY 2011, we again use the most recent pre-floor, pre-reclassified hospital wage index value available for Puerto Rico, which is 0.4047. This pre-floor, pre-reclassified hospital wage index value will then be adjusted upward by the hospice 15 percent floor adjustment in the computing of the FY 2011 hospice wage index.

3. FY 2011 Wage Index With an Additional 15 Percent Reduced Budget Neutrality Adjustment Factor (BNAF)

The hospice wage index set forth in this notice with comment period would be effective October 1, 2010 through September 30, 2011. We are not modifying the hospice wage index methodology. In accordance with our regulations and the agreement signed with other members of the Hospice Wage Index Negotiated Rulemaking Committee, we are using the most current hospital data available. For this notice with comment period, the FY 2010 hospital wage index was the most current hospital wage data available for calculating the FY 2011 hospice wage index values. We used the FY 2010 pre-floor, pre-reclassified hospital wage index data for this calculation.

As noted above, for FY 2011, the hospice wage index values will be based solely on the adoption of the CBSA-based labor market definitions and the hospital wage index. We continue to use the most recent pre-floor and pre-reclassified hospital wage index data available (based on FY 2006 hospital cost report wage data). A detailed description of the methodology used to compute the hospice wage index is contained in the September 4, 1996 hospice wage index proposed rule (61 FR 46579), the August 8, 1997 hospice wage index final rule (62 FR 42860), and the August 6, 2009 FY 2010 Hospice Wage Index final rule (74 FR 39384).

The August 6, 2009 FY 2010 Hospice Wage Index final rule finalized a provision to phase out the BNAF over 7 years, with a 10 percent reduction in the BNAF in FY 2010, and an additional 15 percent reduction over each of the next 6 years, with complete phaseout in FY 2016. Therefore, in accordance with the August 6, 2009 FY 2010 Hospice Wage Index final rule (74 FR 39384), the BNAF for FY 2011 was reduced by an additional 15 percent for a total BNAF reduction of 25 percent (10 percent from FY 2010 and 15 percent for FY 2011).

An unreduced BNAF for FY 2011 is computed to be 0.060562 (or 6.0562 percent). A 25 percent reduced BNAF, which is subsequently applied to the pre-floor, pre-reclassified hospital wage index values greater than or equal to 0.8, is computed to be 0.045422 (or 4.5422 percent). Pre-floor, pre-reclassified hospital wage index values which are less than 0.8 are subject to the hospice floor calculation; that calculation is described in section I.B.1.

The hospice wage index for FY 2011 is shown in Addenda A and B. Specifically, Addendum A reflects the FY 2011 wage index values for urban areas under the CBSA designations. Addendum B reflects the FY 2011 wage index values for rural areas under the CBSA designations.

4. Effects of Phasing Out the BNAF

The full (unreduced) BNAF calculated for FY 2011 is 6.0562 percent. As implemented in the August 6, 2009 FY 2010 Hospice Wage Index final rule (74 FR 39384), for FY 2011 we are reducing

the BNAF by an additional 15 percent, for a total BNAF reduction of 25 percent (a 10 percent reduction in FY 2010 plus a 15 percent reduction in FY 2011), with additional reductions of 15 percent per year in each of the next 5 years until the BNAF is phased out in FY 2016.

For FY 2011, this is mathematically equivalent to taking 75 percent of the full BNAF value, or multiplying 0.060562 by 0.75, which equals 0.045422 (4.5422 percent). The BNAF of 4.5422 percent reflects a 25 percent reduction in the BNAF. The 25 percent reduced BNAF (4.5422 percent) was applied to the pre-floor, pre-reclassified hospital wage index values of 0.8 or greater in the FY 2011 hospice wage index.

The hospice floor calculation would still apply to any pre-floor, pre-reclassified hospital wage index values less than 0.8. Currently, the hospice floor calculation has 4 steps. First, pre-floor, pre-reclassified hospital wage index values that are less than 0.8 are multiplied by 1.15. Second, the minimum of 0.8 or the pre-floor, pre-reclassified hospital wage index value times 1.15 is chosen as the preliminary hospice wage index value. Steps 1 and 2 are referred to in this notice with comment period as the hospice 15 percent floor adjustment. Third, the pre-floor, pre-reclassified hospital wage index value is multiplied by the BNAF. Finally, the greater result of either step 2 or step 3 is the final hospice wage index value. The hospice floor calculation is unchanged by the BNAF reduction. We note that steps 3 and 4 will become unnecessary once the BNAF is eliminated.

We examined the effects of an additional 15 percent reduction in the BNAF, for a total BNAF reduction of 25 percent, on the FY 2011 hospice wage index compared to remaining with the 10 percent reduced BNAF which was used for the FY 2010 hospice wage index. The FY 2011 BNAF reduction of an additional 15 percent (for a total BNAF reduction of 25 percent) resulted in approximately a 0.9 percent reduction in most hospice wage index values. The elimination of the BNAF in FY 2016 would result in an estimated final reduction of the FY 2016 hospice wage index values of approximately 4.3 percent compared to FY 2011 hospice wage index values.

Those CBSAs whose pre-floor, pre-reclassified hospital wage index values had the hospice 15 percent floor adjustment applied before the BNAF reduction would not be affected by this phase-out of the BNAF. These CBSAs, which typically include rural areas, are protected by the hospice 15 percent floor adjustment. We have estimated that 19 CBSAs are already protected by the hospice 15 percent floor adjustment, and are therefore completely unaffected by the BNAF reduction. There are 148 hospices in these 19 CBSAs.

Additionally, some CBSAs with pre-floor, pre-reclassified wage index values less than 0.8 will become newly eligible for the hospice 15 percent floor adjustment as a result of the additional 15 percent reduction in the BNAF (for a total BNAF reduction of 25 percent). Areas where the hospice floor calculation would have yielded a wage index value greater than 0.8 if the 10 percent reduction in BNAF were maintained, but which will have a final wage index value less than 0.8 after the additional 15 percent reduction in the BNAF (for a total BNAF reduction of 25 percent) is applied, will now be eligible for the hospice 15 percent floor adjustment. These CBSAs will see a smaller reduction in their hospice wage index values since the hospice 15 percent floor adjustment will apply. We have estimated that 5 CBSAs will have their pre-floor, pre-reclassified hospital wage index value become newly protected by the hospice 15 percent floor adjustment due to the additional 15 percent reduction in the BNAF (for a total BNAF reduction of 25 percent). Because of the protection given by the hospice 15 percent floor adjustment, these CBSAs will see smaller percentage decreases in their hospice wage index values than those CBSAs that are not eligible for the hospice 15 percent floor adjustment. This will affect those hospices with lower hospice wage index values, which are typically in rural areas. There are 196 hospices located in these 5 CBSAs.

Finally, the hospice wage index values only apply to the labor portion of the payment rates; the labor portion is described in section I.B.1 of this notice with comment period. Therefore the projected reduction in payments due solely to the additional 15 percent reduction of the BNAF (for a total BNAF reduction of 25 percent) is estimated to be 0.6 percent, as calculated from the difference in column 3 and column 4 of Table 1 in section VII of this notice with comment period. In addition, the estimated effects of the phase-out of the BNAF will be mitigated by any hospital market basket updates in payments. The hospital market basket update for FY 2011 is 2.6 percent; this 2.6 percent does not reflect the provision in the Affordable Care Act which reduced the hospital market basket update by 0.25 percentage point since that reduction does not apply to hospices. The final update will be communicated through an administrative instruction. The combined effects of the updated wage data, an additional 15 percent reduction of the BNAF (for a total BNAF reduction of 25 percent), and a hospital market basket update of 2.6 percent for FY 2011 are an overall estimated increase in payments to hospices in FY 2011 of 1.8 percent (column 5 of Table 1 in section VII of this notice with comment period).

III. Information and Updates on Issues Not Proposed

A. Changes to Hospice Certification and Recertification Requirements

On March 23, 2010, President Obama signed into law the Affordable Care Act (Pub. L. 111–148). Section 3132 of this law requires hospices to adopt some of MedPAC's hospice program eligibility recertification recommendations, including a requirement for a physician or nurse practitioner to have a face-to-face visit with patients prior to the 180 day recertification, and to attest that such a visit took place. Please *see* the Home Health Prospective Payment System Rate Update for Calendar Year 2011; Changes in Certification Requirements for Home Health Agencies and Hospices Proposed Rule, which we expect to publish shortly, for a detailed discussion of the new statutory requirements, and for our proposals related to implementation for hospices, including proposed regulatory text changes of the hospice certification requirements. In the Home Health Prospective Payment System Rate Update for Calendar Year 2011; Changes in Certification Requirements for Home Health Agencies and Hospices Proposed Rule, we also expect to propose rules related to the timing of the completion of certifications and recertifications, to the inclusion of benefit period dates on the certification or recertification, and to the physician's signature and date requirements for the certification or recertification.

Please do not send comments on any of these proposals to us under this Hospice Wage Index Notice. Instead, please follow the instructions in the Home Health Prospective Payment System Rate Update for Calendar Year 2011; Changes in Certification Requirements for Home Health Agencies and Hospices Proposed Rule to comment on the hospice proposals described in that proposed rule. We will respond to those comments in the Home Health Prospective Payment System Rate Update for Calendar Year 2011; Changes in Certification Requirements for Home Health Agencies and Hospices Final Rule.

B. Solicitation of Comments on the Hospice Aggregate Cap

In the FY 2010 hospice wage index proposed rule, at 74 FR 18920–18922, we solicited comments on the current methodology of calculating the aggregate hospice cap. As a result of that solicitation, we received a number of comments regarding the hospice cap methodology, with several major themes emerging. Many commenters wanted more timely notification of cap overpayments. Many also requested that hospices have access to patients' full hospice utilization history. According to commenters, having this information would enable hospices to better manage their aggregate cap, and to accurately apportion patients when they have been in more than 1 hospice. Some commenters asked that we wage-adjust the annual cap amount to account for geographic differences in costs. Other commenters asked that we modernize the cap, apportioning hospice patients over consecutive years, with some suggesting we allow a new cap amount for readmitted patients who experience a break in hospice utilization. A few encouraged us not to raise the cap or do away with the cap, as it is the only limitation on hospice spending, and curbs excesses from the minority of hospices with questionable admission practices.

We noted, in FY 2010 rulemaking, that there have been some technological advances in our data systems which we believe might enable us to modernize the cap calculation process while providing information facilitating the ability of hospices to better manage their cap. For this notice with comment period, we provide additional details regarding policy options that we are considering for modernizing the cap calculation methodology. We are soliciting comments on the policy options we are considering, as well as comments/suggestions for other possible options/alternatives to modernize the cap calculation methodology, to be considered in possible future rulemaking.

1. Hospice Provider and Medicare Contractor Access to a National Database Containing Full Utilization History

One policy option which we are considering would address industry concerns about the timeliness of cap-related information, and hospices' comments about their inability to see a patient's full hospice utilization history. Hospices currently have the ability to query a beneficiary's hospice utilization history; however, the process can be cumbersome and can involve multiple steps to see the complete history. Because the query system is linked to the Common Working File, it is not as easily changed to provide a more streamlined process for providers to get a complete beneficiary hospice utilization history.

CMS has recently redesigned a national Provider Statistical and Reimbursement Report (PS&R) database; the PS&R currently accumulates statistical and reimbursement data from Medicare claims, and is normally used in preparing and settling cost reports of various Medicare provider types. Because the PS&R is built from claims data, it could theoretically include any information normally found on a claim.

We believe this new PS&R database, if tailored to hospice needs, may be able to provide hospices with more streamlined information related to their patients' prior hospice utilization, thus enabling providers to better manage their aggregate cap. We are investigating the possibility that the PS&R report include each patient's total days of hospice care, with from and through dates for every hospice election, along with a provider identifier, for multiple years. Additionally, we are investigating whether this database could also include total payments for patients for services provided during a specific time period (*i.e.,* the cap year). Specifically, we envision that providers could use this national PS&R data to accurately estimate their own cap while waiting for the "official" cap calculation from their Medicare contractor, and use their estimated information in their internal cap management.

In addition to possibly enabling hospice providers to more easily obtain access to their patients' full hospice utilization history, we believe that the national database and associated improved data processing technologies will enable Medicare contractors to adopt a more efficient automation approach in calculating each provider's cap. This might allow contractors to send providers the results of their cap calculations sooner.

The improved technology could provide an opportunity for CMS to consider revising the cap calculation methodology to apportion hospice patients with long stays over more than one year. Below, we present some policy options which we are considering related to calculation methodology, along with cap issues related to timing.

a. Option 1: Multi-Year Apportioning

In this option, patients who received hospice care in more than 1 cap accounting year would be apportioned across years on a patient-by-patient basis. A multi-year apportionment on a patient-by-patient basis raises issues regarding the timing of cap calculations. If, for example, the Medicare contractor is required to wait until all of a hospice's Medicare beneficiaries in a given year die so that the contractor can calculate mathematically exact multi-year apportionments, the determination and notification of the cap and overpayment might be delayed for years; alternatively, the fiscal intermediary might issue a tentative determination subject to finalization at a later time (which would lead to significant uncertainty, among other things) or a "final" determination subject to potentially numerous revisions in future years (which would also lead to significant uncertainty, among other things). In light of these issues, under one possible approach, the number of years which the beneficiary would be apportioned in the standard cap calculation process would be established by the Secretary. In examining data from claims, we found that 99.98 percent of all Medicare hospice beneficiaries who died in 2007 began hospice care in 2006 or 2007. Similarly, we found that 96.83 percent of all Medicare hospice beneficiaries who died in 2008 began hospice care in 2007 or 2008. Therefore, the Secretary could establish that hospice patients will be apportioned for cap calculation purposes in the year of election plus one additional year. In this example, if a patient's hospice election spans more than the election year, the standard cap calculation methodology would apportion the patient over the election year and one subsequent year, based on the number of days the patient received hospice care in each of the two years, also factoring in the different hospices which provided care to the patient during these two years, with the fractional shares of the patient summing to 1.

A number of commenters suggested we allow apportioning of hospice care over two or more years; this suggestion was partly due to concerns over a hospice admitting a patient who had received hospice care elsewhere in a previous year, and therefore could not be counted in the admitting hospice's cap calculation. As such, we are also considering a process where a hospice provider could request the Medicare contractor recalculate a provider's cap using a longer apportioning timeframe than that established in the standard calculation process. While any hospice provider could request a recalculation,

we would envision this process to be most beneficial for providers who admit patients with prior, long lengths of stay at another hospice. Where the recalculation involves patients served by more than one hospice, a re-apportionment of these patients would be required. Therefore, a recalculation would be necessary for each hospice which provided care to any patients included in the recalculation.

As described in 42 CFR 405.1885(b) contractors may only re-open and revise a hospice's cap determination within 3 years of the date of receipt of the determination of program reimbursement letter. Counting beneficiaries across multiple years would be subject to re-opening regulations. We believe that a standard cap calculation methodology which adopts a multi-year apportionment (such as apportioning patients in the year of election and one subsequent year), coupled with the ability for providers to request a recalculation to include a longer apportionment timeframe, while also providing hospices access to their patients' full utilization history is responsive to commenters' suggestions. It is a streamlined, "easy for hospices to replicate" process that might facilitate better internal management.

b. Option 2: Deferring Major Changes to the Standard Aggregate Cap Calculation Methodology, While Allowing Providers To Request Recalculation of Their Cap to Apportion Patients Across Multiple Years

We are considering coupling changes to the aggregate cap with overall hospice payment reform. As we described in last year's Hospice Wage Index Final Rule (74 FR 39384), we are gearing up for hospice payment reform. MedPAC has suggested that the current payment system includes financial incentives which may create program vulnerabilities, and recommended that we reform the hospice payment system. We have been collecting additional data on hospice claims to analyze hospice resource use with the goal of reforming the payment system in the near future. Therefore, we are also considering an option which would defer changes to the current standard cap calculation methodology until we deploy the reformed payment system. This option would allow us to analyze how spending limits should be used to mitigate misuse of the benefit, in the context of broader hospice payment reform. Under this option, we would generally continue to calculate hospice aggregate caps using the current methodology, but we would allow hospice providers to request the Medicare contractor recalculate their cap, apportioning patients across multiple years, as described in Option 1. This option also would provide hospices access to the redesigned PS&R database as described in Option 1, thereby providing easier access to their full utilization history.

Similar to the recalculation process described in Option 1, this option would be subject to regulatory requirements regarding re-opening and revision of a previous cap determination.

2. Other Issues

a. Aligning Timeframes

Aligning the cap year timeframe to coincide with the hospice rate update year would likely simplify hospice recordkeeping and better match the counting of beneficiaries with associated Medicare payments. The hospice rate update year, which also corresponds with the Federal fiscal year, runs from October 1st to September 30th; the inpatient and aggregate cap year currently runs from November 1st to October 31st; and the beneficiary counting timeframe for purposes of the current hospice aggregate cap calculation runs from September 28th to September 27th.

The current cap accounting year timeframe provides for process efficiencies given the current methodology for calculating the aggregate cap, while allowing for counting the beneficiary in the reporting period where he or she is expected to use most of the days of covered hospice care (48 FR 38158). If we apportion beneficiaries across more than one year, we believe that there would no longer be an advantage to defining the cap accounting year differently from the hospice rate update year.

For the inpatient cap, this would mean using the October 1st to September 30th timeframe for counting actual total Medicare patient days, total Medicare GIP and respite days, allowable Medicare GIP and respite days, and total actual Medicare payments for inpatient care provided during the cap year. For the aggregate cap, this would mean computing the total actual Medicare payments based upon services provided during the October 1st to September 30th timeframe. In doing so, all aspects of the inpatient and aggregate cap calculations would focus on the hospice rate update and Federal fiscal year, rather than on multiple different timeframes. Note that payments are counted based on the date the services are provided, not based on when the payments are actually made.

Shifting the cap accounting year timeframes to coincide with the hospice rate update year would simplify the new cap calculation methodology. In the year of transition, we could allow 3 extra days to count beneficiaries. For example, if these changes were to occur beginning with the 2012 cap year, we could count beneficiaries from September 28, 2012 to September 30, 2013, which is 12 months plus 3 days, in that cap year's calculation. In counting payments, we could count the payments for services provided in October twice: Once in the previous cap calculation, using the original timeframes, and again in the transition year cap calculation, using the fiscal year timeframes. In each year we would still have 12 months of payments (in this example, November 2011 to October 2012 in the last year using the original timeframes, and October 2012 to September 2013 in the transition year), but in the transition year would have 12 months plus 3 days of headcount in the aggregate cap calculation, which would be advantageous to hospices.

If we shift the cap accounting year to match the hospice rate update year, it would also affect our calculation of the annual cap amount. Section 1814(i)(2)(B) of the Social Security Act (the Act) requires us to update the $6,500 cap amount by the same percentage as the percentage increase or decrease in the medical care expenditure category of the Consumer Price Index for All Urban Consumers (CPI–U) from March 1984 to the "fifth month of the accounting year". By changing the cap accounting year to coincide with the hospice rate update year and Federal fiscal year, we would use the CPI–U for February when updating the cap amount, instead of the current process which uses the March CPI–U to update the cap amount.

b. Uniform Schedule for Mailing Cap Determination Letters

Currently we do not require contractors to mail hospice cap determination letters on a particular date. However, if we adopted a cap methodology which required adjusting prior year cap reports, we would likely need to require contractors to mail cap determination letters on a uniform schedule, to avoid problems where one contractor does so more quickly than another. Without a uniformly applied schedule for mailing the cap determination letters, hospices could receive the letters at various times during the year. If we were to require

contractors to mail cap determination letters on a specific date, providers would be on an equal footing with regard to their cap notification. Finally, adopting this option would also create an environment more conducive to financial and business planning, as providers would know when to expect the report.

We are soliciting public comment on the above suggested changes, and any other suggestions for ways to streamline the cap calculation. Please submit your cap-related comments in accordance with the instructions given on pages 2–6 of this notice with comment period.

IV. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect. We can waive this procedure, however, if we find good cause that notice and comment procedures are impracticable, unnecessary, or contrary to the public interest and we incorporate a statement of finding and its reasons in the notice. We find it is unnecessary to undertake notice and comment rulemaking for the update in this notice because the update does not make any substantive changes in policy, but merely reflects the application of previously established methodologies which permit no discretion on the part of the Secretary. Therefore, under 5 U.S.C. 553(b)(3)(B), for good cause, we waive notice and comment procedures.

V. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

VI. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

VII. Regulatory Impact Analysis

A. Overall Impact

We have examined the impacts of this notice with comment period as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)). We estimated the impact on hospices, as a result of the changes to the FY 2011 hospice wage index and of reducing the BNAF by an additional 15 percent, for a total BNAF reduction of 25 percent (10 percent in FY 2010 and 15 percent in FY 2011). The BNAF reduction is part of a 7-year BNAF phase-out that was finalized in previous rulemaking (74 FR 39384, dated August 6, 2009), and is not a policy change put forward in this notice with comment period.

As discussed previously, the methodology for computing the hospice wage index was determined through a negotiated rulemaking committee and promulgated in the August 8, 1997 hospice wage index final rule (62 FR 42860). The BNAF, which was promulgated in the August 8, 1997 rule, is being phased out. This rule updates the hospice wage index in accordance with the August 6, 2009 FY 2010 Hospice Wage Index final rule (74 FR 39384), which finalized a 10 percent reduced BNAF for FY 2010 as the first year of a 7-year phase-out of the BNAF, to be followed by an additional 15 percent per year reduction in the BNAF in each of the next 6 years. Total phase-out will be complete by FY 2016.

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). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We have determined that this is an economically significant notice with comment period under Executive Order 12866.

Column 4 of Table 1 shows the combined effects of the updated wage data (the 2010 pre-floor, pre-reclassified hospital wage index) and of the additional 15 percent reduction in the BNAF (for a total BNAF reduction of 25 percent), comparing estimated payments for FY 2011 to estimated payments for FY 2010. The FY 2010 payments used for comparison have a 10 percent reduced BNAF applied. We estimate that the total hospice payments for FY 2011 will decrease by $110 million as a result of the application of the updated wage data ($−30 million) and the total 25 percent reduction in the BNAF ($−80 million). This estimate does not take into account any hospital market basket update, which is 2.6 percent for FY 2011. This 2.6 percent does not reflect the provision in the Affordable Care Act which reduced the hospital market basket update by 0.25 percentage point since that reduction does not apply to hospices. The hospital market basket update and associated payment rates will be communicated through an administrative instruction. The effect of a 2.6 percent hospital market basket update on payments to hospices is approximately $330 million. Taking into account a 2.6 percent hospital market basket update (+$330 million), in addition to the updated wage data ($−30 million) and the total 25 percent reduction in the BNAF ($−80 million), it is estimated that hospice payments would increase by $220 million in FY 2010 ($330 million − $110 million = $220 million). The percent change in payments to hospices due to the combined effects of the updated wage data, the additional 15 percent reduction in the BNAF (for a total BNAF reduction of 25 percent), and the hospital market basket update of 2.6 percent is reflected in column 5 of the impact table (Table 1).

We estimate that this notice with comment period is "economically significant" as measured by the $100 million threshold, and hence also a major notice with comment period under the Congressional Review Act. Accordingly, we have prepared a Regulatory Impact Analysis that to the best of our ability presents the costs and benefits of the Notice.

The RFA requires agencies to analyze options for regulatory relief of small businesses, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, we estimate that almost all hospices are small entities as that term is used in the RFA. The great majority of hospitals and most other health care providers and suppliers are small entities, either by being nonprofit organizations or by meeting the SBA definition of a small business (having revenues of less than $7.0 million to $34.5 million in any 1 year). While the Small Business Administration (SBA) does not define a size threshold in terms of annual revenues for hospices, they do define one for home health agencies ($13.5 million; *see http://www.sba.gov/idc/groups/public/documents/sba_homepage/serv_sstd_tablepdf.pdf*). For the purposes of this notice with

comment period, because the hospice benefit is a home-based benefit, we are applying the SBA definition of "small" for home health agencies to hospices; we will use this definition of "small" in determining if this notice with comment period has a significant impact on a substantial number of small entities (for example, hospices). Using 2008 Medicare hospice claims data, we estimate that 96 percent of hospices have Medicare revenues below $13.5 million. As indicated in Table 1 below, there are 3,429 hospices with 2009 claims data as of February 2010. Approximately 48.0 percent of Medicare certified hospices are identified as voluntary or government agencies and, therefore, are considered small entities. Most of these and most of the remainder are also small hospice entities because, as noted above, their revenues fall below the SBA size thresholds.

Therefore, for purposes of the RFA, approximately 96 percent of hospices are considered small businesses according to the Small Business Administration's size standards with total revenues of $13.5 million or less in any 1 year, and 48 percent are nonprofit organizations.

We note that the hospice wage index methodology was previously guided by consensus, through a negotiated rulemaking committee that included representatives of national hospice associations, rural, urban, large and small hospices, multi-site hospices, and consumer groups. Based on all of the options considered, the committee agreed on the methodology described in the committee statement, and after notice and comment, it was adopted into regulation in the August 8, 1997 final rule. In developing the process for updating the hospice wage index in the 1997 final rule, we considered the impact of this methodology on small hospice entities and attempted to mitigate any potential negative effects. Small hospice entities are more likely to be in rural areas, which are less affected by the BNAF reduction than entities in urban areas. Generally, hospices in rural areas are protected by the hospice floor adjustment, which lessens the effect of the BNAF reduction.

The effects of this rule on hospices are shown in Table 1. Overall, Medicare payments to all hospices will decrease by an estimated 0.8 percent, reflecting the combined effects of the updated wage data and the additional 15 percent reduction in the BNAF (for a total BNAF reduction of 25 percent). The combined effects of the updated wage data and the additional 15 percent reduction in the BNAF (for a total BNAF reduction of 25 percent) on small or medium sized hospices (as defined by routine home care days rather than by the SBA definition), is −0.7. Furthermore, when including the hospital market basket update of 2.6 percent into these estimates, the combined effects on Medicare payment to all hospices would result in an estimated increase of approximately 1.8 percent. For small and medium hospices (as defined by routine home care days), the estimated effects on revenue when accounting for the updated wage data, the additional 15 percent BNAF reduction (for a total BNAF reduction of 25 percent), and the hospital market basket update are increases in payments of 1.8 percent and 1.9 percent, respectively. Overall average hospice revenue effects will be slightly less than these estimates since according to the National Hospice and Palliative Care Organization, about 16 percent of hospice patients are non-Medicare.

HHS' practice in interpreting the RFA is to consider effects economically "significant" only if they reach a threshold of 3 to 5 percent or more of total revenue or total costs. As noted above, the combined effect of only the updated wage data and the additional 15 percent reduced BNAF (for a total BNAF reduction of 25 percent) for all hospices is −0.8 percent. Since, by SBA's definition of "small" (when applied to hospices), nearly all hospices are considered to be small entities, the combined effect of only the updated wage data and the additional 15 percent reduced BNAF (−0.8 percent) does not exceed HHS' 3.0 percent minimum threshold. However, HHS' practice in determining "significant economic impact" has considered either *total* revenue or *total* costs. Total hospice revenues include the effect of the market basket update. When we consider the combined effect of the updated wage data, the additional 15 percent BNAF reduction (for a total BNAF reduction of 25 percent), and the 2.6 percent 2011 market basket update, the overall impact is an increase in hospice payments of 1.8 percent for FY 2011. Therefore, the Secretary has determined that this notice with comment period does not create a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. This notice with comment period only affects hospices. Therefore, the Secretary has determined that this notice with comment period will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2010, that threshold is approximately $135 million. This notice with comment period is not anticipated to have an effect on State, local, or Tribal governments or on the private sector of $135 million or more.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this notice with comment period under the threshold criteria of Executive Order 13132, Federalism, and have determined that it will not have an impact on the rights, roles, and responsibilities of State, local, or Tribal governments.

B. Anticipated Effects

1. Effects on Hospices

This section discusses the impact of the projected effects of the hospice wage index, including the effects of a 2.6 percent hospital market basket update that will be communicated separately through an administrative instruction. This notice with comment period continues to use the CBSA-based pre-floor, pre-reclassified hospital wage index as a basis for the hospice wage index and continues to use the same policies for treatment of areas (rural and urban) without hospital wage data. The final FY 2011 hospice wage index is based upon the 2010 pre-floor, pre-reclassified hospital wage index and the most complete claims data available (FY 2009) with an additional 15 percent reduction in the BNAF (combined with the 10 percent reduction in the BNAF taken in FY 2010, for a total BNAF reduction of 25 percent). The BNAF reduction is part of a 7-year BNAF phase-out that was finalized in previous rulemaking (74 FR 39384, dated August 6, 2009), and is not a policy change put forward in this notice with comment period.

For the purposes of our impacts, our baseline is estimated FY 2010 payments with a 10 percent BNAF reduction, using the 2009 pre-floor, pre-reclassified hospital wage index. Our first comparison (column 3, Table 1) compares our baseline to estimated FY 2011 payments (holding payment rates constant) using the updated wage data (2010 pre-floor, pre-reclassified hospital wage index). Consequently, the estimated effects illustrated in column 3 of Table 1 show the distributional effects of the updated wage data only. The effects of using the updated wage data combined with the additional 15 percent reduction in the BNAF (for a total BNAF reduction of 25 percent) are illustrated in column 4 of Table 1.

We have included a comparison of the combined effects of the additional 15 percent BNAF reduction (for a total BNAF reduction of 25 percent), the updated wage data, and a 2.6 percent hospital market basket increase for FY 2011 (Table 1, column 5). Presenting these data gives the hospice industry a more complete picture of the effects on their total revenue of the hospice wage index discussed in this rule, the BNAF phase-out, and the FY 2011 hospital market basket update. Certain events may limit the scope or accuracy of our impact analysis, because such an analysis is susceptible to forecasting errors due to other changes in the forecasted impact time period. The nature of the Medicare program is such that the changes may interact, and the complexity of the interaction of these changes could make it difficult to predict accurately the full scope of the impact upon hospices.

BILLING CODE 4120–01–P

TABLE 1. Anticipated Impact on Medicare Hospice Payments of Updating the Pre-floor, Pre-Reclassified Hospital Wage Index Data, Reducing the Budget Neutrality Adjustment Factor (BNAF) by an Additional 15 Percent (for a Total BNAF Reduction of 25 Percent) and Applying a 2.6 Percent† Hospital Market Basket Update for the FY 2011 Hospice Wage Index, Compared to the FY 2010 Hospice Wage Index with a 10 Percent BNAF Reduction

	Number of Hospices (1)*	Number of Routine Home Care Days in Thous-ands (2)	Percent Change in Hospice Payments due to FY2011 Wage Index Change (3)	Percent Change in Hospice Payments due to Wage Index Change, additional 15% Reduction in Budget Neutrality Adjustment (4)	Percent Change in Hospice Payments due to Wage Index Change, additional 15% Reduction in Budget Neutrality Adjustment and 2.6% Market Basket Update† (5)
ALL HOSPICES	3,429	74,898	(0.2%)	(0.8%)	1.8%
Urban Hospices	2,380	64,873	(0.2%)	(0.8%)	1.8%

Rural Hospices	1,049	10,025	(0.3%)	(0.8%)	1.8%
BY REGION – URBAN:					
New England	132	2,422	0.5%	(0.1%)	2.5%
Middle Atlantic	238	7,122	(0.4%)	(1.0%)	1.6%
South Atlantic	345	14,283	(0.5%)	(1.0%)	1.5%
East North Central	327	9,256	(0.4%)	(1.0%)	1.6%
East South Central	176	4,425	(0.5%)	(1.0%)	1.6%
West North Central	180	4,282	0.1%	(0.5%)	2.1%
West South Central	459	8,617	(0.4%)	(1.0%)	1.6%
Mountain	222	5,633	1.0%	0.4%	3.0%
Pacific	264	7,606	0.2%	(0.5%)	2.1%
Outlying	37	1,227	(0.5%)	(0.5%)	2.1%
BY REGION – RURAL:					
New England	26	193	(1.3%)	(1.9%)	0.7%
Middle Atlantic	45	517	0.1%	(0.4%)	2.1%
South Atlantic	135	2,052	(0.2%)	(0.7%)	1.9%
East North Central	147	1,710	(0.7%)	(1.2%)	1.3%
East South Central	153	1,945	0.1%	(0.2%)	2.4%
West North Central	193	1,089	(0.8%)	(1.4%)	1.2%
West South Central	188	1,497	(0.6%)	(1.0%)	1.6%
Mountain	109	585	0.8%	0.3%	2.9%
Pacific	52	427	(0.3%)	(0.9%)	1.7%
Outlying	1	10	0.0%	0.0%	2.6%
ROUTINE HOME CARE DAYS:					
0- 3499 Days (small)	611	1,064	(0.2%)	(0.7%)	1.8%
3500–19,999 Days (medium)	1,715	17,219	(0.1%)	(0.7%)	1.9%
20,000+ Days (large)	1,103	56,614	(0.2%)	(0.8%)	1.8%
TYPE OF OWNERSHIP:					
Voluntary	1,188	30,642	(0.1%)	(0.7%)	1.9%
Proprietary	1,784	37,727	(0.3%)	(0.8%)	1.8%
Government**	457	6,529	(0.1%)	(0.6%)	1.9%
HOSPICE BASE:					
Freestanding	2,299	57,982	(0.2%)	(0.8%)	1.8%
Home Health Agency	569	10,230	(0.1%)	(0.7%)	1.9%
Hospital	541	6,482	(0.2%)	(0.7%)	1.8%
Skilled Nursing Facility	20	204	(0.5%)	(1.1%)	1.4%

BNAF = Budget Neutrality Adjustment Factor

Comparison is to FY 2010 data with a 10 percent BNAF reduction.

*OSCAR data as of February 25, 2010, for hospices with claims filed in FY 2009

**In previous years, there was also a category labeled "Other"; these were Other Government

hospices, and have been combined with the "Government" category.

†The 2.6 percent hospital market basket update does not reflect the provision in the Affordable Care Act which reduced the hospital market basket update by 0.25 percentage point since that reduction does not apply to hospices.

REGION KEY:

New England=Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont; **Middle Atlantic**=Pennsylvania, New Jersey, New York; **South Atlantic**=Delaware, District of Columbia, Florida, Georgia, Maryland, North Carolina, South Carolina, Virginia, West Virginia; **East North Central**=Illinois, Indiana, Michigan, Ohio, Wisconsin; **East South Central**=Alabama, Kentucky, Mississippi, Tennessee; **West North Central**=Iowa, Kansas, Minnesota, Missouri, Nebraska, North Dakota, South Dakota; **West South Central**=Arkansas, Louisiana, Oklahoma, Texas; **Mountain**=Arizona, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, Wyoming; **Pacific**=Alaska, California, Hawaii, Oregon, Washington; **Outlying**=Guam, Puerto Rico, Virgin Islands

BILLING CODE 4120–01–C

Table 1 shows the results of our analysis. In column 1, we indicate the number of hospices included in our analysis as of February 25, 2010 which had also filed claims in FY 2009. In column 2, we indicate the number of routine home care days that were included in our analysis, although the analysis was performed on all types of hospice care. Columns 3, 4, and 5 compare FY 2011 estimated payments with those estimated for FY 2010. The estimated FY 2010 payments incorporate a BNAF which has been reduced by 10 percent. Column 3 shows the percentage change in estimated Medicare payments for FY 2011 due to the effects of the updated wage data only, compared with estimated FY 2010 payments. The effect of the updated wage data can vary from region to region depending on the fluctuations in the wage index values of the pre-floor, pre-reclassified hospital wage index. Column 4 shows the percentage change in estimated hospice payments from FY 2010 to FY 2011 due to the combined effects of using the updated wage data and reducing the BNAF by an additional 15 percent (for a total BNAF reduction of 25 percent). Column 5 shows the percentage change in estimated hospice payments from FY 2010 to FY 2011 due to the combined effects of using updated wage data, an additional 15 percent BNAF reduction (for a total BNAF reduction of 25 percent), and a 2.6 percent hospital market basket update.

Table 1 also categorizes hospices by various geographic and hospice characteristics. The first row of data displays the aggregate result of the impact for all Medicare-certified hospices. The second and third rows of the table categorize hospices according to their geographic location (urban and rural). Our analysis indicated that there are 2,380 hospices located in urban areas and 1,049 hospices located in rural areas. The next two row groupings in the table indicate the number of hospices by census region, also broken down by urban and rural hospices. The next grouping shows the impact on hospices based on the size of the hospice's program. We determined that the majority of hospice payments are made at the routine home care rate. Therefore, we based the size of each individual hospice's program on the number of routine home care days provided in FY 2009. The next grouping shows the impact on hospices by type of ownership. The final grouping shows the impact on hospices defined by whether they are provider-based or freestanding.

As indicated in Table 1, there are 3,429 hospices. Approximately 48.0 percent of Medicare-certified hospices are identified as voluntary (non-profit) or government agencies. Because the National Hospice and Palliative Care Organization estimates that approximately 83.6 percent of hospice patients in 2007 were Medicare beneficiaries, we have not considered other sources of revenue in this analysis.

As stated previously, the following discussions are limited to demonstrating trends rather than projected dollars. We used the pre-floor, pre-reclassified hospital wage indexes as well as the most complete claims data available (FY 2009) in developing the impact analysis. The FY 2011 payment rates will be adjusted to reflect the full hospital market basket, as required by section 1814(i)(1)(C)(ii)(VII) of the Act. As previously noted, we publish these rates through administrative instructions rather than in a proposed rule. The FY 2011 hospital market basket update is 2.6 percent. This 2.6 percent does not reflect the provision in the Affordable Care Act which reduced the hospital market basket update by 0.25 percentage points since that reduction does not apply to hospices. Since the inclusion of the effect of a hospital market basket increase provides a more complete picture of projected total hospice payments for FY 2011, the last column of Table 1 shows the combined impacts of the updated wage data, the additional 15 percent BNAF reduction (for a total BNAF reduction of 25 percent), and the 2.6 percent hospital market basket update. As discussed in the FY 2006 hospice wage index final rule (70 FR 45129), hospice agencies may use multiple hospice wage index values to compute their payments based on potentially different geographic locations. Before January 1, 2008, the location of the beneficiary was used to determine the CBSA for routine and continuous home care and the location of the hospice agency was used to determine the CBSA for respite and general inpatient care. Beginning January 1, 2008, the hospice wage index utilized is based on the location of the site of service. As the location of the beneficiary's home and the location of the facility may vary, there will still be variability in geographic location for an individual hospice. We anticipate that the location of the various sites will usually correspond with the geographic location of the hospice, and thus we will continue to use the location of the hospice for our analyses of the impact of the changes to the hospice wage index in this rule. For this analysis, we use payments to the hospice in the aggregate based on the location of the hospice.

The impact of hospice wage index changes has been analyzed according to the type of hospice, geographic location, type of ownership, hospice base, and size. Our analysis shows that most hospices are in urban areas and provide the vast majority of routine home care days. Most hospices are medium-sized

followed by large hospices. Hospices are almost equal in numbers by ownership with 1,645 designated as non-profit or government hospices and 1,784 as proprietary. The vast majority of hospices are freestanding.

2. Hospice Size

Under the Medicare hospice benefit, hospices can provide four different levels of care days. The majority of the days provided by a hospice are routine home care (RHC) days, representing about 97 percent of the services provided by a hospice. Therefore, the number of RHC days can be used as a proxy for the size of the hospice, that is, the more days of care provided, the larger the hospice. As discussed in the August 4, 2005 final rule, we currently use three size designations to present the impact analyses. The three categories are: (1) Small agencies having 0 to 3,499 RHC days; (2) medium agencies having 3,500 to 19,999 RHC days; and (3) large agencies having 20,000 or more RHC days. The FY 2011 updated wage data without any BNAF reduction are anticipated to decrease payments to small and large hospices by 0.2 percent, and to decrease payments to medium hospices by 0.1 percent (column 3); the updated wage data and the additional 15 percent BNAF reduction (for a total BNAF reduction of 25 percent) are anticipated to decrease estimated payments to small and medium hospices by 0.7 percent, and to large hospices by 0.8 percent (column 4); and finally, the updated wage data, the additional 15 percent BNAF reduction (for a total BNAF reduction of 25 percent), and the 2.6 percent hospital market basket update are projected to increase estimated payments by 1.8 percent for small and large hospices, and by 1.9 percent for medium hospices (column 5).

3. Geographic Location

Column 3 of Table 1 shows that the updated wage data without the BNAF reduction would result in a small reduction in estimated payments. Urban hospices are anticipated to experience a decrease of 0.2 percent, while rural hospices will experience a decrease of 0.3 percent. Urban hospices can anticipate an increase of 1.0 percent in the Mountain region, of 0.5 percent in New England, of 0.2 percent in the Pacific region, and of 0.1 percent in the West North Central region. The remaining urban regions are anticipated to experience a decrease of 0.4 percent in the Middle Atlantic, East North Central, West South Central regions, and a decrease of 0.5 in the South Atlantic, East South Central, and Outlying regions.

Column 3 shows that for rural hospices, Outlying regions are anticipated to experience no change. The Middle Atlantic and East South Central regions are anticipated to experience an increase of 0.1 percent, while the Mountain region is anticipated to experience an increase of 0.8 percent. The remaining 6 rural regions are anticipated to experience a decrease ranging from 0.2 percent in the South Atlantic to 1.3 percent in New England.

Column 4 shows the combined effect of the updated wage data and the additional 15 percent BNAF reduction (for a total BNAF reduction of 25 percent) on estimated payments, as compared to the FY 2010 estimated payments using a BNAF with a 10 percent reduction. Overall urban and rural hospices are both anticipated to experience a 0.8 percent decrease in payments. Mountain urban hospices are anticipated to see a payment increase of 0.4 percent. All other urban hospices are anticipated to experience a decrease in payment ranging from 0.1 percent in the New England region to 1.0 percent in the Middle Atlantic, South Atlantic, East North Central, East South Central, and West South Central regions.

Rural hospices are estimated to experience an increase in payments of 0.3 percent in the Mountain region, while Outlying regions are estimated to experience no change in payments. The remaining rural hospices are anticipated to experience estimated decreases in payment ranging from 0.2 percent in the East South Central region to 1.9 percent in the New England region.

Column 5 shows the combined effects of the updated wage data, the additional 15 percent BNAF reduction (for a total BNAF reduction of 25 percent), and the 2.6 percent hospital market basket update on estimated payments as compared to the estimated FY 2010 payments. Note that the FY 2010 payments had a 10 percent BNAF reduction applied to them. Overall, urban and rural hospices are anticipated to experience a 1.8 percent increase in payments. Urban hospices are anticipated to experience an increase in estimated payments in every region, ranging from a 1.5 percent increase in the South Atlantic region to a 3.0 percent increase in the Mountain region. Rural hospices in every region are estimated to see an increase in payments ranging from 0.7 percent in the New England region to 2.9 percent in the Mountain region.

4. Type of Ownership

Column 3 demonstrates the effect of the updated wage data on FY 2011 estimated payments with an additional 15 percent BNAF reduction, for a total BNAF reduction of 25 percent, versus FY 2010 estimated payments which included a 10 percent BNAF reduction. We anticipate that using the updated wage data would decrease estimated payments to voluntary (non-profit) and government hospices by 0.1 percent. We estimate a decrease in payments for proprietary (for-profit) hospices of 0.3 percent.

Column 4 demonstrates the combined effects of the updated wage data and of the additional 15 percent BNAF reduction (for a total BNAF reduction of 25 percent). Estimated payments to voluntary (non-profit) hospices are anticipated to decrease by 0.7 percent, while government hospices are anticipated to experience decreases of 0.6 percent. Estimated payments to proprietary (for-profit) hospices are anticipated to decrease by 0.8 percent.

Column 5 shows the combined effects of the updated wage data, the additional 15 percent BNAF reduction (for a total BNAF reduction of 25 percent), and the 2.6 percent hospital market basket update on estimated payments, comparing FY 2011 to FY 2010 (using a BNAF with a 10 percent reduction). Estimated FY 2011 payments are anticipated to increase by 1.9 percent for voluntary (non-profit) and government hospices, and by 1.8 percent for proprietary (for-profit) hospices.

5. Hospice Base

Column 3 demonstrates the effect of using the updated wage data, comparing estimated payments for FY 2011 to FY 2010 (using a BNAF with a 10 percent reduction). Estimated payments are anticipated to decrease by 0.1 percent for home health agency based hospices. Freestanding and hospital based providers are anticipated to experience a 0.2 percent decrease in estimated payments. Hospices based out of skilled nursing facilities are anticipated to experience a decrease in estimated payments of 0.5 percent.

Column 4 shows the combined effects of the updated wage data and reducing the BNAF by an additional 15 percent (for a total BNAF reduction of 25 percent), comparing estimated payments for FY 2011 to FY 2010 (using a BNAF with a 10 percent reduction). Skilled nursing facility based hospices are estimated to see a 1.1 percent decrease, freestanding hospices are estimated to see a 0.8 percent decrease, and hospital

and home health agency based hospices are each anticipated to experience a 0.7 percent decrease in payments.

Column 5 shows the combined effects of the updated wage data, the additional 15 percent BNAF reduction (for a total BNAF reduction of 25 percent), and the 2.6 percent hospital market basket update on estimated payments, comparing FY 2011 to FY 2010 (using a BNAF with a 10 percent reduction). Estimated payments are anticipated to increase by 1.4 percent for skilled nursing based facilities, to increase by 1.8 percent for freestanding and hospital-based providers, and to increase by 1.9 percent for home health agency based providers.

6. Effects on Other Providers

This notice with comment period only affects Medicare hospice providers, and therefore has no effect on other provider types.

7. Effects on the Medicare and Medicaid Programs

This notice with comment period only affects Medicare hospice providers, and therefore has no effect on Medicaid programs. As described previously, estimated Medicare payments to hospices in FY 2011 are anticipated to decrease by $30 million due to the update in the wage index data itself, and to decrease by $80 million due to the total 25 percent reduction in the BNAF. However, the market basket update of 2.6 percent is anticipated to increase Medicare payments by $330 million. Therefore the total effect on Medicare hospice payments is estimated to be a $220 million increase. The market basket update and associated FY 2011 payment rates will be officially communicated this summer through an administrative instruction.

C. Accounting Statement and Table

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf*), in Table 2 below, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this notice with comment period. This table provides our best estimate of the decrease in Medicare payments under the hospice benefit as a result of the changes presented in this notice with comment period on data for 3,429 hospices in our database. All expenditures are classified as transfers to Medicare providers (that is, hospices).

TABLE 2-- Accounting Statement: Classification of Estimated Expenditures, From FY 2010 to FY 2011 [in millions]

Category	Transfers
Annualized Monetized Transfers.....	$-110
From Whom to Whom.....	Federal Government to Hospices

Note: The $110 million reduction in transfers includes the additional 15 percent reduction in the BNAF (for a total BNAF reduction of 25 percent) and the updated wage data. It does not include the hospital market basket update, which is 2.6 percent for FY 2011. This 2.6 percent does not reflect the provision in the Affordable Care Act which reduced the hospital market basket update by 0.25 percentage point since that reduction does not apply to hospices.

In accordance with the provisions of Executive Order 12866, this notice with comment period was reviewed by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 93.778, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 18, 2010.

Marilyn Tavenner,

Principal Deputy Administrator and Chief Operating Officer, Centers for Medicare & Medicaid Services.

Approved: July 14, 2010.

Kathleen Sebelius,

Secretary.

BILLING CODE 4120–01–P

Addendum A. Final Hospice Wage Index for Urban Areas by CBSA– FY 2011

CBSA Code	Urban Area[1] (Constituent Counties)	Wage Index[2]
10180	Abilene, TX Callahan County, TX Jones County, TX Taylor County, TX	0.8307
10380	Aguadilla-Isabela-San Sebastián, PR Aguada Municipio, PR Aguadilla Municipio, PR Añasco Municipio, PR Isabela Municipio, PR Lares Municipio, PR Moca Municipio, PR Rincón Municipio, PR San Sebastián Municipio, PR	0.3981
10420	Akron, OH Portage County, OH Summit County, OH	0.9252
10500	Albany, GA Baker County, GA Dougherty County, GA Lee County, GA Terrell County, GA Worth County, GA	0.9303
10580	Albany-Schenectady-Troy, NY Albany County, NY Rensselaer County, NY Saratoga County, NY Schenectady County, NY Schoharie County, NY	0.9176
10740	Albuquerque, NM Bernalillo County, NM Sandoval County, NM Torrance County, NM Valencia County, NM	0.9826
10780	Alexandria, LA Grant Parish, LA Rapides Parish, LA	0.8376
10900	Allentown-Bethlehem-Easton, PA-NJ Warren County, NJ Carbon County, PA Lehigh County, PA Northampton County, PA	1.0048
11020	Altoona, PA Blair County, PA	0.9266
11100	Amarillo, TX Armstrong County, TX Carson County, TX Potter County, TX Randall County, TX	0.9084
11180	Ames, IA Story County, IA	0.9924
11260	Anchorage, AK Anchorage Municipality, AK Matanuska-Susitna Borough, AK	1.2559
11300	Anderson, IN Madison County, IN	0.9463
11340	Anderson, SC Anderson County, SC	0.9433
11460	Ann Arbor, MI Washtenaw County, MI	1.0761
11500	Anniston-Oxford, AL Calhoun County, AL	0.8000
11540	Appleton, WI Calumet County, WI Outagamie County, WI	0.9711
11700	Asheville, NC Buncombe County, NC Haywood County, NC Henderson County, NC Madison County, NC	0.9468
12020	Athens-Clarke County, GA Clarke County, GA Madison County, GA Oconee County, GA Oglethorpe County, GA	0.9923

12060	Atlanta-Sandy Springs-Marietta, GA Barrow County, GA Bartow County, GA Butts County, GA Carroll County, GA Cherokee County, GA Clayton County, GA Cobb County, GA Coweta County, GA Dawson County, GA DeKalb County, GA Douglas County, GA Fayette County, GA Forsyth County, GA Fulton County, GA Gwinnett County, GA Haralson County, GA Heard County, GA Henry County, GA Jasper County, GA Lamar County, GA Meriwether County, GA Newton County, GA Paulding County, GA Pickens County, GA Pike County, GA Rockdale County, GA Spalding County, GA Walton County, GA	1.0027
12100	Atlantic City-Hammonton, NJ Atlantic County, NJ	1.2079
12220	Auburn-Opelika, AL Lee County, AL	0.8508
12260	Augusta-Richmond County, GA-SC Burke County, GA Columbia County, GA McDuffie County, GA Richmond County, GA Aiken County, SC Edgefield County, SC	0.9836
12420	Austin-Round Rock, TX Bastrop County, TX Caldwell County, TX Hays County, TX Travis County, TX Williamson County, TX	0.9950
12540	Bakersfield, CA Kern County, CA	1.1742
12580	Baltimore-Towson, MD Anne Arundel County, MD Baltimore County, MD Carroll County, MD Harford County, MD Howard County, MD Queen Anne's County, MD Baltimore City, MD	1.0678
12620	Bangor, ME Penobscot County, ME	1.0615
12700	Barnstable Town, MA Barnstable County, MA	1.3191
12940	Baton Rouge, LA Ascension Parish, LA East Baton Rouge Parish, LA East Feliciana Parish, LA Iberville Parish, LA Livingston Parish, LA Pointe Coupee Parish, LA St. Helena Parish, LA West Baton Rouge Parish, LA West Feliciana Parish, LA	0.8552
12980	Battle Creek, MI Calhoun County, MI	1.0454
13020	Bay City, MI Bay County, MI	0.9688
13140	Beaumont-Port Arthur, TX Hardin County, TX Jefferson County, TX Orange County, TX	0.8764
13380	Bellingham, WA Whatcom County, WA	1.1913
13460	Bend, OR Deschutes County, OR	1.1966

13644	Bethesda-Frederick-Rockville, MD Frederick County, MD Montgomery County, MD	1.0766
13740	Billings, MT Carbon County, MT Yellowstone County, MT	0.9180
13780	Binghamton, NY Broome County, NY Tioga County, NY	0.9179
13820	Birmingham-Hoover, AL Bibb County, AL Blount County, AL Chilton County, AL Jefferson County, AL St. Clair County, AL Shelby County, AL Walker County, AL	0.8943
13900	Bismarck, ND Burleigh County, ND Morton County, ND	0.8000
13980	Blacksburg-Christiansburg-Radford, VA Giles County, VA Montgomery County, VA Pulaski County, VA Radford City, VA	0.8775
14020	Bloomington, IN Greene County, IN Monroe County, IN Owen County, IN	0.9454
14060	Bloomington-Normal, IL McLean County, IL	0.9804
14260	Boise City-Nampa, ID Ada County, ID Boise County, ID Canyon County, ID Gem County, ID Owyhee County, ID	0.9741
14484	Boston-Quincy, MA Norfolk County, MA Plymouth County, MA Suffolk County, MA	1.2740
14500	Boulder, CO Boulder County, CO	1.0732
14540	Bowling Green, KY Edmonson County, KY Warren County, KY	0.8854
14600	Bradenton-Sarasota-Venice, FL Manatee County, FL Sarasota County, FL	1.0177
14740	Bremerton-Silverdale, WA Kitsap County, WA	1.1244
14860	Bridgeport-Stamford-Norwalk, CT Fairfield County, CT	1.3373
15180	Brownsville-Harlingen, TX Cameron County, TX	0.9430
15260	Brunswick, GA Brantley County, GA Glynn County, GA McIntosh County, GA	0.9595
15380	Buffalo-Niagara Falls, NY Erie County, NY Niagara County, NY	1.0182
15500	Burlington, NC Alamance County, NC	0.9146
15540	Burlington-South Burlington, VT Chittenden County, VT Franklin County, VT Grand Isle County, VT	1.0565
15764	Cambridge-Newton-Framingham, MA Middlesex County, MA	1.1790
15804	Camden, NJ Burlington County, NJ Camden County, NJ Gloucester County, NJ	1.0845
15940	Canton-Massillon, OH Carroll County, OH Stark County, OH	0.9213
15980	Cape Coral-Fort Myers, FL Lee County, FL	0.9488
16020	Cape Girardeau-Jackson, MO-IL Alexander County, IL Bollinger County, MO Cape Girardeau County, MO	0.9458
16180	Carson City, NV Carson City, NV	1.1009
16220	Casper, WY	0.9952

	Natrona County, WY	
16300	Cedar Rapids, IA Benton County, IA Jones County, IA Linn County, IA	0.9392
16580	Champaign-Urbana, IL Champaign County, IL Ford County, IL Piatt County, IL	1.0567
16620	Charleston, WV Boone County, WV Clay County, WV Kanawha County, WV Lincoln County, WV Putnam County, WV	0.8511
16700	Charleston-North Charleston-Summerville, SC Berkeley County, SC Charleston County, SC Dorchester County, SC	0.9700
16740	Charlotte-Gastonia-Concord, NC-SC Anson County, NC Cabarrus County, NC Gaston County, NC Mecklenburg County, NC Union County, NC York County, SC	0.9904
16820	Charlottesville, VA Albemarle County, VA Fluvanna County, VA Greene County, VA Nelson County, VA Charlottesville City, VA	0.9798
16860	Chattanooga, TN-GA Catoosa County, GA Dade County, GA Walker County, GA Hamilton County, TN Marion County, TN Sequatchie County, TN	0.9232
16940	Cheyenne, WY Laramie County, WY	0.9768
16974	Chicago-Naperville-Joliet, IL Cook County, IL DeKalb County, IL DuPage County, IL Grundy County, IL Kane County, IL Kendall County, IL McHenry County, IL Will County, IL	1.0947
17020	Chico, CA Butte County, CA	1.1707
17140	Cincinnati-Middletown, OH-KY-IN Dearborn County, IN Franklin County, IN Ohio County, IN Boone County, KY Bracken County, KY Campbell County, KY Gallatin County, KY Grant County, KY Kenton County, KY Pendleton County, KY Brown County, OH Butler County, OH Clermont County, OH Hamilton County, OH Warren County, OH	0.9914
17300	Clarksville, TN-KY Christian County, KY Trigg County, KY Montgomery County, TN Stewart County, TN	0.8342
17420	Cleveland, TN Bradley County, TN Polk County, TN	0.8000
17460	Cleveland-Elyria-Mentor, OH Cuyahoga County, OH Geauga County, OH Lake County, OH Lorain County, OH Medina County, OH	0.9319
17660	Coeur d'Alene, ID Kootenai County, ID	0.9654

17780	College Station-Bryan, TX Brazos County, TX Burleson County, TX Robertson County, TX	0.9929
17820	Colorado Springs, CO El Paso County, CO Teller County, CO	1.0267
17860	Columbia, MO Boone County, MO Howard County, MO	0.9009
17900	Columbia, SC Calhoun County, SC Fairfield County, SC Kershaw County, SC Lexington County, SC Richland County, SC Saluda County, SC	0.9188
17980	Columbus, GA-AL Russell County, AL Chattahoochee County, GA Harris County, GA Marion County, GA Muscogee County, GA	0.9120
18020	Columbus, IN Bartholomew County, IN	0.9969
18140	Columbus, OH Delaware County, OH Fairfield County, OH Franklin County, OH Licking County, OH Madison County, OH Morrow County, OH Pickaway County, OH Union County, OH	1.0560
18580	Corpus Christi, TX Aransas County, TX Nueces County, TX San Patricio County, TX	0.9088
18700	Corvallis, OR Benton County, OR	1.1502
19060	Cumberland, MD-WV Allegany County, MD Mineral County, WV	0.8410
19124	Dallas-Plano-Irving, TX Collin County, TX Dallas County, TX Delta County, TX Denton County, TX Ellis County, TX Hunt County, TX Kaufman County, TX Rockwall County, TX	1.0301
19140	Dalton, GA Murray County, GA Whitfield County, GA	0.9060
19180	Danville, IL Vermilion County, IL	0.9135
19260	Danville, VA Pittsylvania County, VA Danville City, VA	0.8701
19340	Davenport-Moline-Rock Island, IA-IL Henry County, IL Mercer County, IL Rock Island County, IL Scott County, IA	0.8660
19380	Dayton, OH Greene County, OH Miami County, OH Montgomery County, OH Preble County, OH	0.9629
19460	Decatur, AL Lawrence County, AL Morgan County, AL	0.8153
19500	Decatur, IL Macon County, IL	0.8358
19660	Deltona-Daytona Beach-Ormond Beach, FL Volusia County, FL	0.9268
19740	Denver-Aurora-Broomfield, CO Adams County, CO Arapahoe County, CO Broomfield County, CO Clear Creek County, CO Denver County, CO Douglas County, CO Elbert County, CO Gilpin County, CO	1.1218

	Jefferson County, CO Park County, CO	
19780	Des Moines-West Des Moines, IA Dallas County, IA Guthrie County, IA Madison County, IA Polk County, IA Warren County, IA	1.0087
19804	Detroit-Livonia-Dearborn, MI Wayne County, MI	1.0171
20020	Dothan, AL Geneva County, AL Henry County, AL Houston County, AL	0.8000
20100	Dover, DE Kent County, DE	1.0382
20220	Dubuque, IA Dubuque County, IA	0.9272
20260	Duluth, MN-WI Carlton County, MN St. Louis County, MN Douglas County, WI	1.0923
20500	Durham-Chapel Hill, NC Chatham County, NC Durham County, NC Orange County, NC Person County, NC	1.0055
20740	Eau Claire, WI Chippewa County, WI Eau Claire County, WI	1.0002
20764	Edison-New Brunswick, NJ Middlesex County, NJ Monmouth County, NJ Ocean County, NJ Somerset County, NJ	1.1563
20940	El Centro, CA	0.9164
	Imperial County, CA	
21060	Elizabethtown, KY Hardin County, KY Larue County, KY	0.8769
21140	Elkhart-Goshen, IN Elkhart County, IN	0.9920
21300	Elmira, NY Chemung County, NY	0.8720
21340	El Paso, TX El Paso County, TX	0.8929
21500	Erie, PA Erie County, PA	0.9178
21660	Eugene-Springfield, OR Lane County, OR	1.1535
21780	Evansville, IN-KY Gibson County, IN Posey County, IN Vanderburgh County, IN Warrick County, IN Henderson County, KY Webster County, KY	0.8909
21820	Fairbanks, AK Fairbanks North Star Borough, AK	1.1619
21940	Fajardo, PR Ceiba Municipio, PR Fajardo Municipio, PR Luquillo Municipio, PR	0.4359
22020	Fargo, ND-MN Cass County, ND Clay County, MN	0.8543
22140	Farmington, NM San Juan County, NM	0.8247
22180	Fayetteville, NC Cumberland County, NC Hoke County, NC	0.9783
22220	Fayetteville-Springdale-Rogers, AR-MO Benton County, AR Madison County, AR Washington County, AR McDonald County, MO	0.9174
22380	Flagstaff, AZ Coconino County, AZ	1.3042
22420	Flint, MI	1.1744

	Genesee County, MI	
22500	Florence, SC Darlington County, SC Florence County, SC	0.8483
22520	Florence-Muscle Shoals, AL Colbert County, AL Lauderdale County, AL	0.8361
22540	Fond du Lac, WI Fond du Lac County, WI	1.0099
22660	Fort Collins-Loveland, CO Larimer County, CO	1.0637
22744	Fort Lauderdale-Pompano Beach-Deerfield Beach, FL Broward County, FL	1.0855
22900	Fort Smith, AR-OK Crawford County, AR Franklin County, AR Sebastian County, AR Le Flore County, OK Sequoyah County, OK	0.8218
23020	Fort Walton Beach-Crestview-Destin, FL Okaloosa County, FL	0.9156
23060	Fort Wayne, IN Allen County, IN Wells County, IN Whitley County, IN	0.9421
23104	Fort Worth-Arlington, TX Johnson County, TX Parker County, TX Tarrant County, TX Wise County, TX	0.9930
23420	Fresno, CA Fresno County, CA	1.1779
23460	Gadsden, AL Etowah County, AL	0.8641
23540	Gainesville, FL Alachua County, FL Gilchrist County, FL	0.9386
23580	Gainesville, GA Hall County, GA	0.9537
23844	Gary, IN Jasper County, IN Lake County, IN Newton County, IN Porter County, IN	0.9710
24020	Glens Falls, NY Warren County, NY Washington County, NY	0.8840
24140	Goldsboro, NC Wayne County, NC	0.9467
24220	Grand Forks, ND-MN Polk County, MN Grand Forks County, ND	0.8128
24300	Grand Junction, CO Mesa County, CO	1.0163
24340	Grand Rapids-Wyoming, MI Barry County, MI Ionia County, MI Kent County, MI Newaygo County, MI	0.9595
24500	Great Falls, MT Cascade County, MT	0.8733
24540	Greeley, CO Weld County, CO	1.0013
24580	Green Bay, WI Brown County, WI Kewaunee County, WI Oconto County, WI	1.0058
24660	Greensboro-High Point, NC Guilford County, NC Randolph County, NC Rockingham County, NC	0.9474
24780	Greenville, NC Greene County, NC Pitt County, NC	0.9828
24860	Greenville-Mauldin-Easley, SC Greenville County, SC Laurens County, SC Pickens County, SC	1.0433
25020	Guayama, PR Arroyo Municipio, PR Guayama Municipio, PR Patillas Municipio, PR	0.4068

25060	Gulfport-Biloxi, MS Hancock County, MS Harrison County, MS Stone County, MS	0.9182
25180	Hagerstown-Martinsburg, MD-WV Washington County, MD Berkeley County, WV Morgan County, WV	0.9372
25260	Hanford-Corcoran, CA Kings County, CA	1.1510
25420	Harrisburg-Carlisle, PA Cumberland County, PA Dauphin County, PA Perry County, PA	0.9708
25500	Harrisonburg, VA Rockingham County, VA Harrisonburg City, VA	0.9435
25540	Hartford-West Hartford-East Hartford, CT Hartford County, CT Middlesex County, CT Tolland County, CT	1.1702
25620	Hattiesburg, MS Forrest County, MS Lamar County, MS Perry County, MS	0.8012
25860	Hickory-Lenoir-Morganton, NC Alexander County, NC Burke County, NC Caldwell County, NC Catawba County, NC	0.9409
25980	Hinesville-Fort Stewart, GA[3] Liberty County, GA Long County, GA	0.9438
26100	Holland-Grand Haven, MI Ottawa County, MI	0.9091
26180	Honolulu, HI Honolulu County, HI	1.2192
26300	Hot Springs, AR Garland County, AR	0.9413
26380	Houma-Bayou Cane-Thibodaux, LA Lafourche Parish, LA Terrebonne Parish, LA	0.8233
26420	Houston-Sugar Land-Baytown, TX Austin County, TX Brazoria County, TX Chambers County, TX Fort Bend County, TX Galveston County, TX Harris County, TX Liberty County, TX Montgomery County, TX San Jacinto County, TX Waller County, TX	1.0288
26580	Huntington-Ashland, WV-KY-OH Boyd County, KY Greenup County, KY Lawrence County, OH Cabell County, WV Wayne County, WV	0.9510
26620	Huntsville, AL Limestone County, AL Madison County, AL	0.9476
26820	Idaho Falls, ID Bonneville County, ID Jefferson County, ID	0.9865
26900	Indianapolis-Carmel, IN Boone County, IN Brown County, IN Hamilton County, IN Hancock County, IN Hendricks County, IN Johnson County, IN Marion County, IN Morgan County, IN Putnam County, IN Shelby County, IN	1.0185
26980	Iowa City, IA Johnson County, IA Washington County, IA	0.9982
27060	Ithaca, NY Tompkins County, NY	1.0571
27100	Jackson, MI Jackson County, MI	0.9116

27140	Jackson, MS Copiah County, MS Hinds County, MS Madison County, MS Rankin County, MS Simpson County, MS	0.8558
27180	Jackson, TN Chester County, TN Madison County, TN	0.8971
27260	Jacksonville, FL Baker County, FL Clay County, FL Duval County, FL Nassau County, FL St. Johns County, FL	0.9519
27340	Jacksonville, NC Onslow County, NC	0.8391
27500	Janesville, WI Rock County, WI	0.9619
27620	Jefferson City, MO Callaway County, MO Cole County, MO Moniteau County, MO Osage County, MO	0.9105
27740	Johnson City, TN Carter County, TN Unicoi County, TN Washington County, TN	0.8073
27780	Johnstown, PA Cambria County, PA	0.8607
27860	Jonesboro, AR Craighead County, AR Poinsett County, AR	0.8073
27900	Joplin, MO Jasper County, MO Newton County, MO	0.8661
28020	Kalamazoo-Portage, MI Kalamazoo County, MI Van Buren County, MI	1.0730
28100	Kankakee-Bradley, IL Kankakee County, IL	1.0636
28140	Kansas City, MO-KS Franklin County, KS Johnson County, KS Leavenworth County, KS Linn County, KS Miami County, KS Wyandotte County, KS Bates County, MO Caldwell County, MO Cass County, MO Clay County, MO Clinton County, MO Jackson County, MO Lafayette County, MO Platte County, MO Ray County, MO	1.0119
28420	Kennewick-Pasco-Richland, WA Benton County, WA Franklin County, WA	1.0923
28660	Killeen-Temple-Fort Hood, TX Bell County, TX Coryell County, TX Lampasas County, TX	0.9097
28700	Kingsport-Bristol-Bristol, TN-VA Hawkins County, TN Sullivan County, TN Bristol City, VA Scott County, VA Washington County, VA	0.8362
28740	Kingston, NY Ulster County, NY	0.9792
28940	Knoxville, TN Anderson County, TN Blount County, TN Knox County, TN Loudon County, TN Union County, TN	0.8239
29020	Kokomo, IN Howard County, IN Tipton County, IN	1.0310
29100	La Crosse, WI-MN Houston County, MN La Crosse County, WI	1.0365

29140	Lafayette, IN Benton County, IN Carroll County, IN Tippecanoe County, IN	0.9598
29180	Lafayette, LA Lafayette Parish, LA St. Martin Parish, LA	0.8903
29340	Lake Charles, LA Calcasieu Parish, LA Cameron Parish, LA	0.8348
29404	Lake County-Kenosha County, IL-WI Lake County, IL Kenosha County, WI	1.0951
29420	Lake Havasu City - Kingman, AZ Mohave County, AZ	1.1047
29460	Lakeland-Winter Haven, FL Polk County, FL	0.8771
29540	Lancaster, PA Lancaster County, PA	0.9622
29620	Lansing-East Lansing, MI Clinton County, MI Eaton County, MI Ingham County, MI	1.0214
29700	Laredo, TX Webb County, TX	0.8445
29740	Las Cruces, NM Dona Ana County, NM	0.9345
29820	Las Vegas-Paradise, NV Clark County, NV	1.2681
29940	Lawrence, KS Douglas County, KS	0.8970
30020	Lawton, OK Comanche County, OK	0.8203
30140	Lebanon, PA Lebanon County, PA	0.8488
30300	Lewiston, ID-WA Nez Perce County, ID Asotin County, WA	1.0005
30340	Lewiston-Auburn, ME Androscoggin County, ME	0.9498
30460	Lexington-Fayette, KY Bourbon County, KY Clark County, KY Fayette County, KY Jessamine County, KY Scott County, KY Woodford County, KY	0.9293
30620	Lima, OH Allen County, OH	0.9805
30700	Lincoln, NE Lancaster County, NE Seward County, NE	0.9997
30780	Little Rock-North Little Rock-Conway AR Faulkner County, AR Grant County, AR Lonoke County, AR Perry County, AR Pulaski County, AR Saline County, AR	0.8948
30860	Logan, UT-ID Franklin County, ID Cache County, UT	0.9401
30980	Longview, TX Gregg County, TX Rusk County, TX Upshur County, TX	0.8415
31020	Longview, WA Cowlitz County, WA	1.1193
31084	Los Angeles-Long Beach-Santa Ana, CA Los Angeles County, CA	1.2586
31140	Louisville-Jefferson County, KY-IN Clark County, IN Floyd County, IN Harrison County, IN Washington County, IN Bullitt County, KY Henry County, KY Jefferson County, KY Meade County, KY Nelson County, KY Oldham County, KY Shelby County, KY Spencer County, KY	0.9371

	Trimble County, KY	
31180	Lubbock, TX Crosby County, TX Lubbock County, TX	0.9148
31340	Lynchburg, VA Amherst County, VA Appomattox County, VA Bedford County, VA Campbell County, VA Bedford City, VA Lynchburg City, VA	0.8908
31420	Macon, GA Bibb County, GA Crawford County, GA Jones County, GA Monroe County, GA Twiggs County, GA	1.0272
31460	Madera-Chowchilla, CA Madera County, CA	0.8319
31540	Madison, WI Columbia County, WI Dane County, WI Iowa County, WI	1.1744
31700	Manchester-Nashua, NH Hillsborough County, NH	1.0633
31740	Manhattan, KS Geary County, KS Pottawatomie County Riley County	0.8236
31860	Mankato-North Mankato, MN Blue Earth County Nicollet County	0.9594
31900	Mansfield, OH Richland County, OH	0.9513
32420	Mayagüez, PR Hormigueros Municipio, PR Mayagüez Municipio, PR	0.4260
32580	McAllen-Edinburg-Mission, TX Hidalgo County, TX	0.9254
32780	Medford, OR Jackson County, OR	1.0527
32820	Memphis, TN-MS-AR Crittenden County, AR DeSoto County, MS Marshall County, MS Tate County, MS Tunica County, MS Fayette County, TN Shelby County, TN Tipton County, TN	0.9689
32900	Merced, CA Merced County, CA	1.2674
33124	Miami-Miami Beach-Kendall, FL Miami-Dade County, FL	1.0406
33140	Michigan City-La Porte, IN LaPorte County, IN	0.9734
33260	Midland, TX Midland County, TX	0.9980
33340	Milwaukee-Waukesha-West Allis, WI Milwaukee County, WI Ozaukee County, WI Washington County, WI Waukesha County, WI	1.0612
33460	Minneapolis-St. Paul-Bloomington, MN-WI Anoka County, MN Carver County, MN Chisago County, MN Dakota County, MN Hennepin County, MN Isanti County, MN Ramsey County, MN Scott County, MN Sherburne County, MN Washington County, MN Wright County, MN	1.1599

	Pierce County, WI St. Croix County, WI	
33540	Missoula, MT Missoula County, MT	0.9624
33660	Mobile, AL Mobile County, AL	0.8139
33700	Modesto, CA Stanislaus County, CA	1.3070
33740	Monroe, LA Ouachita Parish, LA Union Parish, LA	0.8104
33780	Monroe, MI Monroe County, MI	0.9289
33860	Montgomery, AL Autauga County, AL Elmore County, AL Lowndes County, AL Montgomery County, AL	0.8681
34060	Morgantown, WV Monongalia County, WV Preston County, WV	0.8843
34100	Morristown, TN Grainger County, TN Hamblen County, TN Jefferson County, TN	0.8000
34580	Mount Vernon-Anacortes, WA Skagit County, WA	1.0927
34620	Muncie, IN Delaware County, IN	0.8767
34740	Muskegon-Norton Shores, MI Muskegon County, MI	1.0269
34820	Myrtle Beach-North Myrtle Beach-Conway, SC Horry County, SC	0.9127
34900	Napa, CA Napa County, CA	1.5109
34940	Naples-Marco Island, FL Collier County, FL	1.0101
34980	Nashville-Davidson--Murfreesboro-Franklin, TN Cannon County, TN Cheatham County, TN Davidson County, TN Dickson County, TN Hickman County, TN Macon County, TN Robertson County, TN Rutherford County, TN Smith County, TN Sumner County, TN Trousdale County, TN Williamson County, TN Wilson County, TN	1.0129
35004	Nassau-Suffolk, NY Nassau County, NY Suffolk County, NY	1.3044
35084	Newark-Union, NJ-PA Essex County, NJ Hunterdon County, NJ Morris County, NJ Sussex County, NJ Union County, NJ Pike County, PA	1.1938
35300	New Haven-Milford, CT New Haven County, CT	1.2069
35380	New Orleans-Metairie-Kenner, LA Jefferson Parish, LA Orleans Parish, LA Plaquemines Parish, LA St. Bernard Parish, LA St. Charles Parish, LA St. John the Baptist Parish, LA St. Tammany Parish, LA	0.9505

35644	New York-White Plains-Wayne, NY-NJ Bergen County, NJ Hudson County, NJ Passaic County, NJ Bronx County, NY Kings County, NY New York County, NY Putnam County, NY Queens County, NY Richmond County, NY Rockland County, NY Westchester County, NY	1.3596
35660	Niles-Benton Harbor, MI Berrien County, MI	0.9307
35980	Norwich-New London, CT New London County, CT	1.1917
36084	Oakland-Fremont-Hayward, CA Alameda County, CA Contra Costa County, CA	1.7149
36100	Ocala, FL Marion County, FL	0.8945
36140	Ocean City, NJ Cape May County, NJ	1.0621
36220	Odessa, TX Ector County, TX	1.0310
36260	Ogden-Clearfield, UT Davis County, UT Morgan County, UT Weber County, UT	0.9786
36420	Oklahoma City, OK Canadian County, OK Cleveland County, OK Grady County, OK Lincoln County, OK Logan County, OK McClain County, OK Oklahoma County, OK	0.9304
36500	Olympia, WA Thurston County, WA	1.2055
36540	Omaha-Council Bluffs, NE-IA Harrison County, IA Mills County, IA Pottawattamie County, IA	1.0044
	Cass County, NE Douglas County, NE Sarpy County, NE Saunders County, NE Washington County, NE	
36740	Orlando-Kissimmee, FL Lake County, FL Orange County, FL Osceola County, FL Seminole County, FL	0.9358
36780	Oshkosh-Neenah, WI Winnebago County, WI	0.9568
36980	Owensboro, KY Daviess County, KY Hancock County, KY McLean County, KY	0.8737
37100	Oxnard-Thousand Oaks-Ventura, CA Ventura County, CA	1.2860
37340	Palm Bay-Melbourne-Titusville, FL Brevard County, FL	0.9472
37380	Palm Coast, FL Flagler County, FL	1.0039
37460	Panama City-Lynn Haven-Panama City Beach, FL Bay County, FL	0.8702
37620	Parkersburg-Marietta-Vienna, WV-OH Washington County, OH Pleasants County, WV Wirt County, WV Wood County, WV	0.8066
37700	Pascagoula, MS George County, MS Jackson County, MS	0.8816
37764	Peabody, MA Essex County, MA	1.1365
37860	Pensacola-Ferry Pass-Brent, FL Escambia County, FL Santa Rosa County, FL	0.8690
37900	Peoria, IL Marshall County, IL Peoria County, IL Stark County, IL Tazewell County, IL Woodford County, IL	0.9571

37964	Philadelphia, PA Bucks County, PA Chester County, PA Delaware County, PA Montgomery County, PA Philadelphia County, PA	1.1227
38060	Phoenix-Mesa-Scottsdale, AZ Maricopa County, AZ Pinal County, AZ	1.1113
38220	Pine Bluff, AR Cleveland County, AR Jefferson County, AR Lincoln County, AR	0.8000
38300	Pittsburgh, PA Allegheny County, PA Armstrong County, PA Beaver County, PA Butler County, PA Fayette County, PA Washington County, PA Westmoreland County, PA	0.9017
38340	Pittsfield, MA Berkshire County, MA	1.1142
38540	Pocatello, ID Bannock County, ID Power County, ID	0.9659
38660	Ponce, PR Juana Díaz Municipio, PR Ponce Municipio, PR Villalba Municipio, PR	0.4853
38860	Portland-South Portland-Biddeford, ME Cumberland County, ME Sagadahoc County, ME York County, ME	1.0650
38900	Portland-Vancouver-Beaverton, OR-WA Clackamas County, OR Columbia County, OR Multnomah County, OR Washington County, OR Yamhill County, OR Clark County, WA Skamania County, WA	1.2020
38940	Port St. Lucie, FL Martin County, FL St. Lucie County, FL	1.0345
39100	Poughkeepsie-Newburgh-Middletown, NY Dutchess County, NY Orange County, NY	1.1725
39140	Prescott, AZ Yavapai County, AZ	1.0581
39300	Providence-New Bedford-Fall River, RI-MA Bristol County, MA Bristol County, RI Kent County, RI Newport County, RI Providence County, RI Washington County, RI	1.1272
39340	Provo-Orem, UT Juab County, UT Utah County, UT	0.9982
39380	Pueblo, CO Pueblo County, CO	0.8959
39460	Punta Gorda, FL Charlotte County, FL	0.9173
39540	Racine, WI Racine County, WI	0.9799
39580	Raleigh-Cary, NC Franklin County, NC Johnston County, NC Wake County, NC	1.0102
39660	Rapid City, SD Meade County, SD Pennington County, SD	1.0502
39740	Reading, PA Berks County, PA	0.9684
39820	Redding, CA Shasta County, CA	1.4677
39900	Reno-Sparks, NV Storey County, NV Washoe County, NV	1.0752

40060	Richmond, VA Amelia County, VA Caroline County, VA Charles City County, VA Chesterfield County, VA Cumberland County, VA Dinwiddie County, VA Goochland County, VA Hanover County, VA Henrico County, VA King and Queen County, VA King William County, VA Louisa County, VA New Kent County, VA Powhatan County, VA Prince George County, VA Sussex County, VA Colonial Heights City, VA Hopewell City, VA Petersburg City, VA Richmond City, VA	0.9953
40140	Riverside-San Bernardino-Ontario, CA Riverside County, CA San Bernardino County, CA	1.1798
40220	Roanoke, VA Botetourt County, VA Craig County, VA Franklin County, VA Roanoke County, VA Roanoke City, VA Salem City, VA	0.9065
40340	Rochester, MN Dodge County, MN Olmsted County, MN Wabasha County, MN	1.1642
40380	Rochester, NY Livingston County, NY Monroe County, NY Ontario County, NY Orleans County, NY Wayne County, NY	0.9120
40420	Rockford, IL Boone County, IL Winnebago County, IL	1.0613
40484	Rockingham County, NH Strafford County, NH	1.0585
40580	Rocky Mount, NC Edgecombe County, NC Nash County, NC	0.9247
40660	Rome, GA Floyd County, GA	0.9320
40900	Sacramento--Arden-Arcade--Roseville, CA El Dorado County, CA Placer County, CA Sacramento County, CA Yolo County, CA	1.4712
40980	Saginaw-Saginaw Township North, MI Saginaw County, MI	0.9536
41060	St. Cloud, MN Benton County, MN Stearns County, MN	1.1612
41100	St. George, UT Washington County, UT	0.9656
41140	St. Joseph, MO-KS Doniphan County, KS Andrew County, MO Buchanan County, MO DeKalb County, MO	1.0652
41180	St. Louis, MO-IL Bond County, IL Calhoun County, IL Clinton County, IL Jersey County, IL Macoupin County, IL Madison County, IL Monroe County, IL St. Clair County, IL Crawford County, MO Franklin County, MO Jefferson County, MO Lincoln County, MO St. Charles County, MO St. Louis County, MO Warren County, MO Washington County, MO	0.9515

	St. Louis City, MO	
41420	Salem, OR Marion County, OR Polk County, OR	1.1472
41500	Salinas, CA Monterey County, CA	1.5898
41540	Salisbury, MD Somerset County, MD Wicomico County, MD	0.9524
41620	Salt Lake City, UT Salt Lake County, UT Summit County, UT Tooele County, UT	0.9804
41660	San Angelo, TX Irion County, TX Tom Green County, TX	0.8273
41700	San Antonio, TX Atascosa County, TX Bandera County, TX Bexar County, TX Comal County, TX Guadalupe County, TX Kendall County, TX Medina County, TX Wilson County, TX	0.9259
41740	San Diego-Carlsbad-San Marcos, CA San Diego County, CA	1.2286
41780	Sandusky, OH Erie County, OH	0.9292
41884	San Francisco-San Mateo-Redwood City, CA Marin County, CA San Francisco County, CA San Mateo County, CA	1.6595
41900	San Germán-Cabo Rojo, PR Cabo Rojo Municipio, PR Lajas Municipio, PR Sabana Grande Municipio, PR San Germán Municipio, PR	0.5451
41940	San Jose-Sunnyvale-Santa Clara, CA San Benito County, CA Santa Clara County, CA	1.7149
41980	San Juan-Caguas-Guaynabo, PR Aguas Buenas Municipio, PR Aibonito Municipio, PR Arecibo Municipio, PR Barceloneta Municipio, PR Barranquitas Municipio, PR Bayamón Municipio, PR Caguas Municipio, PR Camuy Municipio, PR Canóvanas Municipio, PR Carolina Municipio, PR Cataño Municipio, PR Cayey Municipio, PR Ciales Municipio, PR Cidra Municipio, PR Comerío Municipio, PR Corozal Municipio, PR Dorado Municipio, PR Florida Municipio, PR Guaynabo Municipio, PR Gurabo Municipio, PR Hatillo Municipio, PR Humacao Municipio, PR Juncos Municipio, PR Las Piedras Municipio, PR Loíza Municipio, PR Manatí Municipio, PR Maunabo Municipio, PR Morovis Municipio, PR	0.5017

	Naguabo Municipio, PR Naranjito Municipio, PR Orocovis Municipio, PR Quebradillas Municipio, PR Río Grande Municipio, PR San Juan Municipio, PR San Lorenzo Municipio, PR Toa Alta Municipio, PR Toa Baja Municipio, PR Trujillo Alto Municipio, PR Vega Alta Municipio, PR Vega Baja Municipio, PR Yabucoa Municipio, PR	
42020	San Luis Obispo-Paso Robles, CA San Luis Obispo County, CA	1.3120
42044	Santa Ana-Anaheim-Irvine, CA Orange County, CA	1.2516
42060	Santa Barbara-Santa Maria-Goleta, CA Santa Barbara County, CA	1.2768
42100	Santa Cruz-Watsonville, CA Santa Cruz County, CA	1.7495
42140	Santa Fe, NM Santa Fe County, NM	1.1180
42220	Santa Rosa-Petaluma, CA Sonoma County, CA	1.6613
42340	Savannah, GA Bryan County, GA Chatham County, GA Effingham County, GA	0.9454
42540	Scranton--Wilkes-Barre, PA Lackawanna County, PA Luzerne County, PA Wyoming County, PA	0.8755
42644	Seattle-Bellevue-Everett, WA King County, WA Snohomish County, WA	1.2103
42680	Sebastian-Vero Beach, FL Indian River County, FL	0.9787
43100	Sheboygan, WI Sheboygan County, WI	0.9582
43300	Sherman-Denison, TX Grayson County, TX	0.8430
43340	Shreveport-Bossier City, LA Bossier Parish, LA Caddo Parish, LA De Soto Parish, LA	0.8764
43580	Sioux City, IA-NE-SD Woodbury County, IA Dakota County, NE Dixon County, NE Union County, SD	0.9507
43620	Sioux Falls, SD Lincoln County, SD McCook County, SD Minnehaha County, SD Turner County, SD	0.9391
43780	South Bend-Mishawaka, IN-MI St. Joseph County, IN Cass County, MI	1.0130
43900	Spartanburg, SC Spartanburg County, SC	0.9765
44060	Spokane, WA Spokane County, WA	1.0918
44100	Springfield, IL Menard County, IL Sangamon County, IL	0.9979
44140	Springfield, MA Franklin County, MA Hampden County, MA Hampshire County, MA	1.0844
44180	Springfield, MO Christian County, MO Dallas County, MO Greene County, MO Polk County, MO Webster County, MO	0.8837
44220	Springfield, OH Clark County, OH	0.9613
44300	State College, PA Centre County, PA	0.9509
44700	Stockton, CA San Joaquin County, CA	1.2891
44940	Sumter, SC Sumter County, SC	0.8522

45060	Syracuse, NY Madison County, NY Onondaga County, NY Oswego County, NY	1.0229
45104	Tacoma, WA Pierce County, WA	1.1703
45220	Tallahassee, FL Gadsden County, FL Jefferson County, FL Leon County, FL Wakulla County, FL	0.8788
45300	Tampa-St. Petersburg-Clearwater, FL Hernando County, FL Hillsborough County, FL Pasco County, FL Pinellas County, FL	0.9390
45460	Terre Haute, IN Clay County, IN Sullivan County, IN Vermillion County, IN Vigo County, IN	0.9473
45500	Texarkana, TX-Texarkana, AR Miller County, AR Bowie County, TX	0.8482
45780	Toledo, OH Fulton County, OH Lucas County, OH Ottawa County, OH Wood County, OH	0.9974
45820	Topeka, KS Jackson County, KS Jefferson County, KS Osage County, KS Shawnee County, KS Wabaunsee County, KS	0.9436
45940	Trenton-Ewing, NJ Mercer County, NJ	1.1031
46060	Tucson, AZ Pima County, AZ	0.9937
46140	Tulsa, OK Creek County, OK Okmulgee County, OK Osage County, OK Pawnee County, OK Rogers County, OK Tulsa County, OK Wagoner County, OK	0.9055
46220	Tuscaloosa, AL Greene County, AL Hale County, AL Tuscaloosa County, AL	0.9093
46340	Tyler, TX Smith County, TX	0.8690
46540	Utica-Rome, NY Herkimer County, NY Oneida County, NY	0.8844
46660	Valdosta, GA Brooks County, GA Echols County, GA Lanier County, GA Lowndes County, GA	0.8305
46700	Vallejo-Fairfield, CA Solano County, CA	1.5612
47020	Victoria, TX Calhoun County, TX Goliad County, TX Victoria County, TX	0.8420
47220	Vineland-Millville-Bridgeton, NJ Cumberland County, NJ	1.0671
47260	Virginia Beach-Norfolk-Newport News, VA-NC Currituck County, NC Gloucester County, VA Isle of Wight County, VA James City County, VA Mathews County, VA Surry County, VA York County, VA Chesapeake City, VA Hampton City, VA Newport News City, VA Norfolk City, VA Poquoson City, VA Portsmouth City, VA Suffolk City, VA Virginia Beach City, VA Williamsburg City, VA	0.9367

47300	Visalia-Porterville, CA Tulare County, CA	1.0685
47380	Waco, TX McLennan County, TX	0.8758
47580	Warner Robins, GA Houston County, GA	0.9152
47644	Warren-Troy-Farmington Hills, MI Lapeer County, MI Livingston County, MI Macomb County, MI Oakland County, MI St. Clair County, MI	1.0251
47894	Washington-Arlington-Alexandria, DC-VA-MD-WV District of Columbia, DC Calvert County, MD Charles County, MD Prince George's County, MD Arlington County, VA Clarke County, VA Fairfax County, VA Fauquier County, VA Loudoun County, VA Prince William County, VA Spotsylvania County, VA Stafford County, VA Warren County, VA Alexandria City, VA Fairfax City, VA Falls Church City, VA Fredericksburg City, VA Manassas City, VA Manassas Park City, VA Jefferson County, WV	1.1376
47940	Waterloo-Cedar Falls, IA Black Hawk County, IA Bremer County, IA Grundy County, IA	0.8905
48140	Wausau, WI Marathon County, WI	0.9869
48260	Weirton-Steubenville, WV-OH Jefferson County, OH Brooke County, WV Hancock County, WV	0.8000
48300	Wenatchee-East Wenatchee, WA Chelan County, WA Douglas County, WA	1.0160
48424	West Palm Beach-Boca Raton-Boynton Beach, FL Palm Beach County, FL	1.0328
48540	Wheeling, WV-OH Belmont County, OH Marshall County, WV Ohio County, WV	0.7899
48620	Wichita, KS Butler County, KS Harvey County, KS Sedgwick County, KS Sumner County, KS	0.9428
48660	Wichita Falls, TX Archer County, TX Clay County, TX Wichita County, TX	0.9615
48700	Williamsport, PA Lycoming County, PA	0.8235
48864	Wilmington, DE-MD-NJ New Castle County, DE Cecil County, MD Salem County, NJ	1.1034
48900	Wilmington, NC Brunswick County, NC New Hanover County, NC Pender County, NC	0.9394
49020	Winchester, VA-WV Frederick County, VA Winchester City, VA Hampshire County, WV	1.0221
49180	Winston-Salem, NC Davie County, NC Forsyth County, NC Stokes County, NC Yadkin County, NC	0.9360
49340	Worcester, MA Worcester County, MA	1.1593
49420	Yakima, WA Yakima County, WA	1.0401
49500	Yauco, PR Guánica Municipio, PR	0.3850

	Guayanilla Municipio, PR Peñuelas Municipio, PR Yauco Municipio, PR	
49620	York-Hanover, PA York County, PA	0.9721
49660	Youngstown-Warren-Boardman, OH-PA Mahoning County, OH Trumbull County, OH Mercer County, PA	0.9073
49700	Yuba City, CA Sutter County, CA Yuba County, CA	1.1777
49740	Yuma, AZ Yuma County, AZ	0.9558

[1]This column lists each CBSA area name and each county or county equivalent, in the CBSA area. Counties not listed in this Table are considered to be rural areas. Wage index values for these areas are found in Addendum B.

[2]Wage index values are based on FY 2006 hospital cost report data before reclassification. These data form the basis for the pre-floor, pre-reclassified hospital wage index. The budget neutrality adjustment factor (BNAF) or the hospice floor is then applied to the pre-floor, pre-reclassified hospital wage index to derive the hospice wage index. Wage index values greater than or equal to 0.8 are subject to a BNAF. The hospice floor calculation is as follows: wage index values below 0.8 are adjusted to be the greater of a) the 25 percent reduced BNAF OR b) the minimum of the pre-floor, pre-reclassified hospital wage index value x 1.15, or 0.8000.
For the FY 2011 hospice wage index, the BNAF was reduced by a total of 25 percent.

[3]Because there are no hospitals in this CBSA, the wage index value is calculated by taking the average of all other urban CBSAs in Georgia.

Addendum B. Final Hospice Wage Index for Rural Areas by CBSA– FY 2011

State Code	Nonurban Area	Wage Index
1	Alabama	0.8000
2	Alaska	1.2199
3	Arizona	0.9189
4	Arkansas	0.8000
5	California	1.2598
6	Colorado	1.0380
7	Connecticut	1.1597
8	Delaware	1.0360
9	District of Columbia[2]	------
10	Florida	0.8955
11	Georgia	0.8000
12	Hawaii	1.1618
13	Idaho	0.8084
14	Illinois	0.8690
15	Indiana	0.8916
16	Iowa	0.9016
17	Kansas	0.8538
18	Kentucky	0.8168
19	Louisiana	0.8000
20	Maine	0.8969
21	Maryland	0.9546
22	Massachusetts[1]	1.2231
23	Michigan	0.9177
24	Minnesota	0.9576
25	Mississippi	0.8000
26	Missouri	0.8019
27	Montana	0.8780
28	Nebraska	0.9100
29	Nevada	1.0113
30	New Hampshire	1.0409
31	New Jersey[2]	------
32	New Mexico	0.9344
33	New York	0.8645
34	North Carolina	0.8923
35	North Dakota	0.8168
36	Ohio	0.8892
37	Oklahoma	0.8002
38	Oregon	1.0701
39	Pennsylvania	0.8683
40	Puerto Rico[3]	0.4654

41	Rhode Island[2]	-----
42	South Carolina	0.8775
43	South Dakota	0.8897
44	Tennessee	0.8163
45	Texas	0.8111
46	Utah	0.8743
47	Vermont	1.0206
48	Virgin Islands	0.8000
49	Virginia	0.8226
50	Washington	1.0688
51	West Virginia	0.8000
52	Wisconsin	0.9624
53	Wyoming	0.9968
65	Guam	1.0048

[1]There are no hospitals in the rural areas of Massachusetts, so the wage index value used is the average of the contiguous Counties.
[2]There are no rural areas in this State or District.
[3]Wage index values are obtained using the methodology described in this notice with comment period.

[FR Doc. 2010–17622 Filed 7–16–10; 4:15 pm]
BILLING CODE 4120–01–C