

TABLE 3.—AGENCIES EXCEEDING THE COST LIMITS¹—Continued

| | HHAs in Model | Exceeding the limits as of 7/1/93 | Exceeding the limits as of 7/1/95 |
|----------|---------------|-----------------------------------|-----------------------------------|
| Rural .. | 606 | 235 | 473 |

¹ All figures are based on revised cost limits as published in this notice for cost reporting periods beginning on or before July 1, 1993 and before July 1, 1994.

Again, we are unable to identify the effects of these provisions on individual HHAs. However, we anticipate that overall HHA payments for FY 1995 through FY 1997 will be approximately 0.9 percent, 2.0 percent, and 0.5 percent less, respectively, than they would have been in those years if the OBRA '93 provisions were not in effect. The effects of this reduction on the total revenues of individual HHAs will depend on the HHA's ability to operate within the cost limits and on the proportion of the HHA's revenues that come from the Medicare program. We estimate that the delay in updating the limits will not result in a significant number of facilities' total revenues being increased or reduced by 3 percent or more from the revised limits effective for cost reporting periods beginning on July 1, 1993, as set forth in this notice, adjusted for inflation.

Section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a notice such as this may have a significant impact on the operations of a substantial number of small rural hospitals. Such an 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 with fewer than 100 beds located outside of a Metropolitan Statistical Area.

We have not prepared a rural impact statement since we have determined and the Secretary certifies that this final notice will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

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

VI. Other Required Information

A. Waiver of Proposed Notice and 30-Day Delay in the Effective Date

In adopting notices such as this, we ordinarily publish a proposed notice in the **Federal Register** with a 60-day period for public comment as required under section 1871(b)(1) of the Act. We also normally provide a delay of 30 days

in the effective date for documents such as this. However, we may waive these procedures if we find good cause that prior notice and comment or a delay in the effective date are impracticable, unnecessary, or contrary to the public interest.

This notice revises the per-visit limits effective for cost reporting periods beginning on or after July 1, 1993. We believe the revised limits will be beneficial to HHAs. Moreover, we have revised the limits based on public comments on our July 8, 1993 notice with comment period.

In addition, as discussed above, before the enactment of OBRA '93, section 1861(v)(1)(L)(iii) of the Act required that the HHA per-discipline cost limits be updated annually no later than July 1 of each year. However, section 13564(a)(1) of OBRA '93 specifies that there be no changes in the HHA cost limits (except as may be necessary to take into account the elimination of the A&G add-on for hospital-based HHAs) for cost reporting periods beginning on or after July 1, 1994, and before July 1, 1996. Section 13564(a)(2) of OBRA '93 amended section 1861(v)(1)(L)(iii) of the Act to delay the next required update of the HHA limits until July 1, 1996.

Thus, in conformance with the clear direction of section 13564(a) of OBRA '93, this notice announces the new HHA provisions and explains the effects of these provisions on the methodology used in calculating the HHA cost limits. We have made no changes in this methodology beyond those directly required by OBRA '93. Moreover, section 13564(a) of OBRA '93 mandates that these provisions are effective beginning with cost reporting periods beginning on or after July 1, 1994. Because many of the provisions in this notice announce, and explain the impact of, changes made by statute that are already effective, we believe it is unnecessary to publish a proposed notice or delay the effective date.

In summary, the only discretionary aspect of this notice is the revision of the schedule of HHA cost limits effective for cost reporting periods beginning on or after July 1, 1993. As noted above, this change is being made in response to public comment and is clearly beneficial to HHAs. Publishing a proposed rule or delaying the effective date would postpone the correction of errors in the database used to compute the HHA cost limits. Thus, we have concluded that in this instance, it would be impracticable, unnecessary, and contrary to the public interest to publish a proposed notice or to provide for a 30-day delay in the effective date of this

notice. Therefore, we find good cause to waive publication of a proposed notice and the 30-day delay in effective date. However, we are providing a 60-day period for public comment, as indicated at the beginning of this notice.

B. Paperwork Reduction Act

This notice with comment period does not impose information collection requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

C. Requests for Data From the Public

In order to respond promptly to public requests for data used in calculating the HHA cost limits, we have set up a process under which commenters can gain access to the raw data on an expedited basis. The HHA database is available on computer tape format or diskette for \$680. Anyone wishing to purchase data tapes or diskettes should submit a written request along with a company check or money order (payable to HCFA-PUF) to cover the cost, to the following address: Health Care Financing Administration, Public Use Files, Accounting Division, P.O. Box 7520, Baltimore, Maryland 21207-0520, (410) 597-5151.

D. Public Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this notice, and, if we proceed with a subsequent document, we will respond to the comments in that document.

Authority: (Sections 1102, 1814(b), 1861(v)(1)(A) and (v)(1)(L), 1866(a), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395x(v)(1)(A) and (v)(1)(L), 1395cc(a), and 1395hh); section 13564(a) of Public Law 103-66 (42 U.S.C. 1395x(note)) and 42 CFR 413.30.)

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: October 11, 1994.

Bruce C. Vladeck,
Administrator, Health Care Financing Administration.

Dated: November 4, 1994.

Donna E. Shalala,
Secretary.

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