

promotional materials, and telemarketing scripts; information regarding prize recipients and prizes; sales information; information regarding employees directly involved in telephone sales; and written notices, disclosures and acknowledgements required under the proposed rule. These records would be available for inspection by Commission staff, by other government law enforcement personnel, and by private litigants to determine compliance with the rule.

Absent the recordkeeping requirements, Commission staff believes that this is the type of information that would be retained by these entities in any event during the normal course of business because this information would be useful in resolving private, non-governmental inquiries and disputes. The definition of "burden" for OMB purposes excludes any effort that would be expended regardless of a regulatory requirement. 5 C.F.R. § 1320.7(b)(1). Thus, the only burden would be for retaining the records for an additional period of time.

Currently, staff is estimating that 40,000 entities will be affected and that it will take each affected entity one hour per year to retain these documents for an additional period of time. Thus, the total burden for the proposed rule is estimated at 40,000 hours (1 hour per year times 40,000 industry members). However, staff is seeking comments, particularly quantitative estimates, about the amount of time it would take to comply with these requirements, and the comments may result in a change in the estimated burden hours. The basis for this estimate is described in more detail in the Supporting Statement submitted with the Request for OMB Review.

**DATES:** Comments on this application must be submitted on or before March 31, 1995.

**ADDRESSES:** Send comments both to Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3228, Washington, DC 20503, ATN: Desk Officer for the Federal Trade Commission, and to the Office of the Secretary, Room 159, Federal Trade Commission, Washington, DC 20580. Copies of the submission to OMB may be obtained from the Public Reference Section, Room 130, Federal Trade Commission, Washington, DC 20580.

**FOR FURTHER INFORMATION CONTACT:** David M. Torok, Attorney, Bureau of Consumer Protection, Division of Marketing Practices, Federal Trade

Commission, Washington, DC 20580, (202) 326-3140.

**Donald S. Clark,**

*Secretary.*

[FR Doc. 95-3538 Filed 2-13-95; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

[BPD-793-NC]

RIN 0938-AG54

#### Medicare Program; Schedule of Limits on Home Health Agency Costs Per Visit

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Notice with comment period.

**SUMMARY:** This notice with comment period sets forth a revised schedule of limits on home health agency costs that may be paid under the Medicare program for cost reporting periods beginning on or after July 1, 1993. These limits replace the per-visit limits that were set forth in our July 8, 1993 notice with comment period (58 FR 36748). This notice also provides, in accordance with the provisions of the Omnibus Budget Reconciliation Act of 1993 (OBRA '93), that there will be no changes in the home health agency (HHA) cost limits for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996. In addition, this notice responds to public comments on the July 8, 1993 notice with comment period, which originally set forth the HHA cost limits for cost reporting periods beginning on or after July 1, 1993, and on the January 6, 1994 notice with comment period (59 FR 760), which announced the elimination of the hospital based add-on effective for cost reporting periods beginning on or after October 1, 1993.

**DATES:** *Effective date:* The revised schedule of limits on HHA costs set forth in this notice is effective for cost reporting periods beginning on or after July 1, 1993.

The OBRA '93 provision providing that there be no changes in the HHA cost limits for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996, as set forth in this notice, is effective for cost reporting periods beginning on or after July 1, 1994.

*Comment date:* Written comments will be considered if we receive them at the appropriate address, as provided

below, no later than 5:00 p.m. on April 17, 1995.

**ADDRESSES:** Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPD-793-NC, P.O. Box 7571, Baltimore Maryland 21207-0517.

If you prefer, you may deliver your comments (1 original and 3 copies) to one of the following addresses: Room 309-G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington DC 20201, or Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore Maryland 21207.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPD-793-NC. Comments received timely will be available for public inspection as they are received, beginning approximately 3 weeks after publication of a document, in Room 309-G of the Department's offices at 200 Independence Avenue, SW, Washington DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690-7890).

*Copies:* To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. Specify the date of the issue requested and enclose a check or money order payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 783-3238 or by faxing to (202) 512-2250. The cost for each copy is \$8.00. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Michael Bussacca, (410) 966-4602.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

###### A. History

Section 1861(v)(1)(A) of the Social Security Act (the Act) authorizes the Secretary to set limits on allowable costs incurred by a provider of services for which payment may be made under the Medicare program. These limits are based on estimates of the costs necessary for the efficient delivery of needed health services. Under this

authority, we have maintained limits on home health agency (HHA) per-visit costs since 1979. The limits may be applied to direct and indirect overall costs or to the costs incurred for specific items or services furnished by the provider. Implementing regulations appear at 42 CFR 413.30. Additional statutory provisions governing the limits applicable to HHAs are contained at section 1861(v)(1)(L) of the Act. Section 1861(v)(1)(L)(i) of the Act specifies that the cost limits are not to exceed 112 percent of the mean of the labor-related and nonlabor per-visit costs for freestanding HHAs. For cost reporting periods beginning before October 1, 1993, section 1861(v)(1)(L)(ii) of the Act requires that the Secretary make an adjustment to the cost limits for the administrative and general (A&G) costs of hospital-based HHAs. Section 1861(v)(1)(L)(iii) of the Act requires that the Secretary establish HHA cost limits on an annual basis for cost reporting periods beginning on or after July 1 of each year.

Accordingly, we published a notice with comment period that appeared in the July 8, 1993, issue of the **Federal Register** (58 FR 36748), which set forth a schedule of limits on HHA costs for cost reporting periods beginning on or after July 1, 1993. The limits were computed using the actual cost per-visit data from cost reporting periods ending on or after June 30, 1989, and before May 31, 1991, and were adjusted by the latest estimates in the "market basket" index to reflect changes in the price of goods and services furnished by HHAs.

#### *B. Omnibus Budget Reconciliation Act of 1993*

On August 10, 1993, the Omnibus Budget Reconciliation Act of 1993 (OBRA '93) (Public Law 103-66) was enacted. Section 13564(a) of OBRA '93 amended section 1861(v)(1)(L)(iii) of the Act to provide that there be no changes in the HHA per-visit cost limits (except as may be necessary to take into account the elimination of the A&G add-on for hospital-based HHAs) for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996. In addition, section 13564(b) of OBRA '93 amended section 1861(v)(1)(L)(ii) of the Act to require that, effective for cost reporting periods beginning on or after October 1, 1993, we no longer include a payment adjustment for A&G costs of hospital-based HHAs in computing the HHA limits. The A&G per-visit add-on for hospital-based HHAs had been applied since 1980. Under this provision, hospital-based HHAs and freestanding HHAs will be treated identically for payment purposes.

On January 6, 1994, we published a notice with comment period in the **Federal Register** to announce the elimination of the A&G add-on for hospital-based HHAs (59 FR 760). In that notice, we stated that in computing a hospital-based HHA's cost limits for cost reporting periods beginning on or after October 1, 1993, the A&G add-on amounts that were to apply, as set forth in Table II of the July 8, 1993 notice (58 FR 36753), will not be used. We also stated that we would publish a separate **Federal Register** notice to explain the effects of the requirement under section 13564(a) of OBRA '93 that there be no changes in the per-visit cost limits for home health services for cost reporting periods beginning on or after July 1, 1994 and before July 1, 1996.

## **II. Discussion of Public Comments**

### *A. Response to Public Comments Received On the July 8, 1993 Notice With Comment Period*

We received 28 items of timely correspondence on our HHA cost limits notice issued in the **Federal Register** on July 8, 1993 (58 FR 36748). A discussion of the comments we received on that notice and our responses to those comments is set forth below.

#### **1. Cost Limits**

*Comment:* Many commenters stated that the per-discipline cost limits for skilled nursing and home health aides are inadequate. They believe that the cost limits are arbitrary and not at the level required by law. In addition, two commenters suggested that the limits effective July 1, 1993 should be phased in.

*Response:* Section 1861(v)(1)(L) of the Act governs the methodology for computing the HHA limits. As noted in section I.A of this notice, section 1861(v)(1)(L)(i) of the Act specifies that the HHA per-visit cost limits are not to exceed 112 percent of the mean of the labor-related and nonlabor per-visit costs for freestanding HHAs. Section 1861(v)(1)(L)(iii) of the Act requires that we establish cost limits on an annual basis for cost reporting periods beginning on or after July 1 of each year (except for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996) and that we use the current hospital wage index to calculate the limits.

Thus, in calculating the limits, we use actual cost-per-visit data from the latest available settled Medicare cost reports. From those data, we compute an average per-visit cost for each Medicare covered home health service. The labor portion of the average per-visit cost is adjusted,

using the current hospital wage index, to account for variations in area wage levels. We then apply a statistically valid methodology for eliminating outlier costs to the average per-visit costs for each service. The resulting average per-visit costs are increased by 112 percent, the maximum the statute allows. We believe the methodology used to calculate the cost limits correctly implements the statute and results in a statistically valid national average of the costs estimated to be necessary in the efficient delivery of needed home health services under the Medicare program.

In summary, the implementation of the schedule of limits set forth in our July 8, 1993 notice and the methodology for developing the limits are in full compliance with statutory directives. In developing these limits, we have made no changes, beyond those directly required by OBRA '93, in the methodology used in setting the limits effective July 1, 1991 and July 1, 1992. Finally, the statute does not provide for a phase-in of the limits.

#### **2. Database**

*Comment:* Several commenters questioned the database used to develop the cost limits. Some commenters raised concerns about the possible omission of providers from California. Others suggested that the provider database used to develop the limits was not representative because HCFA relies only on settled cost reports to compute the HHA cost limits.

*Response:* The data used in the calculations of the cost limits effective July 1, 1993, were actual cost per-visit data extracted from settled Medicare cost reports, for cost reporting periods ending on or after June 30, 1989, and before May 31, 1991. This resulted in a database of 2602 freestanding agencies located throughout the country. Due to concerns with under-representation of HHAs, we reviewed the Provider of Services (POS) file to determine the number of HHAs that were Medicare-certified as of November, 1992 (the cut-off date of the HHA database used to develop the HHA cost limits effective for cost reporting periods beginning on or after July 1, 1993). Our review showed that the POS file contained all HHA providers of service, including terminated providers, existing providers, and new providers. However, the POS file does not indicate whether a HHA needs to file a cost report, or if a cost report is due from an HHA.

Accordingly, we extended our review. We instructed the nine regional home health intermediaries (RHHIs) servicing the freestanding HHAs to review their

files for the time period of our data collection (before November 1992) to determine if any providers had been omitted erroneously when the intermediaries filed their cost report data for the HHA database. The RHHIs identified 309 freestanding "missing" providers. Our review of the original database showed that it did not include data from Blue Cross and Blue Shield of California. All "missing" providers' cost data were entered into the database and were subject to an extensive edit process to validate the data. In addition, we reexamined the entire database to identify duplicates and as-submitted cost reports. This examination resulted in elimination of 120 duplicate reports from freestanding HHAs and the elimination of 100 hospital-based as-submitted cost reports. The revised database consists of 2911 freestanding providers.

The following table shows the effects of the revised database on the per-discipline cost limits for Metropolitan Statistical Area (MSA) and non-MSA HHAs published in our July 8, 1993 notice. See section IV of this notice for a revised table of limits effective for cost reporting periods beginning on or after July 1, 1993, and before July 1, 1994.

**EFFECT ON PER-VISIT COST LIMITS FOR MSA AND NON-MSA HHAS**

Type of visit	Effect on limits for MSA HHAs	Effect on limits for non-MSA HHAs
Skilled nursing care .....	+\$0.72	+\$0.75
Physical therapy .....	- 1.59	- 0.02
Speech pathology .....	- 1.50	+0.02
Occupational therapy ....	- 1.20	+0.54
Medical social services .	+0.06	- 1.00
Home health aide .....	+0.54	+0.26

The following table shows the effects of the revised database on the per-visit hospital-based add-on for MSA and non-MSA HHAs published in our July 8, 1993 notice. See section IV of this notice for a revised table of add-on amounts for hospital-based HHAs with cost reporting periods beginning on or after July 1, 1993, and before October 1, 1993.

**EFFECT ON PER-VISIT ADD-ON FOR MSA AND NON-MSA HHAS**

Type of visit	Effect on hospital-based add-on for MSA HHAs	Effect on hospital-based add-on for non-MSA HHAs
Skilled nursing care .....	+\$0.03	+\$0.57
Physical therapy .....	- 0.22	+0.22
Speech pathology .....	- 0.07	+0.51
Occupational therapy ....	- 0.20	+1.03
Medical social services .	- 1.14	+0.16
Home health aide .....	+0.03	+0.25

We recognize that the conversion to a limited number of fiscal intermediaries and the lack of an internal HCFA system to track settled cost reports for HHAs resulted in missing providers. In the future, HCFA will request that each of the nine regional intermediaries submit a list of all HHAs that it is servicing at the time of data collection. Upon collecting the data, HCFA will cross-check the HHAs included in the database with the lists submitted by the intermediaries.

Concerning the comment on the use of settled cost reports, all of the RHHIs met the Contractor Performance Evaluation (CPEP) standard for settling cost reports timely for FY 1991/1992. For example, in FY 1992, 90 percent of freestanding HHA cost reports were settled timely by the RHHIs and would be available to be included in HCFA's database. Thus, the use of settled cost reports does not affect the representative nature of the database.

*Comment:* Some commenters believe that the conversion to a limited number of intermediaries that specialize in handling home health claims and the exclusive use of settled cost reports in the database invalidate the rationale for excluding certain outliers from the database as a first step, before proceeding with the calculation of the cost limits. One commenter raised a series of specific questions about the outlier exclusion process, including what constitutes an outlier, how many agencies are classified as outliers, and

whether all of an HHA's costs are excluded if the agency has a single outlier discipline?

*Response:* The use of settled cost report data does not eliminate the need to exclude outliers from the database. Outliers are aberrant costs; these costs are not representative of industry norms. As in previous schedules of HHA cost limits, the elimination of cost per-visit outliers continues to be necessary in developing the limits because the per-discipline cost data in our database are extracted from actual cost reports. Although these cost reports have been settled, the settlement process is designed to ensure that cost report data reflect actual costs associated with covered visits; it does not assess whether the actual costs are reasonable.

The elimination of outliers is on a per-discipline basis. That is, we eliminate costs associated with a specific discipline that are statistical outliers. Based on our longstanding policy, we consider outliers to be those costs that are two standard deviations or more from the mean. Therefore, the high outliers, as well as the low outliers, are eliminated. All other per-discipline costs would be included in the computation of the per-discipline limits. In the table below we have listed the range of high and low per-visit costs for each discipline for both the labor and the nonlabor portions for both MSA limits and non-MSA limits. Only per-visit costs outside these ranges are considered outliers. We believe that using costs beyond these ranges, that is, outliers, to develop the per-visit limits subverts the statistical validity of the national average of estimated costs.

**HOME HEALTH AGENCY COST LIMITS OUTLIERS LABOR AND NONLABOR PORTIONS HIGHS AND LOWS**

Urban	Labor low	Labor high	Nonlabor low	Nonlabor high
Skilled nursing care .....	\$33.85	\$131.24	\$6.08	\$36.06
Physical therapy .....	33.02	132.78	5.37	31.69
Speech pathology .....	31.59	141.76	6.05	32.45
Occupational therapy .....	29.85	139.01	6.19	35.88
Medical social services .....	31.43	252.36	6.09	58.58
Home health aide .....	16.16	75.30	2.87	19.21
<b>Rural</b>				
Skilled nursing care .....	39.98	141.46	4.74	29.15

## HOME HEALTH AGENCY COST LIMITS OUTLIERS LABOR AND NONLABOR PORTIONS HIGHS AND LOWS—Continued

Urban	Labor low	Labor high	Nonlabor low	Nonlabor high
Physical therapy .....	41.77	147.54	6.69	28.34
Speech pathology .....	40.28	160.19	7.36	37.65
Occupational therapy .....	35.69	161.74	6.22	30.35
Medical social services .....	36.42	350.59	6.85	62.15
Home health aide .....	16.18	72.55	2.52	17.07

*Comment:* Two commenters recommended that we use data from hospital-based agencies in the calculation of the limits. The commenters believe that the calculation of the limits using only freestanding facilities does not reflect the higher costs associated with hospital-based HHAs.

*Response:* Section 1861(v)(1)(L)(i) of the Act specifies that the Secretary is to establish a single schedule of HHA cost limits based on the cost experience of freestanding agencies. We have no discretion to include hospital-based providers in the calculation of the HHA limits.

*Comment:* A commenter suggested that the use of settled cost reports ignores the higher claims presented before the Provider Reimbursement Review Board (PRRB) and that these claims should be included in the database for calculation of the HHA cost limits.

*Response:* The use of settled cost reports in developing the HHA cost limits was established for cost reporting periods beginning on or after July 1, 1992 (see 57 FR 29411). Before July 1, 1992, HHA databases included data from both settled and as-submitted cost reports. We were able to begin using settled cost report data as a result of revised CPEP standards that required Medicare fiscal intermediaries to settle the HHA cost reports sooner than was required under former standards. Consequently, as explained in our July 1, 1992 notice with comment period, settled data are available much sooner than in previous cost reporting periods, and we believe the data accurately reflect current conditions in the health care industry. The use of settled cost reports allows us to eliminate misstated data including nonallowable costs and noncovered visits that inevitably result from using as-submitted cost reports. (See 57 FR 29410.)

Providers that file an appeal before the PRRB must have received a Notice of Program Reimbursement for the fiscal year in question, before filing the appeal. During the cost reporting periods ending on or after June 30, 1989, and before May 31, 1991, on an annual basis, fewer than 2 percent of certified

HHAs submitted appeals to the PRRB. If an appeal was decided before we develop the annual HHA per-visit cost limits, the final data would be entered into the database. In those cases in which the PRRB appeal and administrative review processes are not completed until after we have developed the annual HHA per-visit cost limits, the settled data from the cost reports in question would be entered. Including the adjusted data that may result from PRRB appeals into the database would have no significant effect on the calculation of the cost limits. Moreover, since the cost limits are set prospectively, it would be neither necessary nor administratively feasible to include adjusted data resulting from the completed appeals process into the HHA database used to develop the annual limits. We note that the HHA per-visit limits constitute an estimated national average of costs, and individual providers are free to pursue exceptions to these averages where justified.

*Comment:* Several commenters stated that the limits do not reflect the costs associated with the implementation of the Omnibus Budget Reconciliation Act of 1987 (OBRA '87) (Public Law 100-203) quality assurance provisions, specifically, the requirements for home health aide training and competency evaluation programs. They asserted that no additional amount has been added to the HHA limits to account for these costs.

*Response:* Section 1891(a)(3) of the Act requires HHAs to comply with the requirements relating to home health aide training and competency programs, established by OBRA '87. The cost-per-visit data used in the calculations of the cost limits effective on July 1, 1993 were extracted from settled Medicare cost reports for periods ending on or after June 30, 1989, and before May 31, 1991. We published regulations on August 14, 1989 at 42 CFR § 484.36 to require that HHAs establish a competency evaluation program for home health aides by February 14, 1990 (see 54 FR 33357-33360 and 33372). Therefore, the costs associated with home health aide training and competency evaluation programs are included in this database.

However, if a provider believes that it has incurred additional costs not included in the limits relating to home health aide training and competency evaluation programs, the provider may apply for an exception to the cost limits under the exceptions process outlined in § 413.30. This situation could be recognized as an "extraordinary circumstance" exception under § 413.30(f)(2).

*Comment:* A commenter indicated that the database from which the HHA cost limits were developed was not available for public use when the regulation was issued on July 8, 1993.

*Response:* It is our standard practice to make available to the public the database used to construct the cost limits. HCFA's Bureau of Data Management and Strategy annually publishes a "Public Use Files Catalog" that identifies available Medicare/Medicaid data files and gives instructions on how to obtain them. The database used to construct the cost limits outlined in the July 8, 1993 notice (that is, *Medicare HHA Cycle 11 Data Set*, containing data for cost reporting periods ending on June 30, 1989, and before May 31, 1991) was available from the Bureau of Data Management and Strategy, HCFA, to the public, on the date the regulation was published. The HHA database is available on tape or diskette for \$680. For further information on obtaining data used in calculating the HHA cost limits, see section VI.C of this notice.

### 3. Market Basket

*Comment:* Several commenters believe that the market basket factors that have been used to update the 1990 cost data seemed to understate home care market basket cost increases of between 5 to 7 percent for the 1992-1993 period and need to be updated for current weights and revised wage-price proxies. Specifically, the commenters believe that the market basket factors fail to account properly for increases in the Federal minimum wage, base rates for workers' compensation premiums, reimbursement for mileage, Federal gasoline tax, computers to submit claims via electronic media communications, additional A&G costs,

and FICA taxes. They indicated that there is evidence that the market basket factors now used to update the cost limits are too low and that appropriate alternatives exist and are being used to make budget projections for the Administration and Congress.

*Response:* For the last several years, the HHA input price index (market basket) has increased at the fastest rate of all the market basket indices for the Medicare program. The increase in the market basket reflects the weights and wage-price proxies in the market basket to capture the special market conditions for HHA services (such as the shortage of several categories of licensed health professionals providing HHA services). The compensation and nonlabor proxies used in the market basket include the effects of taxes on the rates of increase. Wages and salaries include employer contributions (payroll taxes) for social insurance (old age, survivors, disability and hospital insurance). The wage and salary category also includes State unemployment insurance, supplemental unemployment insurance and workmen's compensation. The price proxies for transportation and utilities include the relevant sales taxes. Further, the price proxy for rental and leasing costs includes the impact of all costs including property taxes.

The market basket factors used to update the cost limits are consistent with, but not identical to, the cost-per-visit budget projections for the Administration and Congress. The HHA market basket is designed to measure price inflation for inputs used to produce HHA services. It, therefore, does not take into account changes in the quantity, mix or intensity of services per visit. In contrast, the Administration's budget projections take into account the change in mix of types of visits and the effects of productivity changes on per-visit costs. Productivity changes are a major determinant of cost-per-visit increases and are specifically excluded from the HHA market basket.

We believe that it would be appropriate to do a special study of the weighting and wage-price proxies for the HHA market basket. We intend to begin such a study in the near future, and we welcome public comments on data sources for weights and wage-price proxies.

#### 4. Wage Index

*Comment:* One commenter stated that the wage index factors used in the calculation of the cost limits effective July 1, 1993 are lower than the July 1, 1992 cost limits in almost all cases. In addition, the commenter stated that the

Omnibus Budget Reconciliation Act of 1990 (OBRA '90) mandates use of the most recent hospital wage index for calculation of the labor portion of the cost limits, but it also requires that aggregate payments to HHAs be budget neutral. The commenter asserted that the use of a lower budget neutrality factor than in the previous schedule of limits accounted in itself for a reduction of approximately 2.5 percent in the cost limits. In addition, the commenter noted that the budget neutrality factor of 2.7 percent used in calculating the limits effective July 1, 1993 is a considerable reduction from the 5.9 percent used in calculating the limits effective July 1, 1992 and fails to provide Congressionally mandated budget neutrality between the 1982 and the 1988 hospital wage indexes.

*Response:* Section 4207(d)(1) of OBRA '90 amended section 1861(v)(1)(L)(iii) of the Act to require that in establishing the HHA schedule of limits annually on July 1 of each year we are to use the current hospital wage index. To lessen the effect on individual HHAs that would have been caused by implementing this requirement immediately, section 4207(d)(3) of OBRA '90 provided for a 2-year transition period during which we would use a blend of 1982 and 1988 hospital wage data. As required by section 1861(v)(1)(L)(iii) of the Act, the limits effective for cost reporting periods beginning on or after July 1, 1993, and before July 1, 1994, use the FY 1993 hospital wage index, that is the hospital wage index effective for hospital discharges on or after October 1, 1992, which is based entirely on 1988 wage survey data (see 58 FR 36750). Thus, although the wage indices used in calculating the limits effective for cost reporting periods beginning on or after July 1, 1993 are in many cases lower than in the past, they reflect the latest available actual wages.

Section 4207(d)(2) of OBRA '90 requires that, in updating the wage index used for establishing the HHA limits, aggregate payments will remain the same as they would have been if the wage index had not been updated. To meet this requirement, as explained in detail in our July 8, 1993 notice with comment period, we determined that it was necessary to apply a budget neutrality adjustment factor of 1.027 (that is, an increase of 2.7 percent) to the labor-related portion of the cost limits (58 FR 36748-36749). However, for this notice, we have recalculated the budget neutrality adjustment factor and have determined that a factor of 1.067 should be applied (that is, a 6.7 percent increase). The change in the budget

neutrality adjustment is attributable to the revised limits that have resulted from our validation of the HHA database.

*Comment:* A commenter stated that a persistent problem in the application of the cost limits that is made more difficult by the new limits are that HHAs, like hospitals, are sometimes assigned to the "wrong" geographic area. The commenter suggested that we consider basing hospital wage indices on the wage levels paid by neighboring providers and that wage levels should be standardized according to some predefined occupational mix.

*Response:* Under section 1886(d)(3)(E) of the Act, the Secretary annually establishes a wage index for the purposes of adjusting payment rates for hospital inpatient services to reflect wages in a geographic area relative to the national average. Section 1861(v)(1)(L)(iii) of the Act requires that, in establishing the HHA schedule of limits, the Secretary is to use the current hospital wage index.

Almost from the beginning of the hospital prospective payment system, we have received comments from the hospital industry objecting to the use of labor market areas based on Metropolitan Statistical Areas (MSAs) established by the Office of Management and Budget to construct the wage index. The Prospective Payment Assessment Commission (ProPAC) has also recommended changes in how the labor market areas used to construct the hospital wage index should be defined. We recognize that, as currently structured, there are certain inefficiencies inherent in the MSA-based system. In light of these concerns, we have continued to examine a variety of options for revising wage index labor market areas.

On May 27, 1994, we published a proposed rule in the **Federal Register** (59 FR 27708) that detailed changes to the hospital prospective payment system for FY 1995. In the proposed rule, we discussed in detail issues raised by commenters concerning a "nearest neighbor" approach to the wage index, as recommended by ProPAC, and our research and analysis on alternative methodologies for defining labor market areas (59 FR 27724 through 27732). These alternatives are still under review, and no final decision has been made at this time to use a different methodology in determining future payment rates.

#### 5. Additional Costs/Exceptions

*Comment:* A commenter suggested that new HHAs be exempt from the limits for the first two full year cost

reports, citing the exemptions presently granted for inpatient facilities (non-PPS hospitals and skilled nursing facilities). The commenter believes that this resulted in discrimination against the establishment of home health care services when the emphasis of health care is away from inpatient services and toward home care.

*Response:* Prior to 1987, § 413.40(f)(7) (formerly § 405.460(f)(7)) granted an exception to the cost limits to minimize financial barriers to HHAs wanting to enter Medicare markets for the first time, especially in underserved areas. On June 4, 1987, we published a final rule with comment period (52 FR 21216) indicating that the exception for newly-established HHAs was eliminated. As discussed in detail in that final rule with comment period, evidence acquired from FY 1980 through FY 1985 indicated a changing composition of HHAs that suggested that financing was no longer a significant obstacle to entering the market place, and therefore the exception was rescinded. In fact, while hospital-based and proprietary agencies had access to financial resources and patient populations, nonprofit and free-standing agencies did not. We continue to believe that an exception for newly-established HHAs is not necessary to encourage the spread of HHAs services. Moreover, we note that the number of HHAs servicing Medicare beneficiaries has increased approximately 28 percent since 1987, from 5,857 to 7,473 as of March, 1994.

*Comment:* Several commenters indicated that the recruitment and retention of occupational therapists and physical therapists, especially in rural areas, results in increased costs not incorporated in the HHA cost limits.

In addition, one commenter indicated that the additional amount of \$.18 allowed for the OSHA adjustment to account for new standards for universal precautions is not adequate to account for the actual, necessary and reasonable cost being incurred by HHAs after May 31, 1991.

The commenters believe that the failure to reflect these costs fully in the per-visit limits will reduce access and quality of care to beneficiaries.

*Response:* If a provider can quantify the costs it incurs as a result of recruiting and retaining occupational therapists or physical therapists, or an OSHA add-on amount that exceeds the allowed \$.18, the provider may apply for an exception to the cost limits under the exceptions process outlined in § 413.30. These situations could be recognized as an "extraordinary circumstances" as defined in

§ 413.30(f)(2). The HHA cost limits effective for cost reporting periods beginning on or after July 1, 1992 and on or after July 1, 1993 allow a provider an adjustment for costs incurred for OSHA, upon presentation of documentation to the intermediary to substantiate the adjustment. If a provider exceeds the adjustment, an exception to the cost limits is made only to the extent that costs are reasonable, attributable to the circumstances specified, separately identified by the provider, and verified by the intermediary.

*Comment:* Some of the commenters believe that filing for a waiver to seek an exception from the limits is time consuming, expensive and impractical.

*Response:* The purpose of establishing the per-visit limits is to cover the costs necessary in the efficient delivery of needed health services. However, because the limits are not intended to take into account every cost, we have established an exceptions process for situations in which providers incur additional costs in excess of the cost limits. Providers may apply for an exception to the cost limits under the exceptions process outlined in § 413.30. We believe that the exceptions process is a fair and equitable method for HHAs to substantiate costs exceeding the limit.

#### 6. Administrative Procedure Act

*Comment:* A commenter stated that the schedule of cost limits published on July 8, 1993 (58 FR 36748) is void because it is a product of retroactive rulemaking, which is not authorized by the Social Security Act and is prohibited by the Administrative Procedure Act (APA). Specifically, the rule had an effective date of July 1, 1993, but was not published in the **Federal Register** until July 8, 1993. Further, the commenter stated that the rule is void because it was issued in violation of the notice and comment requirements of the Medicare statute and APA. The commenter believes that we did not have "good cause" to waive publication of a proposed notice and to waive the 30-day delayed effective date requirements of the APA. The commenter stated that HCFA failed to offer any explanation as to why the rule could not have been published earlier.

*Response:* Section 1861(v)(1)(L)(iii) of the Act requires that the Secretary update the HHA cost limits on an annual basis for cost reporting periods beginning on or after July 1 of each year. On July 1, 1993, the schedule of limits on HHA costs per visit, effective for cost reporting periods beginning on or after July 1, 1993, was filed with the Office of the Federal Register and was made

available for public inspection (see 58 FR 36762 for file date). Under 44 U.S.C. section 1507, the filing of the document is sufficient to give constructive notice of the contents of the document to a person subject to or affected by it.

As explained in our July 8, 1993 notice with comment period, we used the same methodology to develop the schedule of limits that was used in setting the limits published on July 1, 1992. The cost limits were updated to reflect the cost increases occurring between the cost reporting periods for the data contained in the database and December 31, 1993.

Because the methodology used to develop the July 1, 1993 schedule of limits was previously published for public comment and because we are required by section 1861(v)(1)(L)(iii) of the Act to use the current hospital wage index, which was based on 1988 wage survey data, we determined that it would be impractical and unnecessary to request public comment before we implemented the cost limits effective for cost reporting periods beginning on or after July 1, 1993. Thus, we stated that it would be contrary to public interest, and we found good cause to waive publication of a proposed notice.

In response to the comment on the waiver of the 30-day delayed effective date, as we explained in our July 8, 1993 notice with comment period, in order for HHAs to receive timely the benefits of the cost limits that are based on the updated wage index, it was necessary that the limits be effective for cost reporting periods beginning on or after July 1, 1993 as required by section 1861(v)(1)(L)(iii) of the Act (see 58 FR 36762).

#### B. Response to Public Comments Received on the January 6, 1994 Notice With Comment Period

We received 10 items of timely correspondence on our notice eliminating payment adjustments for the A&G costs of hospital-based HHAs. The comments we received on that notice and our responses to those comments are set forth below.

Many of the comments we received on that notice addressed issues that we have already addressed in section II.A of this notice, particularly, the exclusion of hospital-based agencies from the database. Since we have already addressed these comments, we are not repeating our responses to the comments here.

##### 1. Elimination of the A&G Add-on

*Comment:* One commenter agreed that the A&G add-on should be eliminated. However, most commenters objected to

the elimination of the A&G add-on, emphasizing that the costs incurred by hospital-based and freestanding agencies are different. One commenter stated that although section 13564 of OBRA '93 eliminates the A&G add-on, it does not preclude the Secretary from making the adjustments that are necessary to ensure fair payment to providers. In addition, another commenter believes that the elimination of the add-on should be phased-in.

*Response:* Section 13564(b) of OBRA '93 amended section 1861(v)(1)(L)(ii) of the Act to require that, effective for cost reporting periods beginning on or after October 1, 1993, we no longer include a payment adjustment for the A&G costs of hospital-based HHAs in computing the HHA limits. Under this provision, for cost reporting periods beginning on or after October 1, 1993, hospital-based HHAs and free-standing HHAs will be treated identically for payment purposes. The statute does not provide for a phase-in period.

Section 1861(v)(1)(L)(i)(III) of the Act defines fair payment to HHAs at some level determined by the Secretary, but not in excess of 112 percent of the cost experience of freestanding providers. Section 1861(v)(1)(L)(ii) of the Act provides the Secretary with the authority to provide for exceptions to the cost limits. Accordingly, if a provider quantifies and provides an explanation of costs that exceed the limits, it may apply for an exception to the cost limits under the exceptions process outlined in § 413.30.

## 2. Reimbursement Methodology

*Comment:* Two commenters indicated that the reimbursement methodology for HHAs should be assessed, including a review of the Medicare step-down cost methodology and the use of severity of illness to determine the cost of care and length of stay for post-acute versus community-based referrals. One commenter stated that the change in methodology, that is, the elimination of the hospital-based add-on, imposes a systematic error in accurately measuring costs of caring for home health patients. Another commenter stated that HCFA should wait for the results of the Federally funded demonstration projects that are currently evaluating home care reimbursement before any changes are made to the present home care reimbursement structure. The commenter stated that the information we obtain from these studies should be used to develop an appropriate industry-wide home care reimbursement system.

*Response:* We agree that further study of the HHA reimbursement system is

desirable. HCFA's Office of Research and Demonstrations is presently conducting a demonstration relating to prospective payment for HHAs. During the second phase of this demonstration, we intend to develop a prototype case-mix or severity adjustment to be tested under the demonstration for possible use in future payment methodologies. In addition, HCFA has begun the Medicare Home Health Initiative, which will review a variety of issues related to the home health benefit including those presented above.

## III. Provisions of This Notice With Comment Period

### A. Revised Schedule of Limits

As discussed in section II.A.2 of this notice, we have identified problems with the validity of the database used to calculate the cost limits for cost reporting periods beginning on or after July 1, 1993, as set forth in our July 8, 1993 notice. Therefore, we are setting forth in this notice a revised schedule of limits on HHA costs that may be paid under the Medicare program for cost reporting periods beginning on or after July 1, 1993. We also are setting forth revised add-on amounts for hospital-based HHAs for cost reporting periods beginning on or after July 1, 1993, and before October 1, 1993.

Before adopting this approach, which entails the retroactive application of the schedule of limits set forth in this notice, we considered three possible alternatives for dealing with the problems with the database used in the calculation of the cost limits effective July 1, 1993. One option was to take no action to revise the limits, in accordance with the provisions of section 13564(a) of OBRA '93, which explicitly prohibit any changes in the cost limits for HHAs for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996. However, we believe that in enacting these provisions, Congress could not have envisioned that there would be errors in the database that would necessitate revisions to the limits. Thus, we do not believe that the revision of the limits under these circumstances is inconsistent with the statute. In addition, we do not believe that it is appropriate to base payments to HHAs on limits that are known to be based on a limited database and are estimated to result in lower Medicare payments to HHAs. (See section V of this notice for a discussion of its economic impact.)

We also considered applying the changes to the cost limits prospectively, that is, effective upon publication of this notice. Although this option would

avoid the administrative difficulties associated with implementing revised limits retroactively for cost reporting periods beginning on or after July 1, 1993, it still would not conform strictly to the OBRA '93 provisions prohibiting any changes in the cost limits until July 1, 1996. In addition, this option again would disadvantage HHAs by not assigning accurate limits effective for cost reporting periods beginning on or after July 1, 1993.

Our remaining option was to apply the changes to the cost limits retroactively. That is, we would publish revised limits that would be effective for cost reporting periods beginning on or after July 1, 1993, in place of the limits set forth in our July 8, 1993 notice. The statute allows us to set the cost limits at a maximum of 112 percent of the mean of per-visit costs for freestanding agencies. As in the past, for the cost limits applicable to cost reporting periods beginning on or after July 1, 1993, we set the limits at that maximum. Because we have identified errors in the database of costs for freestanding agencies, we believe that it is in keeping with the intent of the statute that these errors be rectified. Therefore, we believe it is appropriate, and consistent with the statute, to revise the limits for cost reporting periods beginning on or after July 1, 1993, so that they are based on 112 percent of the mean of the more accurate database of freestanding agencies' per-visit costs. Also, despite the administrative difficulties that may arise, we believe this option is in the best interests of HHAs. Therefore, we have determined that revising the limits, effective for cost reporting periods beginning on or after July 1, 1993 is the most appropriate course of action.

Thus, the revised schedule of limits set forth in Table I of section IV of this notice replaces the per-visit limits set forth in our July 8, 1993 notice. As required by section 13564(a) of OBRA '93, these limits will remain in effect for cost reporting periods beginning before July 1, 1996. In addition, we are setting forth in Table II of section IV of this notice revised A&G add-on amounts for hospital-based HHAs to replace the add-on amounts set forth in our July 8, 1993 notice. In accordance with section 1861(v)(1)(L)(ii) of the Act, as amended by section 13564 of OBRA '93, the intermediaries will make an adjustment for the A&G add-on in computing the adjusted limits for hospital-based HHAs with cost reporting periods beginning on or after July 1, 1993, and before October 1, 1993.

For the convenience of the reader, we are republishing Tables IIIa, IIIb, and IV

that were published in our July 8, 1993 notice. These tables contain the wage indices for urban and rural areas and cost reporting year adjustment factor and also are presented in section IV of this notice.

The intermediaries will compute the adjusted limits using the wage index in Tables IIIa and IIIb set forth in section IV of this notice, and will notify each HHA that they service of its applicable cost per-visit limits for each type of service. Each HHA's aggregate limit cannot be determined prospectively, but depends on each HHA's Medicare visits for each type of service and actual costs

for the cost reporting period subject to this notice.

The HHA costs that are subject to the limits include the cost of medical supplies routinely furnished in conjunction with patient care. Durable medical equipment, orthotics, prosthetics, and other medical supplies directly identifiable as services to an individual patient are excluded from per-visit costs and are paid without regard to this schedule of limits. (See Chapter IV of the Home Health Agency Manual (HCFA Pub. 11).)

The intermediary will determine the limit for each HHA by multiplying the

number of Medicare visits for each type of service furnished by the HHA by the respective per-visit cost limit. The sum of these amounts is compared to the HHA's total allowable costs.

**Example:** HHA X, a free-standing agency located in Richmond VA, furnishes 5,000 covered skilled nursing visits, 2,000 covered physical therapy visits, and 4,000 covered home health aide visits to Medicare beneficiaries during its 12-month cost reporting period beginning on July 1, 1993.

The Aggregate Cost Limit is Determined As Follows:

Type of visit	Visits	Nonlabor portion	Adjusted labor portion	Adjusted limit	Aggregate limit
Skilled Nursing Care .....	5,000	\$16.44	\$74.72	\$92.32	\$461,600
Physical Therapy .....	2,000	16.52	75.28	92.96	185,920
Home Health Aide .....	4,000	8.33	37.65	46.57	186,280
Total Visits .....	11,000	.....	.....	.....	.....
Aggregate Cost Limit .....	.....	.....	.....	.....	\$833,800

As noted in section III.A of our July 8, 1993 notice, in order to account for OSHA's universal precaution requirements, we also will allow an additional adjustment to the aggregate cost limit of \$.18 per visit for those HHAs that incur costs in complying with these requirements (see 58 FR 36749). An HHA must apply to its intermediary for the add-on amount. The agency must demonstrate that it will exceed its cost limit in order to be in compliance with the OSHA mandated requirements. The HHA must provide the intermediary with adequate documentation to support the add-on amount.

Before the limits are applied during settlement of the cost report, the HHA's actual costs are reduced by the amount of individual items of cost (for example, administrative compensation and contract services) that are found to be excessive under the Medicare reasonable cost principles of provider payment. That is, the intermediary reviews the various reported costs, taking into account all Medicare payment principles (for example, the cost guidelines for physical therapy furnished under arrangement (see § 413.106) and the limitation on costs that are substantially out of line with those of comparable HHAs (see § 413.9)).

**B. No Changes in the Cost Limits**

As discussed in section I.B of this notice, section 13564(a) of OBRA '93 amended section 1861(v)(1)(L)(iii) of the Act to provide that there be no changes in the HHA per-visit cost limits (except

as may be necessary to take into account the elimination of the A&G add-on for hospital-based HHAs) for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996. The effect of this provision is that a HHA's latest per-discipline cost limit for a period beginning on or after July 1, 1993, and before July 1, 1994, as calculated under this notice, without regard to subsequent adjustments under section 1861(v)(1)(L)(ii) of the Act for exceptions, will remain in effect until its cost reporting period beginning on or after July 1, 1996. As explained in our January 6, 1994 notice with comment period, section 13564(b) of OBRA '93 eliminated the A&G add-on for hospital-based HHAs. Accordingly, there will be no changes, besides those due to the elimination of the A&G add-on, to a HHA's cost limit for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996, to account for inflation, changes to the wage index or to MSA designations. Thus, in computing a provider's cost limit for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996, the cost reporting period adjustment factors that were to apply for cost reporting periods beginning on or after July 1, 1994, will not be used. (In our July 8, 1993 notice with comment period, we specified that if we did not publish new limits to be effective on July 1, 1994, the limits effective July 1, 1993 would continue in effect, but the last cost reporting year adjustment factor in Table IV would be multiplied by an inflation factor once for each

month between June 1, 1994, and the month in which the cost reporting period begins, until a new schedule of limits or other provision is issued (58 FR 36760). In accordance with section 13564(a) of OBRA '93, the inflation factor will not be used for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996.) The revised schedule of per-visit limits set forth in Table I of section IV of this notice, which replaces the schedule of limits set forth in our July 8, 1993 notice, will be used to compute the limits. Revised Table II will be used to calculate the A&G add-on, when applicable. The wage indices in Tables IIIa and IIIb that were originally published in our July 8, 1993 notice and are republished in section IV of this notice will continue to be used to compute the limits.

In the example below, a freestanding HHA in Dallas, Texas has a cost reporting period beginning date of January 1, 1994. As calculated under this notice, its cost limit for the 12-month period beginning January 1, 1994, for occupational therapy is \$96.13. Under the provisions of this notice, the cost limit of \$96.13 will remain in effect for its 12-month cost reporting periods beginning January 1, 1995, and January 1, 1996. As explained above, the cost reporting period adjustment factors that would have been used under the July 8, 1993 notice with comment period for calculating the limits for the HHA's new cost reporting periods beginning January 1, 1995, and January 1, 1996, are not used.

Accordingly, the provider in this example will not have any change in its

cost limit until its cost reporting period beginning January 1, 1997.

**Example:** Calculation of Adjusted Limit for Occupational Therapy for a Freestanding HHA Located in Dallas, Texas: Computation of Revised Limit for Occupational Therapy:

Labor Related Component .....	\$74.97	(Table I)
Wage Index .....	×0.9599	(Table IIIa)
Labor Portion .....	71.96	
Special Labor Adjustment for Budget Neutrality .....	×1.067	
Adjusted Labor Component .....	76.79	
Nonlabor-Related Component .....	+16.78	(Table I)
OSHA Per Diem Add-On .....	+18	
Adjusted Occupational Therapy Limit .....	93.75	
Cost Reporting Period Adjustment Factor (January 1, 1994) .....	×1.0254	(Table IV)
Inflation Adjusted Limit (Limit in Effect for January 1, 1994, January 1, 1995, and January 1, 1996) .....	96.13	

As noted above, for cost reporting periods beginning on or after July 1, 1994, but before July 1, 1996, a freestanding HHA's cost limit will be its latest per-discipline cost limit for the period beginning on or after July 1, 1993, and before July 1, 1994, as calculated under this notice and without regard to any subsequent adjustments, such as an exception to the limit. Thus, if the HHA in the above example received an exception to its cost limit for its cost reporting period beginning January 1, 1993, its cost limit for the cost reporting period beginning January 1, 1994, would not include the exception amount for the previous period. To receive an exception or other adjustment to its cost limit, the HHA would need to submit a request to its fiscal intermediary in accordance with the procedures set forth in § 413.30 of our regulations.

As explained in detail in our January 6, 1994 notice with comment period, a hospital-based HHA's cost limit is computed in an identical manner (59 FR 761) to the example above, since the A&G add-on for hospital-based HHAs is no longer applicable for cost reporting periods beginning on or after October 1, 1993.

**C. Periods Other Than 12 Months**

The above methodology applies to providers with cost reporting periods of 12 months in duration. If a HHA's cost reporting period is not 12 months in duration, a special adjustment factor is calculated. This is necessary because inflation projections are computed to the midpoint of a cost reporting period, and the adjustment factors in Table IV (58 FR 36760) are based on 12-month reporting periods. For cost reporting periods of other than 12 months, the calculation must be made based on the midpoint of the specific cost reporting period. The HHA's intermediary obtains

this adjustment factor from HCFA central office. This methodology results in a different cost limit than if a 12-month adjustment factor were used. However, since the provisions of OBRA '93 require no changes in the cost limit on or after July 1, 1994, the limit calculated with the special adjustment factor will remain in place for subsequent cost reporting periods beginning before July 1, 1996.

**D. Providers Entering the Medicare Program**

For providers entering the Medicare program on or after July 1, 1994, and before July 1, 1996, the applicable cost limit will be the cost limit for the identical period beginning on or after July 1, 1993, through June 30, 1994. (The only exception to this policy is that, as a result of the elimination of the A&G add-on for hospital-based HHAs effective for cost reporting periods beginning on or after October 1, 1993, the A&G add-on amount is not included in the cost limit calculation for hospital-based HHAs that enter the program.) For example, if a provider enters the Medicare program on October 1, 1994, with a 12-month cost reporting period, its cost limit will be determined in the same manner as a cost limit for a period beginning October 1, 1993, and ending September 30, 1994. If the provider's cost reporting period is a short period, for example, a period beginning October 1, 1994, and ending December 31, 1994, the provider's cost limit will be determined in the same manner as a cost limit for a period beginning October 1, 1993, and ending December 31, 1993. In addition, whether the first period is a full 12-month period or a period other than 12 months, the cost limit determined for the first period will remain in effect until the provider's first

cost reporting period beginning on or after July 1, 1996.

**E. Next Update of Limits**

Before the enactment of OBRA '93, section 1861(v)(1)(L)(iii) of the Act required that the HHA per-discipline cost limits be updated on July 1, 1994, and every year thereafter. Section 13564(a)(2) of OBRA '93 amended that section of the Act to delay the next update until July 1, 1996, and every year thereafter. Accordingly, there will be no changes to the HHA per-discipline cost limits effective under this notice for cost reporting periods beginning on or after July 1, 1993 for inflation, changes in the wage index, or geographic designation until July 1, 1996.

**F. Adjustments to the Per-Visit Cost Limits**

Section 1861(v)(1)(L)(ii) of the Act provides for appropriate adjustments to the HHA per-discipline cost limits. These adjustments are set forth at § 413.30(f) and include: exceptions to the limits for atypical services and extraordinary circumstances; and other provisions. Section 13564(a)(1) of OBRA '93 mandates that the effect of allowing no changes in the HHA per-visit cost limits for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996, not be considered in making adjustments to the per-visit cost limits under the exceptions process. Therefore, effective for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996, a provider may request an exception only for costs incurred above the amount that the limit would have been had the OBRA '93 provisions set forth in this notice regarding no changes in the cost limits not been enacted. Accordingly, for the purpose of determining the amount of an exception to the HHA per-discipline cost limits under the regulations at

§ 413.30(f), the difference between the amount of a provider's cost limit as determined by the provisions set forth in this notice, and the amount that a provider's cost limit would have been under this notice had the OBRA '93 provisions requiring no changes in the cost limits not been enacted, is not subject to an exception to the per-discipline cost limits. We note that this provision does not apply to the A&G add-on for hospital-based HHAs. That is, for cost reporting periods beginning on or after October 1, 1993, the A&G add-on for hospital-based HHAs will not

be used in computing the amount that the hospital-based cost limit would have been had the OBRA '93 provisions requiring no changes in the limits not been enacted.

The example below demonstrates the computation to determine the amount not subject to an exception under the provisions set forth in this notice. The provider's cost limit for occupational therapy is computed for the cost reporting period beginning January 1, 1994, in accordance with the provisions set forth in this notice, and this limit remains in effect until the cost reporting

period beginning January 1, 1996. In the example, the provider has requested an exception to its limit for the period beginning January 1, 1995. Again, we calculate what the limit would have been had the OBRA '93 provisions requiring no changes in the limits not been enacted. The difference between the actual limit and the amount the limit would have been (\$5.14) is the amount not subject to an exception.

**Example:** Calculation of Amount Not Subject to an Exception to the Limits for Occupational Therapy for a Freestanding HHA Located in Dallas, Texas

Labor Related Component .....	\$74.97	(Table I)
Wage Index .....	×0.9599	(Table IIIa)
<hr/>		
Labor Portion .....	\$71.96	
Special Labor Adjustment for Budget Neutrality .....	×1.067	
<hr/>		
Adjusted Labor Component .....	\$76.79	
Nonlabor-Related Component .....	+16.78	(Table I)
<hr/>		
OSHA Per Diem Add-On .....	+18	
<hr/>		
Limit Prior to Inflation Adjustment .....	\$93.75	
Cost Reporting Period Adjustment Factor .....	×1.0254	(Table IV)
<hr/>		
(January 1, 1994)		
Inflation Adjusted Limit (Limit in Effect for January 1, 1994, January 1, 1995, and January 1, 1996) .....	\$96.13	
Cost Reporting Period Adjustment Factor (January 1, 1995 for Exception Purposes Only) .....	×1.0803	(Table IV)
<hr/>		
(Using the calculation procedures in Table IV for cost reporting periods beginning on January 1, 1995, 1.0475 is multiplied by 1.00442 seven times and the resulting factor equals 1.0803.) (1.0475×(1.00442) <sup>7</sup> =1.0803).		
Inflation Adjusted Limit (January 1, 1994 for Exception Purposes Only) .....	\$101.27	
Amount Not Subject to Exception (\$101.27 – \$96.13=\$5.14)		

**IV. Tables**

TABLE I.—PER VISIT LIMITS FOR HOME HEALTH AGENCIES

Type of visit	Limit	Labor portion	Non-labor portion <sup>1</sup>
<b>MSA (NECMA) Location:</b>			
Skilled Nursing Care .....	\$91.16	\$74.72	\$16.44
Physical Therapy .....	91.80	75.28	16.52
Speech Pathology .....	93.18	76.30	16.88
Occupational Therapy .....	91.75	74.97	16.78
Medical Social Services .....	129.62	105.99	23.63
Home Health Aide .....	45.98	37.65	8.33
<b>Non-MSA Location:</b>			
Skilled Nursing Care .....	\$99.83	\$84.88	\$14.95
Physical Therapy .....	105.55	89.71	15.84
Speech Pathology .....	110.45	93.74	16.71
Occupational Therapy .....	107.02	90.55	16.47
Medical Social Services .....	164.60	139.56	25.04
Home Health Aide .....	46.30	39.36	6.94

<sup>1</sup> Non-labor portion of limits for HHAs located in Alaska, Hawaii, Puerto Rico, and the Virgin Islands are increased by multiplying them by the following cost-of-living adjustment factors:

Location	Adjustment factor	Location	Adjustment factor	Location	Adjustment factor
Alaska .....	1.250	Kauai .....	1.175	Puerto Rico .....	1.100
Hawaii:		Maui, Lanai, and Molokai ..	1.200	Virgin Islands .....	1.125
Oahu .....	1.225	Hawaii (Island) .....	1.150		

TABLE II.—ADD-ON AMOUNTS FOR HOSPITAL-BASED HOME HEALTH AGENCIES

Type of visit	A&G Add-on	Labor portion	Non-labor portion
MSA (NECMA) Location:			
Skilled Nursing Care .....	\$12.20	\$9.99	\$2.21
Physical Therapy .....	11.30	9.25	2.05
Speech Pathology .....	11.48	9.39	2.09
Occupational Therapy .....	11.48	9.35	2.12
Medical Social Services .....	17.73	14.42	3.32
Home Health Aide .....	5.50	4.50	1.00
Non-MSA Location:			
Skilled Nursing Care .....	\$14.99	\$12.74	\$2.25
Physical Therapy .....	16.14	13.73	2.41
Speech Pathology .....	16.09	13.67	2.42
Occupational Therapy .....	17.00	14.36	2.64
Medical Social Services .....	24.20	20.41	3.80
Home Health Aide .....	6.01	5.11	0.90

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index	Urban areas (constituent counties or county equivalents)	Wage index	Urban areas (constituent counties or county equivalents)	Wage index
Abilene TX .....	0.9183	Winnebago, WI		Baltimore, MD .....	1.0115
Taylor, TX		Arecibo, PR .....	0.3938	Anne Arundel, MD	
Aguadilla, PR .....	0.4549	Arecibo, PR		Baltimore, MD	
Aguada, PR		Carmuy, PR		Baltimore City, MD	
Aguadilla, PR		Hatillo, PR		Carroll, MD	
Isabella, PR		Quebradillas, PR		Harford, MD	
Moca, PR		Asheville, NC .....	0.8760	Howard, MD	
Akron, OH .....	0.9455	Buncombe, NC		Queen Annes, MD	
Portage, OH		Athens, GA .....	0.8518	Bangor, ME .....	0.9027
Summit, OH		Clarke, GA		Penobscot, ME	
Albany, GA .....	0.8017	Jackson, GA		Baton Rouge, LA .....	0.9052
Dougherty, GA		Madison, GA		Ascension, LA	
Lee, GA		Oconee, GA		East Baton Rouge, LA	
Albany-Schenectady-Troy, NY .....	0.8887	Atlanta, GA .....	0.9557	Livingston, LA	
Albany, NY		Barrow, GA		West Baton Rouge, LA	
Greene, NY		Butts, GA		Battle Creek, MI .....	0.9480
Montgomery, NY		Cherokee, GA		Calhoun, MI	
Rensselaer, NY		Clayton, GA		Beaumont-Port Arthur, TX .....	0.9599
Saratoga, NY		Cobb, GA		Hardin, TX	
Schenectady, NY		Coweta, GA		Jefferson, TX	
Albuquerque, NM .....	1.0083	De Kalb, GA		Orange, TX	
Bernalillo, NM		Douglas, GA		Beaver County, PA .....	1.0124
Alexandria, LA .....	0.8242	Fayette, GA		Beaver, PA	
Rapides, LA		Forsyth, GA		Bellingham, WA .....	1.0454
Allentown-Bethlehem, PA-NJ .....	0.9957	Fulton, GA		Whatcom, WA	
Warren, NJ		Gwinnett, GA		Benton Harbor, MI .....	0.8421
Carbon, PA		Henry, GA		Berrien, MI	
Lehigh, PA		Newton, GA		Bergen-Passaic, NJ .....	1.0733
Northampton, PA		Paulding, GA		Bergen, NJ	
Altoona, PA .....	0.9201	Rockdale, GA		Passaic, NJ	
Blair, PA		Spalding, GA		Billings, MT .....	0.9287
Amarillo, TX .....	0.8703	Walton, GA		Yellowstone, MT	
Potter, TX		Atlantic City, NJ .....	1.0464	Biloxi-Gulfport, MS .....	0.8030
Randall, TX		Atlantic, NJ		Hancock, MS	
Anaheim-Santa Ana, CA .....	1.2217	Cape May, NJ		Harrison, MS	
Orange, CA		Augusta, GA-SC .....	0.9363	Binghamton, NY .....	0.9223
Anchorage, AK .....	1.4119	Columbia, GA		Broome, NY	
Anchorage, AK		McDuffie, GA		Tioga, NY	
Anderson, IN .....	0.9544	Richmond, GA		Birmingham, AL .....	0.8734
Madison, IN		Aiken, SC		Blount, AL	
Anderson, SC .....	0.7229	Aurora-Elgin, IL .....	0.9626	Jefferson, AL	
Anderson, SC		Kane, IL		Saint Clair, AL	
Ann Arbor, MI .....	1.1815	Kendall, IL		Shelby, AL	
Washtenaw, MI		Austin, TX .....	0.9560	Walker, AL	
Anniston, AL .....	0.7899	Hays, TX		Bismarck, ND .....	0.8845
Calhoun, AL		Travis, TX		Burleigh, ND	
Appleton-Oshkosh-Neenah, WI .....	0.9142	Williamson, TX		Morton, ND	
Calumet, WI		Bakersfield, CA .....	1.0824	Bloomington, IN .....	0.8604
Outagamie, WI		Kern, CA		Monroe, IN	

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Bloomington-Normal, IL .....	0.8723
McLean, IL .....	
Boise City, ID .....	0.9718
Ada, ID .....	
Boston-Lawrence-Salem-Lowell-Brockton, MA .....	1.1762
Essex, MA .....	
Middlesex, MA .....	
Norfolk, MA .....	
Plymouth, MA .....	
Suffolk, MA .....	
Boulder-Longmont, CO .....	1.0155
Boulder, CO .....	
Bradenton, FL .....	0.9225
Manatee, FL .....	
Brazoria, TX .....	0.9276
Brazoria, TX .....	
Bremerton, WA .....	0.9495
Kitsap, WA .....	
Bridgeport-Stamford-Norwalk-Danbury .....	1.1984
Fairfield, CT .....	
Brownsville-Harlingen, TX .....	0.8592
Cameron, TX .....	
Bryan-College Station, TX .....	0.9451
Brazos, TX .....	
Buffalo, NY .....	0.8873
Erie, NY .....	
Burlington, NC .....	0.7954
Alamance, NC .....	
Burlington, VT .....	0.9320
Chittenden, VT .....	
Grand Isle, VT .....	
Caguas, PR .....	0.4461
Caguas, PR .....	
Gurabo, PR .....	
San Lorenz, PR .....	
Aguas Buenas, PR .....	
Cayey, PR .....	
Cidra, PR .....	
Canton, OH .....	0.8776
Carroll, OH .....	
Stark, OH .....	
Casper, WY .....	0.8855
Natrona, WY .....	
Cedar Rapids, IA .....	0.8938
Linn, IA .....	
Champaign-Urbana-Rantoul, IL .....	0.8710
Champaign, IL .....	
Charleston, SC .....	0.8298
Berkeley, SC .....	
Charleston, SC .....	
Dorchester, SC .....	
Charleston, WV .....	0.9653
Kanawha, WV .....	
Putnam, WV .....	
Charlotte-Gastonia-Rock Hill, NC-SC .....	0.9432
Cabarrus, NC .....	
Gaston, NC .....	
Lincoln, NC .....	
Mecklenburg, NC .....	
Rowan, NC .....	
Union, NC .....	
York, SC .....	
Charlottesville, VA .....	0.9576
Albermarle, VA .....	
Charlottesville City, VA .....	
Fluvanna, VA .....	
Greene, VA .....	
Chattanooga, TN-GA .....	0.9161

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Catoosa, GA .....	
Dade, GA .....	
Walker, GA .....	
Hamilton, TN .....	
Marion, TN .....	
Sequatchie, TN .....	
Cheyenne, WY .....	0.7876
Laramie, WY .....	
Chicago, IL .....	1.0475
Cook, IL .....	
Du Page, IL .....	
McHenry, IL .....	
Chico, CA .....	1.0937
Butte, CA .....	
Cincinnati, OH-KY-IN .....	0.9972
Dearborn, IN .....	
Boone, KY .....	
Campbell, KY .....	
Kenton, KY .....	
Clermont, OH .....	
Hamilton, OH .....	
Warren, OH .....	
Clarksville-Hopkinsville, TN-KY .....	0.7352
Christian, KY .....	
Montgomery, TN .....	
Cleveland, OH .....	1.0695
Cuyahoga, OH .....	
Geauga, OH .....	
Lake, OH .....	
Medina, OH .....	
Colorado Springs, CO .....	0.9777
El Paso, CO .....	
Columbia, MO .....	0.9468
Boone, MO .....	
Columbia, SC .....	0.8904
Lexington, SC .....	
Richland, SC .....	
Columbus, GA-AL .....	0.7452
Russell, AL .....	
Chattanooga, GA .....	
Muscogee, GA .....	
Columbus, OH .....	0.9634
Delaware, OH .....	
Fairfield, OH .....	
Franklin, OH .....	
Licking, OH .....	
Madison, OH .....	
Pickaway, OH .....	
Union, OH .....	
Corpus Christi, TX .....	0.8559
Nueces, TX .....	
San Patricio, TX .....	
Cumberland, MD-WV .....	0.8155
Allegany, MD .....	
Mineral, WV .....	
Dallas, TX .....	0.9599
Collin, TX .....	
Dallas, TX .....	
Denton, TX .....	
Ellis, TX .....	
Kaufman, TX .....	
Rockwall, TX .....	
Danville, VA .....	0.7476
Danville City, VA .....	
Pittsylvania, VA .....	
Davenport-Rock Island-Moline, IA-IL .....	0.8640
Scott, IA .....	
Henry, IL .....	
Rock Island, IL .....	
Dayton-Springfield, OH .....	0.9686

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Clark, OH .....	
Greene, OH .....	
Miami, OH .....	
Montgomery, OH .....	
Daytona Beach, FL .....	0.8907
Volusia, FL .....	
Decatur, AL .....	0.7457
Lawrence, AL .....	
Morgan, AL .....	
Decatur, IL .....	0.8253
Macon, IL .....	
Denver, CO .....	1.0714
Adams, CO .....	
Arapahoe, CO .....	
Denver, CO .....	
Douglas, CO .....	
Jefferson, CO .....	
Des Moines, IA .....	0.9225
Dallas, IA .....	
Polk, IA .....	
Warren, IA .....	
Detroit, MI .....	1.0924
Lapeer, MI .....	
Livingston, MI .....	
Macomb, MI .....	
Monroe, MI .....	
Oakland, MI .....	
Saint Clair, MI .....	
Wayne, MI .....	
Dothan, AL .....	0.7524
Dale, AL .....	
Houston, AL .....	
Dubuque, IA .....	0.8341
Dubuque, IA .....	
Duluth, MN-WI .....	0.9479
St. Louis, MN .....	
Douglas, WI .....	
Eau Claire, WI .....	0.8444
Chippewa, WI .....	
Eau Claire, WI .....	
El Paso, TX .....	0.8679
El Paso, TX .....	
Elkhart-Goshen, IN .....	0.8913
Elkhart, IN .....	
Elmira, NY .....	0.8775
Chemung, NY .....	
Enid, OK .....	0.8877
Garfield, OK .....	
Erie, PA .....	0.9118
Erie, PA .....	
Eugene-Springfield, OR .....	1.0123
Lane, OR .....	
Evansville, IN-KY .....	0.9422
Posey, IN .....	
Vanderburgh, IN .....	
Warrick, IN .....	
Henderson, KY .....	
Fargo-Moorhead, ND-MN .....	0.9668
Clay, MN .....	
Cass, ND .....	
Fayetteville, NC .....	0.8262
Cumberland, NC .....	
Fayetteville-Springdale, AR .....	0.7958
Washington, AR .....	
Flint, MI .....	1.1506
Genesee, MI .....	
Florence, AL .....	0.7648
Colbert, AL .....	
Lauderdale, AL .....	
Florence, SC .....	0.8395

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Florence, SC	
Fort Collins-Loveland, CO .....	1.0197
Larimer, CO	
Ft Lauderdale-Hollywood-Pompano Beach, FL .....	1.0314
Broward, FL	
Fort Myers-Cape Coral, FL .....	0.9759
Lee, FL	
Fort Pierce, FL .....	1.0996
Martin, FL	
St. Lucie, FL	
Fort Smith, AR-OK .....	0.7900
Crawford, AR	
Sebastian, AR	
Sequoyah, OK	
Fort Walton Beach, FL .....	0.8881
Okaloosa, FL	
Fort Wayne, IN .....	0.8967
Allen, IN	
De Kalb, IN	
Whitley, IN	
Forth Worth-Arlington, TX .....	0.9708
Johnson, TX	
Parker, TX	
Tarrant, TX	
Fresno, CA .....	1.0694
Fresno, CA	
Gadsden, AL .....	0.8166
Etowah, AL	
Gainesville, FL .....	0.8763
Alachua, FL	
Bradford, FL	
Galveston-Texas City, TX .....	1.0129
Galveston, TX	
Gary-Hammond, IN .....	0.9853
Lake, IN	
Porter, IN	
Glens Falls, NY .....	0.9193
Warren, NY	
Washington, NY	
Grand Forks, ND .....	0.9539
Grand Forks, ND	
Grand Rapids, MI .....	0.9813
Kent, MI	
Ottawa, MI	
Great Falls, MT .....	0.9951
Cascade, MT	
Greeley, CO .....	0.9320
Weld, CO	
Green Bay, WI .....	0.9547
Brown, WI	
Greensboro-Winston-Salem-High Point, NC .....	0.9128
Davidson, NC	
Davie, NC	
Forsyth, NC	
Guilford, NC	
Randolph, NC	
Stokes, NC	
Yadkin, NC	
Greenville-Spartanburg, SC .....	0.8887
Greenville, SC	
Pickens, SC	
Spartanburg, SC	
Hagerstown, MD .....	0.9121
Washington, MD	
Hamilton-Middletown, OH .....	0.9347
Butler, OH	
Harrisburg-Lebanon-Carlisle, PA .....	0.9879
Cumberland, PA	

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Dauphin, PA	
Lebanon, PA	
Perry, PA	
Hartford-Middletown-New Britain-Bristol, CT .....	1.1868
Hartford, CT	
Middlesex, CT	
Tolland, CT	
Litchfield, CT	
Hickory, NC .....	0.8735
Alexander, NC	
Burke, NC	
Catawba, NC	
Honolulu, HI .....	1.1534
Honolulu, HI	
Houma-Thibodaux, LA .....	0.7315
Lafourche, LA	
Terrebonne, LA	
Houston, TX .....	1.0022
Fort Bend, TX	
Harris, TX	
Liberty, TX	
Montgomery, TX	
Waller, TX	
Huntington-Ashland, WV-KY-OH .....	0.9400
Boyd, KY	
Carter, KY	
Greenup, KY	
Lawrence, OH	
Cabell, WV	
Wayne, WV	
Huntsville, AL .....	0.8799
Madison, AL	
Indianapolis, IN .....	0.9665
Boone, IN	
Hamilton, IN	
Hancock, IN	
Hendricks, IN	
Johnson, IN	
Marion, IN	
Morgan, IN	
Shelby, IN	
Iowa City, IA .....	0.9489
Johnson, IA	
Jackson, MI .....	0.9625
Jackson, MI	
Jackson, MS .....	0.7702
Hinds, MS	
Madison, MS	
Rankin, MS	
Jackson, TN .....	0.7878
Madison, TN	
Jacksonville, FL .....	0.9122
Clay, FL	
Duval, FL	
Nassau, FL	
St. Johns, FL	
Jacksonville, NC .....	0.7125
Onslow, NC	
Jamestown-Dunkirk, NY .....	0.7746
Chautauqua, NY	
Janesville-Beloit, WI .....	0.8432
Rock, WI	
Jersey City, NJ .....	1.0728
Hudson, NJ	
Johnson City-Kingsport-Bristol, TN-VA .....	0.8633
Carter, TN	
Hawkins, TN	
Sullivan, TN	

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Unicoi, TN	
Washington, TN	
Bristol City, VA	
Scott, VA	
Washington, VA	
Johnstown, PA .....	0.8827
Cambria, PA	
Somerset, PA	
Joliet, IL .....	1.0237
Grundy, IL	
Will, IL	
Joplin, MO .....	0.7925
Jasper, MO	
Newton, MO	
Kalamazoo, MI .....	1.1765
Kalamazoo, MI	
Kankakee, IL .....	0.8454
Kankakee, IL	
Kansas City, KS-MO .....	0.9550
Johnson, KS	
Leavenworth, KS	
Miami, KS	
Wyandotte, KS	
Cass, MO	
Clay, MO	
Jackson, MO	
Lafayette, MO	
Platte, MO	
Ray, MO	
Kenosha, WI .....	0.8934
Kenosha, WI	
Killeen-Temple, TX .....	1.1250
Bell, TX	
Coryell, TX	
Knoxville, TN .....	0.8658
Anderson, TN	
Blount, TN	
Grainger, TN	
Jefferson, TN	
Knox, TN	
Sevier, TN	
Union, TN	
Kokomo, IN .....	0.9452
Howard, IN	
Tipton, IN	
LaCrosse, WI .....	0.8920
LaCrosse, WI	
Lafayette, LA .....	0.8194
Lafayette, LA	
St. Martin, LA	
Lafayette, IN .....	0.8588
Tippecanoe, IN	
Lake Charles, LA .....	0.8341
Calcasieu, LA	
Lake County, IL .....	0.9953
Lake, IL	
Lakeland-Winter Haven, FL .....	0.8409
Polk, FL	
Lancaster, PA .....	0.9221
Lancaster, PA	
Lansing-East Lansing, MI .....	1.0242
Clinton, MI	
Eaton, MI	
Ingham, MI	
Laredo, TX .....	0.7248
Webb, TX	
Las Cruces, NM .....	0.7877
Dona Ana, NM	
Las Vegas, NV .....	1.0588
Clark, NV	

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Lawrence, KS .....	0.8901
Douglas, KS .....	
Lawton, OK .....	0.8354
Comanche, OK .....	
Lewiston-Auburn, ME .....	0.9021
Androscoggin, ME .....	
Lexington-Fayette, KY .....	0.8565
Bourbon, KY .....	
Clark, KY .....	
Fayette, KY .....	
Jessamine, KY .....	
Scott, KY .....	
Woodford, KY .....	
Lima, OH .....	0.8030
Allen, OH .....	
Auglaize, OH .....	
Lincoln, NE .....	0.8920
Lancaster, NE .....	
Little Rock-North Little Rock, AR .....	0.8373
Faulkner, AR .....	
Lonoke, AR .....	
Pulaski, AR .....	
Saline, AR .....	
Longview-Marshall, TX .....	0.8656
Gregg, TX .....	
Harrison, TX .....	
Lorain-Elyria, OH .....	0.8933
Lorain, OH .....	
Los Angeles-Long Beach, CA .....	1.2308
Los Angeles, CA .....	
Louisville, KY-IN .....	0.9291
Clark, IN .....	
Floyd, IN .....	
Harrison, IN .....	
Bullitt, KY .....	
Jefferson, KY .....	
Oldham, KY .....	
Shelby, KY .....	
Lubbock, TX .....	0.8766
Lubbock, TX .....	
Lynchburg, VA .....	0.8509
Amherst, VA .....	
Campbell, VA .....	
Lynchburg City, VA .....	
Macon-Warner Robins, GA .....	0.8768
Bibb, GA .....	
Houston, GA .....	
Jones, GA .....	
Peach, GA .....	
Madison, WI .....	1.0270
Dane, WI .....	
Manchester-Nashua, NH .....	1.0219
Hillsborough, NH .....	
Merrimack, NH .....	
Mansfield, OH .....	0.8358
Richland, OH .....	
Mayaguez, PR .....	0.4752
Anasco, PR .....	
Cabo Rojo, PR .....	
Hormigueros, PR .....	
Mayaguez, PR .....	
San German, PR .....	
McAllen-Edinburg-Mission, TX .....	0.7684
Hidalgo, TX .....	
Medford, OR .....	1.0005
Jackson, OR .....	
Melbourne-Titusville, FL .....	0.9162
Brevard, FL .....	
Memphis, TN-AR-MS .....	0.9023
Crittenden, AR .....	

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
De Soto, MS .....	
Shelby, TN .....	
Tipton, TN .....	
Merced, CA .....	1.0270
Merced, CA .....	
Miami-Hialeah, FL .....	1.0147
Dade, FL .....	
Middlesex-Somerset-Hunterdon, NJ .....	1.0903
Hunterdon, NJ .....	
Middlesex, NJ .....	
Somerset, NJ .....	
Midland, TX .....	1.0335
Midland, TX .....	
Milwaukee, WI .....	0.9680
Milwaukee, WI .....	
Ozaukee, WI .....	
Washington, WI .....	
Waukesha, WI .....	
Minneapolis-St Paul, MN-WI .....	1.0774
Anoka, MN .....	
Carver, MN .....	
Chisago, MN .....	
Dakota, MN .....	
Hennepin, MN .....	
Isanti, MN .....	
Ramsey, MN .....	
Scott, MN .....	
Washington, MN .....	
Wright, MN .....	
St. Croix, WI .....	
Mobile, AL .....	0.8454
Baldwin, AL .....	
Mobile, AL .....	
Modesto, CA .....	1.1530
Stanislaus, CA .....	
Monmouth-Ocean, NJ .....	1.0058
Monmouth, NJ .....	
Ocean, NJ .....	
Monroe, LA .....	0.7832
Ouachita, LA .....	
Montgomery, AL .....	0.7823
Autauga, AL .....	
Elmore, AL .....	
Montgomery, AL .....	
Muncie, IN .....	0.8397
Delaware, IN .....	
Muskegon, MI .....	0.9680
Muskegon, MI .....	
Naples, FL .....	1.0282
Collier, FL .....	
Nashville, TN .....	0.9360
Cheatham, TN .....	
Davidson, TN .....	
Dickson, TN .....	
Robertson, TN .....	
Rutherford TN .....	
Sumner, TN .....	
Williamson, TN .....	
Wilson, TN .....	
Nassau-Suffolk, NY .....	1.3167
Nassau, NY .....	
Suffolk, NY .....	
New Bedford-Fall River-Attleboro, MA .....	0.9962
MA .....	
Bristol, MA .....	
New Haven-Waterbury-Meriden, CT .....	1.2046
New Haven, CT .....	
New London, London-Norwich .....	1.1525
New London, CT .....	
New Orleans, LA .....	0.8967

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Jefferson, LA .....	
Orleans, LA .....	
St. Bernard, LA .....	
St. Charles, LA .....	
St. John The Baptist, LA .....	
St. Tammany, LA .....	
New York, NY .....	1.3431
Bronx, NY .....	
Kings, NY .....	
New York City, NY .....	
Putnam, NY .....	
Queens, NY .....	
Richmond, NY .....	
Rockland, NY .....	
Westchester, NY .....	
Newark, NJ .....	1.1350
Essex, NJ .....	
Morris, NJ .....	
Sussex, NJ .....	
Union, NJ .....	
Niagara Falls, NY .....	0.8350
Niagara, NY .....	
Norfolk-Virginia Beach-Newport News, VA .....	0.8481
Chesapeake City, VA .....	
Gloucester, VA .....	
Hampton City, VA .....	
James City Co., VA .....	
Newport News City, VA .....	
Norfolk City, VA .....	
Poquoson, VA .....	
Portsmouth City, VA .....	
Suffolk City, VA .....	
Virginia Beach City, VA .....	
Williamsburg City, VA .....	
York, VA .....	
Oakland, CA .....	1.4225
Alameda, CA .....	
Contra Costa, CA .....	
Ocala, FL .....	0.8580
Marion, FL .....	
Odessa, TX .....	1.0835
Ector, TX .....	
Oklahoma City, OK .....	0.9195
Canadian, OK .....	
Cleveland, OK .....	
Logan, OK .....	
McClain, OK .....	
Oklahoma, OK .....	
Pottawatomie, OK .....	
Olympia, WA .....	1.0957
Thurston, WA .....	
Omaha, NE-IA .....	0.8953
Pottawattamie, IA .....	
Douglas, NE .....	
Sarpy, NE .....	
Washington, NE .....	
Orange County, NY .....	0.9815
Orange, NY .....	
Orlando, FL .....	0.9582
Orange, FL .....	
Osceola, FL .....	
Seminole, FL .....	
Owensboro, KY .....	0.8082
Daviess, KY .....	
Oxnard-Ventura, CA .....	1.2259
Ventura, CA .....	
Panama City, FL .....	0.8598
Bay, FL .....	
Parkersburg-Marietta, WV-OH .....	0.8505

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Washington, OH	
Wood, WV	
Pascagoula, MS	0.8720
Jackson, MS	
Pensacola, FL	0.8589
Escambia, FL	
Santa Rosa, FL	
Peoria, IL	0.8704
Peoria, IL	
Tazewell, IL	
Woodford, IL	
Philadelphia, PA-NJ	1.0908
Burlington, NJ	
Camden, NJ	
Gloucester, NJ	
Bucks, PA	
Chester, PA	
Delaware, PA	
Montgomery, PA	
Philadelphia, PA	
Phoenix, AZ	1.0387
Maricopa, AZ	
Pine Bluff, AR	0.7840
Jefferson, AR	
Pittsburgh, PA	1.0087
Allegheny, PA	
Fayette, PA	
Washington, PA	
Westmoreland, PA	
Pittsfield, MA	1.0739
Berkshire, MA	
Ponce, PR	0.4583
Juana Diaz, PR	
Ponce, PR	
Portland, ME	0.9254
Cumberland, ME	
Sagadahoc, ME	
York, ME	
Portland, OR	1.1529
Clackamas, OR	
Multnomah, OR	
Washington, OR	
Yamhill, OR	
Portsmouth-Dover-Rochester, NH	1.0039
Rockingham, NH	
Strafford, NH	
Poughkeepsie, NY	1.0639
Dutchess, NY	
Providence-Pawtucket-Woonsocket, RI	1.0590
Bristol, RI	
Kent, RI	
Newport, RI	
Providence, RI	
Washington, RI	
Provo-Orem, UT	1.0189
Utah, UT	
Pueblo, CO	0.8687
Pueblo, CO	
Racine, WI	0.8814
Racine, WI	
Raleigh-Durham, NC	0.9448
Durham, NC	
Franklin, NC	
Orange, NC	
Wake, NC	
Rapid City, SD	0.8366
Pennington, SD	
Reading, PA	0.8778
Berks, PA	

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Redding, CA	1.0507
Shasta, CA	
Reno, NV	1.1571
Washoe, NV	
Richland-Kennewick, WA	0.9364
Benton, WA	
Franklin, WA	
Richmond-Petersburg, VA	0.9379
Charles City Co., VA	
Chesterfield, VA	
Colonial Heights City, VA	
Dinwiddie, VA	
Goochland, VA	
Hanover, VA	
Henrico, VA	
Hopewell City, VA	
New Kent, VA	
Petersburg City, VA	
Powhatan, VA	
Prince George, VA	
Richmond City, VA	
Riverside-San Bernardino, CA	1.1391
Riverside, CA	
San Bernardino, CA	
Roanoke, VA	0.8251
Botetourt, VA	
Roanoke, VA	
Roanoke City, VA	
Salem City, VA	
Rochester, MN	1.0985
Olmsted, MN	
Rochester, NY	0.9671
Livingston, NY	
Monroe, NY	
Ontario, NY	
Orleans, NY	
Wayne, NY	
Rockford, IL	0.9245
Boone, IL	
Winnebago, IL	
Sacramento, CA	1.2280
Eldorado, CA	
Placer, CA	
Sacramento, CA	
Yolo, CA	
Saginaw-Bay City-Midland, MI	1.0452
Bay, MI	
Midland, MI	
Saginaw, MI	
St. Cloud, MN	0.9382
Benton, MN	
Sherburne, MN	
Stearns, MN	
St. Joseph, MO	0.9376
Buchanan, MO	
St. Louis, MO-IL	0.9351
Clinton, IL	
Jersey, IL	
Madison, IL	
Monroe, IL	
St. Clair, IL	
Franklin, MO	
Jefferson, MO	
St. Charles, MO	
St. Louis, MO	
St. Louis City, MO	
Sullivan City, MO	
Salem, OR	1.0403
Marion, OR	
Polk, OR	

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Salinas-Seaside-Monterey, CA	1.2988
Monterey, CA	
Salt Lake City-Ogden, UT	0.9892
Davis, UT	
Salt Lake, UT	
Weber, UT	
San Angelo, TX	0.8107
Tom Green, TX	
San Antonio, TX	0.8418
Bexar, TX	
Comal, TX	
Guadalupe, TX	
San Diego, CA	1.2095
San Diego, CA	
San Francisco, CA	1.4480
Marin, CA	
San Francisco, CA	
San Mateo, CA	
San Jose, CA	1.4840
Santa Clara, CA	
San Juan, PR	0.4967
Barcelona, PR	
Bayoman, PR	
Canovanas, PR	
Carolina, PR	
Catano, PR	
Corozal, PR	
Dorado, PR	
Fajardo, PR	
Florida, PR	
Guaynabo, PR	
Humacao, PR	
Juncos, PR	
Los Piedras, PR	
Loiza, PR	
Luguillo, PR	
Manati, PR	
Naranjito, PR	
Rio Grande, PR	
San Juan, PR	
Toa Alta, PR	
Toa Baja, PR	
Trojillo Alto, PR	
Vega Alta, PR	
Vega Baja, PR	
Santa Barbara-Santa Maria-Lompoc, CA	1.1721
Santa Barbara, CA	
Santa Cruz, CA	1.2733
Santa Cruz, CA	
Santa Fe, NM	0.9102
Los Alamos, NM	
Santa Fe, NM	
Santa Rosa-Petaluma, CA	1.2926
Sonoma, CA	
Sarasota, FL	0.9741
Sarasota, FL	
Savannah, GA	0.8294
Chatham, GA	
Effingham, GA	
Scranton, Wilkes Barre, PA	0.8916
Columbia, PA	
Lackawanna, PA	
Luzerne, PA	
Monroe, PA	
Wyoming, PA	
Seattle, WA	1.0827
King, WA	
Snohomish, WA	
Sharon, PA	0.9024

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Mercer, PA	
Sheboygan, WI .....	0.8836
Sheboygan, WI	
Sherman-Denison, TX .....	0.9052
Grayson, TX	
Shreveport, LA .....	0.9262
Bossier, LA	
Caddo, LA	
Sioux City, IA-NE .....	0.8470
Woodbury, IA	
Dakota, NE	
Sioux Falls, SD .....	0.8797
Minnehaha, SD	
South Bend-Mishawaka, IN .....	1.0142
St. Joseph, IN	
Spokane, WA .....	1.0648
Spokane, WA	
Springfield, IL .....	0.9258
Menard, IL	
Sangamon, IL	
Springfield, MO .....	0.8050
Christian, MO	
Greene, MO	
Springfield, MA .....	1.0290
Hampden, MA	
Hampshire, MA	
State College, PA .....	0.9861
Centre, PA	
Steubenville-Weirton, OH-WV .....	0.8756
Jefferson, OH	
Brooke, WV	
Hancock, WV	
Stockton, CA .....	1.1566
San Joaquin, CA	
Syracuse, NY .....	0.9905
Madison, NY	
Onondaga, NY	
Oswego, NY	
Tacoma, WA .....	1.0276
Pierce, WA	
Tallahassee, FL .....	0.9183
Gadsden, FL	
Leon, FL	
Tampa-St. Petersburg-Clearwater, FL .....	0.9225
Hernando, FL	
Hillsborough, FL	
Pasco, FL	
Pinellas, FL	
Terre Haute, IN .....	0.8791
Clay, IN	
Vigo, IN	
Texarkana-TX-AR .....	0.7860
Miller, AR	
Bowie, TX	
Toledo, OH .....	1.0160
Fulton, OH	
Lucas, OH	
Wood, OH	
Topeka, KS .....	0.9265
Shawnee, KS	
Trenton, NJ .....	1.0094
Mercer, NJ	
Tucson, AZ .....	0.9552
Pima, AZ	
Tulsa, OK .....	0.8542
Creeks, OK	
Osage, OK	
Rogers, OK	
Tulsa, OK	

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
Wagoner, OK	
Tuscaloosa, AL .....	0.8487
Tuscaloosa, AL	
Tyler, TX .....	0.9798
Smith, TX	
Utica-Rome, NY .....	0.8652
Herkimer, NY	
Oneida, NY	
Vallejo-Fairfield-Napa, CA .....	1.3150
Napa, CA	
Solano, CA	
Vancouver, WA .....	1.0755
Clark, WA	
Victoria, TX .....	0.8958
Victoria, TX	
Vineland-Millville-Bridgeton, NJ .....	0.9720
Cumberland, NJ	
Visalia-Tulare-Porterville, CA .....	1.0351
Tulare, CA	
Waco, TX .....	0.7783
McLennan, TX	
Washington, DC-MD-VA .....	1.0928
District of Columbia, DC	
Calvert, MD	
Charles, MD	
Frederick, MD	
Montgomery, MD	
Prince Georges, MD	
Alexandria City, VA	
Arlington, VA	
Fairfax, VA	
Fairfax City, VA	
Falls Church City, VA	
Loudoun, VA	
Manassas City, VA	
Manassas Park City, VA	
Prince William, VA	
Stafford, VA	
Waterloo-Cedar Falls, IA .....	0.8884
Black Hawk, IA	
Bremer, IA	
Wausau, WI .....	0.9709
Marathon, WI	
West Palm Beach-Boca Raton-Del-ray Beach, FL .....	1.0095
Palm Beach, FL	
Wheeling, WV-OH .....	0.8035
Belmont, OH	
Marshall, WV	
Ohio, WV	
Wichita, KS .....	0.9770
Butler, KS	
Harvey, KS	
Sedgwick, KS	
Wichita Falls, TX .....	0.8139
Wichita, TX	
Williamsport, PA .....	0.8829
Lycoming, PA	
Wilmington, DE-NJ-MD .....	1.0825
New Castle, DE	
Cecil, MD	
Salem, NJ	
Wilmington, NC .....	0.8677
New Hanover, NC	
Worcester-Fitchburg-Leominster, MA .....	1.0782
Worcester, MA	
Yakima, WA .....	1.0070
Yakima, WA	
York, PA .....	0.9008
Adams, PA	

TABLE IIIa.—WAGE INDEX FOR URBAN AREAS—Continued

Urban areas (constituent counties or county equivalents)	Wage index
York, PA	
Youngstown-Warren, OH .....	0.9826
Mahoning, OH	
Trumbull, OH	
Yuba City, CA .....	1.0220
Sutter, CA	
Yuba, CA	
Yuma, AZ .....	0.8850
Yuma, AZ	

TABLE IIIb.—WAGE INDEX FOR RURAL AREAS

Non-urban areas	Wage index
ALABAMA .....	0.7121
ALASKA .....	1.3372
ARIZONA .....	0.8724
ARKANSAS .....	0.6979
CALIFORNIA .....	1.0122
COLORADO .....	0.8382
CONNECTICUT .....	1.1857
DELAWARE .....	0.8537
FLORIDA .....	0.8704
GEORGIA .....	0.7769
HAWAII .....	0.9579
IDAHO .....	0.8917
ILLINOIS .....	0.7696
INDIANA .....	0.7830
IOWA .....	0.7517
KANSAS .....	0.7426
KENTUCKY .....	0.7781
LOUISIANA .....	0.7355
MAINE .....	0.8294
MARYLAND .....	0.8029
MASSACHUSETTS .....	1.1607
MICHIGAN .....	0.8893
MINNESOTA .....	0.8288
MISSISSIPPI .....	0.6935
MISSOURI .....	0.7240
MONTANA .....	0.8226
NEBRASKA .....	0.6967
NEVADA .....	0.9663
NEW HAMPSHIRE .....	0.9508
NEW JERSEY .....	1
NEW MEXICO .....	0.8289
NEW YORK .....	0.8371
NORTH CAROLINA .....	0.7992
NORTH DAKOTA .....	0.7688
OHIO .....	0.8438
OKLAHOMA .....	0.7384
OREGON .....	0.9643
PENNSYLVANIA .....	0.8620
PUERTO RICO .....	<sup>2</sup> 0.4316
RHODE ISLAND .....	1
SOUTH CAROLINA .....	0.7678
SOUTH DAKOTA .....	0.7179
TENNESSEE .....	0.7316
TEXAS .....	0.7578
UTAH .....	0.8977
VERMONT .....	0.8997
VIRGINIA .....	0.7784
VIRGIN ISLANDS .....	<sup>2</sup> 1.0000
WASHINGTON .....	0.9597
WEST VIRGINIA .....	0.8482
WISCONSIN .....	0.8459
WYOMING .....	0.8423

<sup>1</sup> All counties within State are classified urban.

<sup>2</sup> Approximate value for area.

TABLE IV.—COST REPORTING YEAR ADJUSTMENT FACTOR <sup>1</sup>

If the HHA cost reporting period begins	The adjustment factor is
August 1, 1993 .....	1.0042
September 1, 1993 .....	1.0085
October 1, 1993 .....	1.0126
November 1, 1993 .....	1.0169
December 1, 1993 .....	1.0211
January 1, 1994 .....	1.0254
February 1, 1994 .....	1.0299
March 1, 1994 .....	1.0340
April 1, 1994 .....	1.0385
May 1, 1994 .....	1.0430
June 1, 1994 .....	1.0475

<sup>1</sup> Based on compounded projected market basket inflation rates of 5.10 percent for 1994 and 5.30 percent for 1995.

**V. Impact Statement**

For notices such as this, we generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that this notice will not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, all HHAs are treated as small entities.

This notice with comment period sets forth a revised schedule of HHA per-visit cost limits and A&G add-on amounts for hospital-based HHAs for cost reporting periods beginning on or after July 1, 1993. (We note that, in accordance with section 13564(b) of OBRA '93, the A&G add-on for hospital-based HHAs is eliminated effective for cost reporting periods beginning on or after October 1, 1993.) In addition, this notice announces the provisions of section 13564(a) of OBRA '93, which provides for a delay in the updates of the HHA per-visit cost limits until cost reporting periods beginning on or after July 1, 1996.

As discussed below, the aggregate impact of revising the schedule of limits effective for cost reporting periods beginning on or after July 1, 1993 is not significant. In contrast, the requirement under section 13564(a) of OBRA '93 that these limits remain in place for cost reporting periods beginning before July 1, 1996 will result in significant Federal cost savings. The impact of this OBRA '93 provision also is discussed further below. This notice explains the revised methodology for calculating the HHA per-visit cost limits that result from the provisions of OBRA '93. We do not believe that merely explaining the results of these provisions in this notice will have a significant effect on a

substantial number of small entities. Therefore, we have determined and the Secretary certifies that a regulatory flexibility analysis under the RFA is not required.

However, to the extent that a legislative provision being announced by a notice such as this may have a significant effect on beneficiaries or providers or may be viewed as controversial, we believe that we should address any potential concerns. In this instance, we believe it is desirable to inform the public of our estimate of the substantial budgetary effect of the statutory requirement that there be no update in the HHA per-visit cost limits until cost reporting periods beginning on or after July 1, 1996.

**A. Effects of Revised Cost Limits for Cost Reporting Periods Beginning On or After July 1, 1993 and Before July 1, 1994**

In response to comments on the schedule of limits set forth in our July 8, 1993 notice with comment period, we decided to validate the database used in calculating the limits. As discussed in section II.A.2 of this notice, we determined that data were missing from a large number of HHAs and that duplicate cost reports were used in the calculation of the hospital-based add-on. Consequently, it was necessary to recalculate the limits and add-on amounts effective for cost reporting periods beginning on or after July 1, 1993. This notice sets forth revised per-visit cost limits and add-on amounts for hospital-based HHAs for cost reporting periods beginning on or after July 1, 1993. Section II.A.2 of this notice contains tables that illustrate the effects of using the revised database to calculate the limits and the A&G add-on amounts. As the tables illustrate, the per-visit cost limits and A&G add-on amounts change for each discipline. Most notable is the increase in the limits and add-on amounts for skilled nursing care and home health aide visits, since these visits constitute the great majority of covered HHA visits. We estimate that the aggregate impact of these changes on Medicare spending for HHA care will be as follows:

TABLE 1.—IMPACT OF REVISED LIMITS <sup>1</sup>

Fiscal year	Costs
1994 .....	10
1995 .....	10
1996 .....	10
1997 .....	10

<sup>1</sup> All figures are rounded to the nearest 10 million.

We are unable to estimate the effects of these changes on individual HHAs. In general, we believe that most HHAs will experience small revenue increases under the revised limits; the degree of that increase will vary depending on the proportion of the HHA's revenues that come from the Medicare program, the distribution of services provided by the HHA, and the HHA's ability to operate with the cost limits.

**B. Effect of Cost Limits On Cost Reporting Periods Beginning On or After July 1, 1994 and Before July 1, 1996**

In accordance with section 13564(a) of OBRA '93, this notice with comment period specifies that there will be no changes in the per-visit cost limits for home health services for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996, except as may be necessary to take into account the elimination of the A&G add-on for hospital-based HHAs. We estimate that this statutory provision will result in the following savings to the Medicare program:

TABLE 2.—IMPACT OF DELAY IN THE UPDATE OF HHA LIMITS <sup>1</sup>

Fiscal year	Savings
1994 .....	\$ 0
1995 .....	130
1996 .....	330
1997 .....	100

<sup>1</sup> All figures are rounded to the nearest \$10 million.

As illustrated in Table 3 below, the delay in updating the cost limits until July 1, 1996, will result in an increase in the number of HHAs exceeding the HHA cost limits in all categories. Table 3 below shows the impact of these changes.

TABLE 3.—AGENCIES EXCEEDING THE COST LIMITS <sup>1</sup>

	HHAs in Model	Exceeding the limits as of 7/1/93	Exceeding the limits as of 7/1/95
Free-standing HHAs .	2992	763	1329
Urban .	2001	510	911
Rural ..	991	253	418
Hospital-based HHAs .	1053	408	856
Urban .	447	173	383

TABLE 3.—AGENCIES EXCEEDING THE COST LIMITS<sup>1</sup>—Continued

	HHAs in Model	Exceeding the limits as of 7/1/93	Exceeding the limits as of 7/1/95
Rural ..	606	235	473

<sup>1</sup> All figures are based on revised cost limits as published in this notice for cost reporting periods beginning on or before July 1, 1993 and before July 1, 1994.

Again, we are unable to identify the effects of these provisions on individual HHAs. However, we anticipate that overall HHA payments for FY 1995 through FY 1997 will be approximately 0.9 percent, 2.0 percent, and 0.5 percent less, respectively, than they would have been in those years if the OBRA '93 provisions were not in effect. The effects of this reduction on the total revenues of individual HHAs will depend on the HHA's ability to operate within the cost limits and on the proportion of the HHA's revenues that come from the Medicare program. We estimate that the delay in updating the limits will not result in a significant number of facilities' total revenues being increased or reduced by 3 percent or more from the revised limits effective for cost reporting periods beginning on July 1, 1993, as set forth in this notice, adjusted for inflation.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a notice such as this may have a significant impact on the operations of a substantial number of small rural hospitals. Such an 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 with fewer than 100 beds located outside of a Metropolitan Statistical Area.

We have not prepared a rural impact statement since we have determined and the Secretary certifies that this final notice will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

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

## VI. Other Required Information

### A. Waiver of Proposed Notice and 30-Day Delay in the Effective Date

In adopting notices such as this, we ordinarily publish a proposed notice in the **Federal Register** with a 60-day period for public comment as required under section 1871(b)(1) of the Act. We also normally provide a delay of 30 days

in the effective date for documents such as this. However, we may waive these procedures if we find good cause that prior notice and comment or a delay in the effective date are impracticable, unnecessary, or contrary to the public interest.

This notice revises the per-visit limits effective for cost reporting periods beginning on or after July 1, 1993. We believe the revised limits will be beneficial to HHAs. Moreover, we have revised the limits based on public comments on our July 8, 1993 notice with comment period.

In addition, as discussed above, before the enactment of OBRA '93, section 1861(v)(1)(L)(iii) of the Act required that the HHA per-discipline cost limits be updated annually no later than July 1 of each year. However, section 13564(a)(1) of OBRA '93 specifies that there be no changes in the HHA cost limits (except as may be necessary to take into account the elimination of the A&G add-on for hospital-based HHAs) for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996. Section 13564(a)(2) of OBRA '93 amended section 1861(v)(1)(L)(iii) of the Act to delay the next required update of the HHA limits until July 1, 1996.

Thus, in conformance with the clear direction of section 13564(a) of OBRA '93, this notice announces the new HHA provisions and explains the effects of these provisions on the methodology used in calculating the HHA cost limits. We have made no changes in this methodology beyond those directly required by OBRA '93. Moreover, section 13564(a) of OBRA '93 mandates that these provisions are effective beginning with cost reporting periods beginning on or after July 1, 1994. Because many of the provisions in this notice announce, and explain the impact of, changes made by statute that are already effective, we believe it is unnecessary to publish a proposed notice or delay the effective date.

In summary, the only discretionary aspect of this notice is the revision of the schedule of HHA cost limits effective for cost reporting periods beginning on or after July 1, 1993. As noted above, this change is being made in response to public comment and is clearly beneficial to HHAs. Publishing a proposed rule or delaying the effective date would postpone the correction of errors in the database used to compute the HHA cost limits. Thus, we have concluded that in this instance, it would be impracticable, unnecessary, and contrary to the public interest to publish a proposed notice or to provide for a 30-day delay in the effective date of this

notice. Therefore, we find good cause to waive publication of a proposed notice and the 30-day delay in effective date. However, we are providing a 60-day period for public comment, as indicated at the beginning of this notice.

### B. Paperwork Reduction Act

This notice with comment period does not impose information collection requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

### C. Requests for Data From the Public

In order to respond promptly to public requests for data used in calculating the HHA cost limits, we have set up a process under which commenters can gain access to the raw data on an expedited basis. The HHA database is available on computer tape format or diskette for \$680. Anyone wishing to purchase data tapes or diskettes should submit a written request along with a company check or money order (payable to HCFA-PUF) to cover the cost, to the following address: Health Care Financing Administration, Public Use Files, Accounting Division, P.O. Box 7520, Baltimore, Maryland 21207-0520, (410) 597-5151.

### D. Public Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, 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 notice, and, if we proceed with a subsequent document, we will respond to the comments in that document.

**Authority:** (Sections 1102, 1814(b), 1861(v)(1)(A) and (v)(1)(L), 1866(a), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395x(v)(1)(A) and (v)(1)(L), 1395cc(a), and 1395hh); section 13564(a) of Public Law 103-66 (42 U.S.C. 1395x(note)) and 42 CFR 413.30.)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: October 11, 1994.

**Bruce C. Vladeck,**  
Administrator, Health Care Financing Administration.

Dated: November 4, 1994.

**Donna E. Shalala,**  
Secretary.

[FR Doc. 95-3526 Filed 2-13-95; 8:45 am]

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