



GAO

Accountability * Integrity * Reliability

United States General Accounting Office
Washington, DC 20548

B-292672

August 8, 2003

The Honorable Charles Grassley
Chairman
The Honorable Max Baucus
Ranking Minority Member
Committee on Finance
United States Senate

The Honorable William M. Thomas
Chairman
The Honorable Charles B. Rangel
Ranking Minority Member
Committee on Ways and Means
House of Representatives

Subject: *Department of Health and Human Services, Centers for Medicare and Medicaid Services: Medicare Program; Changes to the Inpatient Rehabilitation Facility Prospective Payment System and Fiscal Year 2004 Rates*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), entitled "Medicare Program; Changes to the Inpatient Rehabilitation Facility Prospective Payment System and Fiscal Year 2004 Rates" (RIN: 0938-AL95). We received the rule on July 31, 2003. It was published in the Federal Register as a final rule on August 1, 2003. 68 Fed. Reg. 45674.

The final rule establishes the prospective payment rates for inpatient hospital services furnished under Medicare by inpatient rehabilitation facilities (IRF) for fiscal year 2004.

Enclosed is our assessment of the CMS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that the CMS complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO

evaluation work relating to the subject matter of the rule is William Scanlon,
Managing Director, Health Care. Mr. Scanlon can be reached at (202) 512-7114.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Ann Stallion
Regulations Coordinator
Department of Health and
Human Services

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
CENTERS FOR MEDICARE AND MEDICAID SERVICES
ENTITLED
"MEDICARE PROGRAM; CHANGES TO THE
INPATIENT REHABILITATION FACILITY
PROSPECTIVE PAYMENT SYSTEM AND
FISCAL YEAR 2004 RATES"
(RIN: 0938-AL95)

(i) Cost-benefit analysis

The Centers for Medicare and Medicaid Services projects that updating the IRF prospective payment system for fiscal year 2004 will increase by \$187.3 million over fiscal year 2003 levels.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

The Administrator of CMS has certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not contain either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On May 16, 2003, CMS published a Notice of Proposed Rulemaking in the Federal Register. 68 Fed. Reg. 26788. CMS received over 6,900 comments in response to the proposed rule and the major issues raised in the comments are summarized and discussed in the final rule's preamble.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The final rule contains an information collection that is subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork

Review Act. The preamble to the final rule contains the required information regarding the collection including the annual burden. CMS estimates that the collection will be used 390,000 times per year with a one-minute response time for a total annual burden of 6,500 hours.

Statutory authorization for the rule

The final rule is promulgated under the authority contained in section 1886(j)(3)(C) of the Social Security Act.

Executive Order No. 12866

The final rule was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

CMS has determined that the final rule will not have any negative impact on the rights, roles, or responsibilities of state, local, or tribal governments.