

resulting from changes in law or regulations.

Response: The use of category-specific volume and intensity growth will make the volume performance standards more comparable with the actual growth in allowed charges for a given category of physicians' services. In addition, we agree that the use of category-specific volume and intensity growth allowances is more consistent with our use of category-specific estimates of the MVPS factors for fees and changes in law or regulations. The language in section 1848(f)(2)(A) of the Act regarding these

two MVPS factors is similar to the language describing the volume and intensity factor.

Final decision: Beginning with fiscal year 1996, we will use category-specific volume and intensity growth allowances in calculating the default volume performance standards.

III. Provisions of This Final Notice

A. Physician Fee Schedule Update for Calendar Year 1996

Under the requirements of section 1848(d)(3) of the Act, the fee schedule

update for calendar year 1996 will be 3.8 percent for surgical services, -2.3 percent for primary care services, and 0.4 percent for other nonsurgical services. While it does not affect payment, there was a 0.8 percent increase in the update for all physicians' services for 1996. We determined this update as follows:

[In percent]

	Surgical services	Primary care services	Nonsurgical services
1996 MEI	2.0	2.0	2.0
MVPS Adjustment	1.8	-4.3	-1.6
1996 Update	3.8	-2.3	0.4

In our July 26, 1995 proposed rule (60 FR 38400) concerning revisions to payment policies under the Medicare physician fee schedule for calendar year 1996, we proposed applying budget-neutrality adjustments to the conversion factors rather than to the RVUs (60 FR 38401 to 38402). As discussed in the physician fee schedule final rule, published elsewhere in this Federal Register issue, the 0.36 percent budget-neutrality adjustment for 1996 will be made on the conversion factors. However, if in the future the Congress explicitly sets a conversion factor at a fixed dollar amount for a given year, we will consider establishing a separate budget-neutrality adjuster or applying the adjustment to the RVUs.

Applying the updates and budget neutrality adjustment to the 1995 conversion factors of \$39.447 for surgical services (other than anesthesia services), \$36.382 for primary care services, and \$34.616 for nonsurgical services yields 1996 conversion factors of \$40.7986 for surgical services, \$35.4173 for primary care services, and \$34.6293 for other nonsurgical services. The 1995 anesthesia conversion factor of \$14.77, which includes the effect of the 1995 RVU budget-neutrality adjustment, will be updated by the surgical update to \$15.28 for 1996, after adjusting for the 1996 budget-neutrality adjustment.

The specific calculations to determine the fee schedule updates for physicians'

services for calendar year 1996 are explained in section IV.A. of this notice.

B. Physician Volume Performance Standard Rates of Increase for Fiscal Year 1996

Under the requirements in section 1848(f)(2) (A) and (B) of the Act, we have determined that the volume performance standard rates of increase for physicians' services for fiscal year 1996 are -0.5 percent for surgical services, 9.3 percent for primary care services, 0.6 percent for other nonsurgical services, and a weighted average of 1.8 percent for all physicians' services.

This determination is based on the following legislative factors:

[In percent]

Legislative factors	Surgical services	Primary care services	Nonsurgical services
Fees	2.1	2.1	2.3
Enrollment	-0.3	-0.3	-0.3
Volume and Intensity	2.3	5.3	5.1
Legislation	-0.6	5.7	-2.4
Performance Standard Factor	4.0	4.0	4.0
Total	-0.5	9.3	0.6