responding to the comments we received on this issue in the final notice entitled "Physician Fee Schedule Update for Calendar Year 1996 and Physician Volume Performance Standard Rates of Increase for Federal Fiscal Year 1996 (BPD–828–FN) published elsewhere in this Federal Register issue.

For the convenience of the reader, the headings for the policy issues in sections II, III, and IV, for the most part, correspond to the headings used in the July 1995 proposed rule. More detailed background information for each issue can be found in the July 1995 proposed rule (60 FR 38400).

## A. Budget-Neutrality Adjustments for Relative Value Units

We make annual adjustments to RVUs for the physician fee schedule to reflect changes in CPT codes and changes in estimated physician work. The statute requires that these revisions may not change physician expenditures by more than \$20 million compared to estimated expenditures that would have occurred if the RVU adjustments had not been made. In the past, we have made an adjustment across all RVUs in the physician fee schedule to maintain this statutorily-mandated budget neutrality.

We recognize that many other payers, including several Medicaid programs, use the Medicare physician fee schedule. To reduce the number of system changes required by the annual revisions to the physician fee schedule, we proposed to apply these budgetneutrality adjustments to the physician fee schedule conversion factors (CFs) rather than across all RVUs.

The impact of this proposal on payment amounts would be minimal (slight differences could be caused by rounding). This alternative approach would be administratively simpler for Medicare and other payers that base payment on the Medicare RVUs, including many State Medicaid programs. In addition, this change would provide for consistent RVUs from year to year (for those codes with no other changes), thus making it easier to analyze payment and policy changes.

*Comment:* An overwhelming majority of commenters strongly supported our decision to apply the annual budgetneutrality adjustments to the physician fee schedule CFs rather than across all RVUs, beginning with the publication of this final rule in the Federal Register; however, a few commenters suggested that we apply this change retroactively by converting all RVUs, which were altered for budget-neutrality reasons, back to their original 1992 levels. *Response:* For the sake of administrative simplicity, we will not readjust RVUs from periods before the current period. In addition, we believe that retroactively adjusting the RVUs would cause unnecessary programming costs for those who electronically maintain systems containing the RVU data.

*Comment:* A few commenters suggested the use of a separate budgetneutrality factor rather than the adjustment of the physician fee schedule CFs to achieve budget neutrality. They stated that private payers who use the Medicare fee schedule CFs would then be able to decide whether to apply the budget neutrality adjustment. This particularly could be an issue for any adjustments needed for the five-year review of all work RVUs, depending on the magnitude of the adjustments.

*Response:* We prefer to adjust the existing CFs rather than add an additional factor to adjust for budget neutrality. Because we explicitly identify the magnitude of the annual budget-neutrality adjustment, other payers can decide whether to apply the adjustment to their CFs. However, we may reconsider this issue in the future for issues such as the 5-year review of RVUs or congressional action.

*Final Decision:* Beginning with the publication of this final rule, we will apply annual budget-neutrality adjustments to physician fee schedule CFs rather than across all RVUs. However, if the Congress explicitly sets a conversion factor at a fixed dollar amount for a given year, we will consider establishing a separate budget-neutrality adjustor.

## **B.** Bundled Services

## 1. Hydration Therapy and Chemotherapy

We proposed not paying separately for hydration therapy infusion (CPT codes 90780 and 90781) when billed on the same day as chemotherapy infusion, CPT codes (96410, 96412, and 96414). Frequently, hydration therapy and chemotherapy are performed at the same time. We believe paying for both would be duplicative. We would continue to pay separately for both the hydration therapy solution and the chemotherapy drug. This reflects a policy change that is not explicitly addressed in our regulations.

*Comment:* Commenters objected to our proposal stating that the administration of saline for hydration therapy infusion at the same time as chemotherapy infusion requires significant additional work and supplies.

*Response:* We disagree. The saline and the chemotherapy drug are usually administered through the same port or site. In some cases, the solutions may even be mixed. We see no significant additional work or expense involved in these cases, and we believe that paying separately for hydration therapy infusion administered at the same time as chemotherapy infusion represents duplicate payment.

*Comment:* A commenter agreed with our proposal stating that the same access port or site is used for administering the chemotherapy drug and the hydration therapy solution. The commenter requested clarification as to whether the policy would apply to other drugs, such as antiemetics and corticosteroids, which are often administered with chemotherapy and, like hydration therapy, billed using CPT codes 90780 and 90781. The commenter suggested that a logical extension of our proposal is to cover the administration of these drugs as well as hydration therapy.

*Response:* We agree with this comment. CPT codes 90780 and 90781 for the administration of saline or drugs such as antiemetics and corticosteriods will not be paid separately when furnished at the same time as CPT codes 96410, 96412, and 96414 for chemotherapy infusion. However, we will pay separately for the drugs.

Comment: Most commenters agreed that for any given segment of time it would be duplicative to pay for both chemotherapy infusion and hydration therapy infusion. These commenters noted that the course of treatment for many chemotherapy drugs, for example, cisplatin, ifosmamide, and methotrexate, require hydration therapy or the infusion of an antiemetic on the same day, but either before or after the chemotherapy. The commenters believed that in these cases, the work is not duplicative, and they should be allowed to bill for the infusion of the saline or antiemetic.

*Response:* We agree. We are revising our proposal to allow payment for hydration therapy or the infusion of an antiemetic or other nonchemotherapy drug on the same day as chemotherapy infusion when the nonchemotherapy drug is administered sequentially rather than at the same time as the chemotherapy infusion.

*Final Decision:* We will not pay for the infusion of saline, an antiemetic, or any other nonchemotherapy drug under CPT codes 90780 and 90781 when these drugs are administered at the same time as chemotherapy infusion (CPT codes