

no restriction on upward adjustments to the MEI.

Section 1848(d)(1)(C) of the Act requires the Secretary to publish in the Federal Register, within the last 15 days of October, the updates for the following calendar year.

The updates are required by the Medicare statute, and any budget implications associated with them are due to the requirements of the law and not this notice.

2. Medicare Volume Performance Standard Rates of Increase Section 1848(f) of the Act requires the Secretary to establish volume performance standard rates of increase for Medicare expenditures for physicians' services. The use of volume performance standard rates of increase is intended to control the rate of increase in expenditures for physicians' services.

The volume performance standard rates of increase are not limits on expenditures. Payments for services are not withheld if volume performance standard rates of increase are exceeded. Rather, the appropriate fee schedule update, as specified in section 1848(d)(3)(A) of the Act, is adjusted to reflect the success or failure in meeting the volume performance standard rates of increase.

Section 1848(f) of the Act sets forth the process for establishing the volume performance standard rates of increase by requiring the Secretary to recommend to the Congress the physician volume performance standard rates of increase for the following Federal fiscal year by not later than April 15. The Secretary is required to recommend MVPS rates for surgical,

primary care, other nonsurgical, and all physicians' services. In making the recommendations, the Secretary is required to confer with organizations that represent physicians and to consider the following factors:

- Inflation.
- Changes in the number and age composition of Medicare enrollees under Part B (excluding risk health maintenance organization enrollees).
- Changes in technology.
- Evidence of inappropriate utilization of services.
- Evidence of lack of access to necessary physicians' services.
- Other appropriate factors as determined by the Secretary.

If the Congress does not set the volume performance standard rates of increase, section 1848(f)(2) (A) and (B) of the Act requires the Secretary to set MVPS rates for all physicians' services and each category of physicians' services equal to the product of the following four factors reduced by a performance standard factor, which for fiscal year 1996 is 4.0 percentage points:

- 1.0 plus the Secretary's estimate of the weighted-average percentage increase (divided by 100) in fees for all physicians' services or for the category of physicians' services for the portions of calendar year 1995 and calendar year 1996 contained in fiscal year 1996.
- 1.0 plus the Secretary's estimate of the percentage change (divided by 100) in the average number of Part B enrollees (excluding risk health maintenance organization enrollees) from fiscal year 1995 to fiscal year 1996.
- 1.0 plus the Secretary's estimate of the average annual percentage growth

(divided by 100) in the volume and intensity of all physicians' services or of the category of physicians' services for fiscal year 1990 through fiscal year 1995.

- 1.0 plus the Secretary's estimate of the percentage change (divided by 100) in expenditures for all physicians' services or of the category of physicians' services that will result from changes in law or regulations in fiscal year 1996 as compared with expenditures for physicians' services in fiscal year 1995.

Section 1848(f)(1)(C) of the Act requires the Secretary to publish in the Federal Register within the last 15 days of October of each year the volume performance standard rates of increase for all physicians' services and for each category of physicians' services for the Federal fiscal year that began on October 1 of that year. (The MVPS for all physicians' services has no practical effect on the update. We publish it only because we are required to do so by section 1848(f) of the Act.)

### 3. Past Years' Medicare Volume Performance Standard Rates of Increase and Physician Fee Schedule Updates

MVPS rates have been established under section 1848 of the Act since fiscal year 1990. Calendar year 1992 was the first year in which the update was affected by expenditures under the MVPS system. The following tables illustrate the MVPS rates in each fiscal year since their inception, the actual rates of increase in expenditures, and the corresponding updates in the second subsequent calendar year.

#### FEE SCHEDULE UPDATE

[In percent]

Calendar year	MEI	Performance adjustment	Legislative adjustment	Update
CY 1992:				
All services .....	3.2	-0.9	-0.4	-1.9
CY 1993:				
Surgical .....	2.7	0.4	.....	3.1
Nonsurgical .....	2.7	-1.9	.....	0.8
CY 1994:				
Surgical .....	2.3	11.3	-3.6	10.0
Primary care .....	2.3	5.6	0.0	7.9
Other nonsurgical .....	2.3	5.6	-2.6	5.3
CY 1995:				
Surgical .....	2.1	12.8	-2.7	12.2
Primary care .....	2.1	5.8	0.0	7.9
Other nonsurgical .....	2.1	5.8	-2.7	5.2
CY 1996:				
Surgical .....	2.0	1.8	.....	3.8
Primary care .....	2.0	-4.3	.....	-2.3
Other Nonsurgical .....	2.0	-1.6	.....	0.4