

which would be chosen in a competitive bidding process. In conjunction with the Federal Reserve, the survey firm would update and finalize the questionnaire for the new survey. The survey firm would then conduct two pre-tests with a minimum of fifty small business firms in each pre-test. Following pre-test revisions to the questionnaire, the survey would be conducted by means of computer-assisted telephone interviews. Interviewing would likely commence in early 2004.

Board of Governors of the Federal Reserve System, April 10, 2003.

**Jennifer J. Johnson,**

*Secretary of the Board.*

[FR Doc. 03-9264 Filed 4-15-03; 8:45 am]

BILLING CODE 6210-01-S

**FEDERAL RESERVE SYSTEM**

**Formations of, Acquisitions by, and Mergers of Bank Holding Companies**

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 9, 2003.

**A. Federal Reserve Bank of Chicago** (Phillip Jackson, Applications Officer)

230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *MainSource Financial Group*, Greensburg, Indiana; to acquire 100 percent of the voting shares of First Community Bancshares, Inc., Bargersville, Indiana, and thereby indirectly acquire voting shares of First Community Bank & Trust, Bargersville, Indiana.

**B. Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *The Jere J. Ruff Family Limited Partnership, II*, Longview, Texas; to acquire 44.26 percent of the voting shares of The First State Bank, Hallsville, Texas.

2. *Ruff Management, L.L.C.*, Longview, Texas; to acquire 52.32 percent of the voting shares of The First State Bank, Hallsville, Texas.

3. *Ruff Partners, Ltd.*, Longview, Texas; to acquire 52.32 percent of the voting shares of The First State Bank, Hallsville, Texas.

Board of Governors of the Federal Reserve System, April 10, 2003.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. 03-9263 Filed 4-15-03; 8:45 am]

BILLING CODE 6210-01-S

**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Centers for Medicare & Medicaid Services**

[CMS-1256-N]

RIN 0938-AM60

**Medicare Program; Notice of Ambulance Fee Schedule in Accordance With Federal District Court Order**

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

**ACTION:** Notice.

**SUMMARY:** This notice announces the steps CMS is taking to comply with the Order in *Lifestar Ambulance Service, Inc. v. United States*, No. 4:02-CV-127-1 (M.D. Ga. Jan. 16, 2003) Medicare Covered Ambulance Services.

**EFFECTIVE DATE:** This notice is effective on April 16, 2003.

**FOR FURTHER INFORMATION CONTACT:** Anne Tayloe, (410) 786-4546.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 4531 of the Balanced Budget Act of 1997 (BBA) required the

Secretary of the Department of Health and Human Services to establish a national fee schedule (FS) for payment of ambulance services through a negotiated rulemaking process. The statute provided that the Secretary phase in the application of payment rates under the FS in an efficient and fair manner and that the aggregate amount of payment for such services under the new FS not exceed the amount that would have been paid under the old system (42 U.S.C. § 1395m(l)(1), (2), (3)). The BBA provided that the FS would apply to services furnished on or after January 1, 2000.

The September 12, 2000 proposed rule (65 FR 55078) and the February 27, 2002 final rule (67 FR 9100) both provide for payment for ambulance services to be made in two parts: a base rate and a payment for mileage. Section 423 of the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), which was passed after the publication of the proposed rule and prior to the promulgation of the final rule, provided that during the phase-in of the FS there would be full payment of any national mileage rate for ambulance services furnished by suppliers in States where the Medicare carrier did not previously pay separately for all mileage within the county from which the beneficiary is transported. Two States have been identified as qualifying under this provision: North Carolina and Tennessee. The BIPA states that this provision shall apply to services furnished on or after July 1, 2001. The FS was implemented on April 1, 2002 by the February 27, 2002 final rule. The final rule announced the 5-year phase-in that is based on a blend of a percentage of the payment based on the old payment system with a percentage of the payment based on the FS according to the following schedule:

Calendar year	Percentage of old payment system	Percentage of fee schedule
2002*	80	20
2003	60	40
2004	40	60
2005	20	80
2006	0	100

\* April 1, 2002 through December 31, 2002 only.

The full national FS mileage rate in those States that qualify for section 423 of the BIPA (North Carolina and Tennessee) has been paid as of April 1, 2002.

In *Lifestar Ambulance Service, Inc. v. United States*, No. 4:02-CV-127-1

(M.D. Ga. Jan 16, 2003), three ambulance suppliers seeking to represent a nationwide class of ambulance suppliers sued the Secretary, arguing that he has no discretion to give the FS an effective date other than January 1, 2000. The district court agreed with the plaintiff suppliers and issued an order certifying a nationwide class of ambulance suppliers and requiring the Secretary to adopt a FS for the January 1, 2000 through March 31, 2002 period. The court's decision also requires the Secretary to pay full mileage in accordance with the BIPA provision for the July 1, 2001 through March 31, 2002 period. *Id.* at 20–21.

**II. Provisions of the Notice**

The purpose of this notice is to comply with the court's order requiring a FS to be established for the January 1, 2000 through March 31, 2002 period. By this notice, the Secretary is establishing a FS based on the FS as described in the February 27, 2002 final rule, with a modified phase-in as follows:

Calendar year	Percentage of old payment system	Percentage of fee schedule
2000* .....	95	5
2001 .....	90	10
2002 .....	80	20

\* January 1, 2002 through March 31, 2002.

Additionally, in accordance with the district court's order, the Medicare program will pay full BIPA mileage for services provided on or after July 1, 2001.

The BBA provided that the Secretary shall phase in the application of payment rates under the FS in an efficient and fair manner. As previously detailed, based on the discretion afforded the Secretary by the BBA, the final rule published on February 27, 2002 provided for a linear progression from the prior payment system to FS payments, commencing with a 20 percent/80 percent blended payment for the last three quarters of FY 2002, and ending with a 100 percent FS payment for FY 2006.

Five percent, 10 percent, and 20 percent is the most appropriate progression of blending percentages for the January 1, 2000 through March 31, 2002 period. For the first quarter of 2002, 20 percent is the same blending percentage as the percentage already used for the FS during the other 9 months in 2002. The 5 percent and 10 percent are the most appropriate percentages for 2000 and 2001, in that they comply with the statutory requirement for an efficient and fair phase-in, and are consistent with the

linear progression in blending percentages promulgated in the February 27, 2002 final rule.

The *Lifestar* court recognized the Secretary's statutory discretion to set the phase-in percentages for the January 1, 2000 through March 31, 2002 period. The court also stated that these phase-in percentages must provide meaningful relief to the *Lifestar* plaintiffs. The FS described in this notice provides meaningful relief as evidenced in more detail under the impact section, below. We estimate that 2/3 of 15,000 suppliers will be receiving a total of \$81 million for this period.

The statute at 42 U.S.C. 1395(m)(l)(3)(B) provides that FS payment amounts in subsequent years to the first year of the FS be set equal to the FS payment amounts from the previous year increased by a statutorily prescribed inflation factor. The FS final rule used data from 1998 and inflated it using the statutorily prescribed inflation factors to obtain the 2002 amounts. See 67 FR 9100, 9125. To determine the FS amounts for earlier years (that is, the period of January 1, 2000 through December 31, 2001), we have deflated the FS amounts for 2002 by the same statutorily prescribed ambulance inflation factors. These deflation factors are:

Calendar year	Deflation percentage
2000/2001 .....	3.7
2001/2002 .....	2.2

**III. Appeal of Lifestar Decision/Recoupment**

The Secretary has appealed the *Lifestar* decision. In the event the district court's decision is reversed on appeal, any FS or BIPA mileage payment made in accordance with this notice for the January 1, 2000 through March 31, 2002 period will be subject to recoupment.

**IV. Waiver of Proposed Rulemaking**

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of

the finding and its reasons in the rule issued.

The court's January 16, 2003 order in *Lifestar* requires establishment of a FS for the January 1, 2000 through March 31, 2002 period within 90-days of the date of the order. It would be impracticable to provide a period for prior notice and comment and still meet the 90-day deadline. In fact, the Congress has recognized the impracticability of providing prior notice and comment where a statutory provision must be implemented within 150 days. See 42 U.S.C. 1395hh(b)(2)(B) (providing that a notice of proposed rulemaking is not required if a statute establishes a specific deadline for implementation that is less than 150 days from enactment).

Therefore, we find good cause to waive the notice of proposed rulemaking and comment period with respect to the issuance of this notice.

**V. Collection of Information Requirements**

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

**VI. Regulatory Impact Statement**

We have examined the impacts of this notice as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

There are approximately 15,000 suppliers nationwide that submit claims to Medicare for ambulance services. The Medicare program pays approximately \$2.1 billion in Medicare benefits per year for these services. We estimate that approximately two-thirds of suppliers will benefit from this January 1, 2000 through March 31, 2002 FS and that the aggregate amount of program spending will be approximately \$81 million. The break out of this expenditure is as follows:

Calendar year	Program expenditures (in millions)
2000 .....	\$16
2001 .....	\$43
2002 .....	\$22
Total .....	\$81

These amounts include approximately \$16 million by which suppliers in North Carolina and Tennessee will benefit due to implementation of the BIPA ambulance mileage provision for the period of July 1, 2001 through March 31, 2002.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). The aggregate amount of program spending to comply with the court's order will be approximately \$81 million. Therefore this notice is not a major notice as defined in Title 5, United States Code, section 804(2) and is not an economically significant notice under Executive Order 12866.

The RFA requires agencies to analyze options for regulatory relief of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of \$6 million to \$29 million in any 1 year. Individuals and States are not considered to be small entities. We have determined that this notice will not have a significant economic impact on a substantial number of small entities. Therefore, we are not preparing an analysis for the RFA.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. We have determined that this notice will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing an analysis for section 1102(b) of the Act.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditures in any 1 year by State, local, or tribal governments, in the aggregate, or by the

private sector, of \$110 million. This notice has no consequential effect on State, local, or tribal governments or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This notice will not have a substantial effect on State or local governments.

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

**Authority:** Sections 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

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

Dated: April 1, 2003.

**Thomas A. Scully,**  
*Administrator, Centers for Medicare & Medicaid Services.*

Dated: April 11, 2003.

**Tommy G. Thompson,**  
*Secretary.*  
[FR Doc. 03-9503 Filed 4-15-03; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

#### Government-Owned Inventions; Availability for Licensing

**AGENCY:** National Institutes of Health, Public Health Service, DHHS.

**ACTION:** Notice.

**SUMMARY:** The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

**ADDRESSES:** Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852-3804; telephone: (301) 496-7057; fax: (301) 402-0220. A signed Confidential Disclosure Agreement will

be required to receive copies of the patent applications.

#### Method and Materials for Promoting Migration of T Cells to the Vasculature of a Tumor

Patrick Hwu and Mary Tschoi (NCI).  
Serial No. 60/447,497 filed 14 Feb 2003.  
*Licensing Contact:* Jonathan Dixon;  
(301) 435-5559; [dixonj@od.nih.gov](mailto:dixonj@od.nih.gov).

Adoptive immunotherapy with T cells is a promising therapeutic modality for cancer. However, the effectiveness of this method of treatment appears to be limited by the inefficient migration of T cells to the tumor site. The present invention provides materials and methods that promote the migration of T cells to the vasculature of a tumor.

This invention discloses a novel method of administering modified autologous T cells, which bind to cell-surface molecules on endothelial cells of the vasculature of a tumor. Using the disclosed method and modified T cells, investigators were able to promote the migration of T cells to molecules expressed on the vasculature of tumors. It is anticipated that this method and these modified autologous T cells will improve the effectiveness of adoptive immunotherapy for a variety of tumors, including melanoma and many carcinomas and sarcomas.

This research has been described, in part, in Dudley *et al.*, *Science* 298:850-854 (25 October 2002).

#### Amplification and Overexpression of Septin9 MLL Septin-Like Fusion (MSF) and Methods Related Thereto

Cristina Montagna *et al.* (NCI).  
DHHS Reference No. E-003-2003.  
*Licensing Contact:* Matthew Kiser; (301) 435-5236; [kiserm@od.nih.gov](mailto:kiserm@od.nih.gov).

This invention pertains to methods of detecting cancer, a method of inhibiting a protein, oligonucleotides for use therein, a method of inducing apoptosis, methods of testing a candidate drug for efficacy as an anti-cancer drug and methods for evaluating the progression of cancer.

The inventors have demonstrated that the Septin9 gene in mice (MSF gene in humans) is amplified in cancer models for breast cancer. Furthermore, it has been shown that the product encoded by this gene is overexpressed in cancer. In this regard, the present invention provides methods of detecting cancer in a mammal. One method comprises determining whether or not the mammal has an amplification of the Septin9 (MSF) locus or an ortholog of the gene. In this method, overexpression of the protein or of the nucleic acid molecule is indicative of cancer. Another method