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United States Government Accountability Office
Washington, DC 20548

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November 29, 2004

The Honorable Charles E. Grassley
Chairman
The Honorable Max Baucus
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 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; Coverage and Payment of Ambulance Services; Recalibration of Conversion Factor; Inflation Update for CY 2005*

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; Coverage and Payment of Ambulance Services; Recalibration of Conversion Factor; Inflation Update for CY 2005" (RIN: 0938-AN20). We received the rule on November 3, 2004. It was published in the Federal Register as a notice on November 15, 2004. 69 Fed. Reg. 66918.

The notice discusses the annual review of the conversion factor used to calculate the Medicare program ambulance fee schedule and the annual ambulance inflation factor for calendar year 2005.

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 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 Marjorie Kanof, Managing Director, Health Care. Ms. Kanof can be reached at (202) 512-7101.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

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

ENCLOSURE

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; COVERAGE AND PAYMENT OF
AMBULANCE SERVICES; RECALIBRATION OF CONVERSION FACTOR;
INFLATION UPDATE FOR CY 2005"
(RIN: 0938-AN20)

(i) Cost-benefit analysis

CMS estimates that the total program expenditure for calendar year 2005 for ambulance services covered by Medicare is approximately \$3.7 billion. The increases contained in the notice will result in an additional expenditure of approximately \$100 million distributed over 16,000 suppliers and providers.

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

CMS has prepared a Final Regulatory Flexibility Analysis in connection with the notice and concludes that the notice will not have a significant economic impact since it will increase total revenue to the providers by less than 2 percent.

(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 impose either an intergovernmental or private sector mandate, as defined in title II, of more than \$110 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.*

CMS has found good cause under 5 U.S.C. 553 to waive the notice and comment procedures because the methods of computation of the annual updates are specified by statute and there are no substantive policy changes.

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

The notice does not contain any information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

The notice is promulgated under the authority found in sections 1834(l) and 1834(l)(3)(B) of the Social Security Act.

Executive Order No. 12866

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

Executive Order No. 13132 (Federalism)

The notice does not have federalism implications according to CMS.