Hospice Market Basket Updates and Productivity Adjustment

**Summary:** Incorporates a productivity adjustment into the market basket update for various providers, including hospice, beginning in fiscal year 2013 for hospice. Also incorporates a productivity adjustment for hospice providers.

**Status update:** On July 29, 2011, the Center for Medicare and Medicaid Services (CMS) issued a notice providing the final wage index for the Medicare hospice benefit – and increase of 2.5%.

**Next steps:**
- August 31, 2010 – Comments due on notice for hospice.
- July 29, 2011 – CMS issues notice regarding hospice wage index.

**Additional information:**
- CMS market basket research and information -- [http://www.cms.gov/MedicareProgramRatesStats/05_MarketBasketResearch.asp#TopOfPage](http://www.cms.gov/MedicareProgramRatesStats/05_MarketBasketResearch.asp#TopOfPage)

**Long summary:**
Sec. 3401. Revision of certain market basket updates and incorporation of productivity improvements into market basket updates that do not already incorporate such improvements (as modified by sec. 10319 and sec. 1105 of HCERA).

(with items only specific to hospice)

*Market basket update.* Reduces the market basket update for hospice providers by 0.3 percentage points in fiscal years 2013-2019 in addition to the productivity adjustments described below. Reductions may cause a negative update and may result in payment rates for a year being less than
the payment rates for the preceding year. In 2014-2019, the 0.3 percentage point reduction applicable to hospice providers is waived if in any year from 2014-2019, the previous year’s total percentage of insured population (as reflected in the share of the total, non-elderly population) is more than five percentage points below CBO projections of such percentage at the time of bill enactment.

**Productivity adjustment.** Applies a productivity adjustment to the update for hospice providers beginning in FY 2013. The productivity adjustment is the 10-year moving average of changes in annual economy-wide private non-farm business multi-factor productivity (as projected by the Secretary for the 10-year period ending with the applicable year, fiscal year, cost reporting period, or other annual period). The productivity adjustments may cause a negative update and may result in payment rates for a year being less than the payment rates for the preceding year.

**Legislative text:**

SEC. 3401. REVISION OF CERTAIN MARKET BASKET UPDATES AND INCORPORATION OF PRODUCTIVITY IMPROVEMENTS INTO MARKET BASKET UPDATES THAT DO NOT ALREADY INCORPORATE SUCH IMPROVEMENTS.

(g) HOSPICE CARE.—Section 1814(i)(1)(C) of the Social Security Act (42 U.S.C. 1395f(i)(1)(C)), as amended by section 3132, is amended by adding at the end the following new clauses:

```
```

(i) OUTPATIENT HOSPITALS.—Section 1833(t)(3) of the Social Security Act (42 U.S.C. 1395l(t)(3)) is amended—

(1) in subparagraph (C)(iv), by inserting “and subparagraph (F) of this paragraph” after “(17)”; and

(2) by adding at the end the following new subparagraphs:

```
```

(o) OTHER ITEMS.—Section 1842(s)(1) of the Social Security Act (42 U.S.C. 1395u(s)(1)) is amended—

(1) in the first sentence, by striking “Subject to” and inserting “(A) Subject to”;

(2) by striking the second sentence and inserting the following new subparagraph:

```
```

(II) for each of 2010 through 2019, by the adjustment described in subparagraph (G).

The application of this subparagraph may result in the OPD fee schedule increase factor under subparagraph (C)(iv) being less than 0.0 for a year, and may result in payment rates under the payment system under this subsection being less than such payment rates for the preceding fiscal year.

```
```

(III) 0.25 percentage point;

(IV) for each of 2015 and 2016, 0.2 percentage point; and

(V) for each of 2017, 2018, and 2019, 0.75 percentage point.”.

(II) OTHER ADJUSTMENT.—For purposes of subparagraph (F)(ii), the adjustment described in this subparagraph is—

```
```

(III) for each of 2010 and 2011, 0.25 percentage point;

(IV) for each of 2012 and 2013, 0.1 percentage point;

(V) for each of 2014, 0.3 percentage point;

(VI) for each of 2015 and 2016, 0.2 percentage point; and

(VII) for each of 2017, 2018, and 2019, 0.75 percentage point.”.

(II) for items and services described in paragraph (2)(D) for 2009, section 1834(a)(14)(J) shall apply under this paragraph instead of the percentage increase otherwise applicable; and

```
```

(II) for each year being less than such payment rates for the preceding fiscal year.

```
```
'‘(I) the percentage increase in the consumer price index for all urban consumers (United States city average) for the 12-month period ending with June of the previous year, reduced by—
‘‘(II) the productivity adjustment described in section 1886(b)(3)(B)(xi)(II).’’; and
(3) by adding at the end the following flush sentence:
‘‘The application of subparagraph (B)(ii)(II) may result in the update under this paragraph being less than 0.0 for a year, and may result in payment rates under any fee schedule established under this paragraph for a year being less than such payment rates for the preceding year.’’.
(p) NO APPLICATION PRIOR TO APRIL 1, 2010.—Notwithstanding the preceding provisions of this section, the amendments made by subsections (a), (c), and (d) shall not apply to discharges occurring before April 1, 2010.