



G A O

Accountability \* Integrity \* Reliability

United States General Accounting Office  
Washington, DC 20548

---

B-290839

July 11, 2002

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

The Honorable W.J. "Billy" Tauzin  
Chairman  
The Honorable John D. Dingell  
Ranking Minority Member  
Committee on Energy and Commerce  
House of Representatives

The Honorable Bill 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; Update to the Prospective Payment System for Home Health Agencies for FY 2003

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; Update to the Prospective Payment System for Home Health Agencies for FY 2003" (RIN: 0938-AL16). We received the rule on July 1, 2002. It was published in the Federal Register as a "notice with comment period" on June 28, 2002. 67 Fed. Reg. 43616.

The notice sets forth an update to the 60-day national episode rates and the national per-visit amounts under the Medicare prospective payment system for home health agencies.

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; UPDATE TO THE PROSPECTIVE PAYMENT SYSTEM  
FOR HOME HEALTH AGENCIES FOR FY 2003"  
(RIN: 0938-AL16)

(i) Cost-benefit analysis

CMS prepared a regulatory impact analysis of the notice and found that there will be an additional \$320 million in fiscal year 2003 attributable to the fiscal year 2003 market basket increase of 2.5 percent.

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

CMS has examined the impact of the notice on small entities and has concluded that there will be a significant positive economic impact. Therefore, since the increase is mandated by statute and is positive, CMS found it unnecessary to consider alternatives to lessen the impact.

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

The notice 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.

Because the annual updates are statutorily required and the methodology used has previously been subject to public comment, CMS has found "good cause" to forgo the normal notice and comment procedures found at 5 U.S.C. 553. However, comments will be accepted for 60 days after publication of the notice.

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

The notice does not contain any information collections that are subject to review under the Paperwork Reduction Act.

Statutory authorization for the rule

The notice is issued pursuant to the authority contained in the Social Security Act, as amended by the Balanced Budget Act of 1997 (Pub. L. 105-33); the Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999 (Pub. L. 105-277); the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999 (Pub. L. 106-113) and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (Pub. L. 106-554).

Executive Order No. 12866

The notice was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

The notice will not have a substantial direct effect of the rights, roles, and responsibilities of states.