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February 4, 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

Subject: *Department of Health and Human Services, Office of the Secretary: HIPAA
Administrative Simplification: Standard Unique Health Identifier for Health
Care Providers*

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 (HHS), Office of the Secretary, entitled "HIPAA Administrative Simplification: Standard Unique Health Identifier for Health Care Providers" (RIN: 0938-AH99). We received the rule on January 23, 2004. It was published in the Federal Register as a final rule on January 23, 2004. 69 Fed. Reg. 3434.

The final rule establishes the standard for a unique health identifier for health care providers for use in the health care system and announces the adoption of the National Provider Identifier as that standard. The rule also establishes the implementation specifications for obtaining and using the standard unique health identifier for health care providers.

Enclosed is our assessment of the HHS'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 HHS 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.

James W. Vickers (for)

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,
OFFICE OF THE SECRETARY
ENTITLED
"HIPAA ADMINISTRATIVE SIMPLIFICATION:
STANDARD UNIQUE HEALTH IDENTIFIER
FOR HEALTH CARE PROVIDERS"
(RIN: 0938-AH99)

(i) Cost-benefit analysis

HHS performed a cost-benefit analysis of the final rule. For the years 2007 through 2011, HHS estimates that the total costs and resulting savings of implementing the National Provider Identifier (NPI) to be \$426 million in health plan costs, \$342 million in health plan savings, \$213 million in provider costs, \$15 million in NPI application and update costs, \$840 million in provider savings, \$526 million in net savings, and \$128 million in National Provider System costs.

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

HHS prepared a Final Regulatory Flexibility Analysis that complies with the requirements of the Act. The analysis describes the type and number of small entities affected by the rule and, in conjunction with the Paperwork Reduction Act discussion, the burden imposed on them. The alternatives considered are described and their impacts on small entities. While covered entities need to be in compliance within 24 months, small health plans are allowed 36 months.

(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 contains a private sector mandate, as defined in title II, of more than \$100 million in any one year. The Regulatory Impact Analysis contains the information required by the Act.

(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 7, 1998, a Notice of Proposed Rulemaking was published in the Federal Register. 63 Fed. Reg. 25320. The comments received in response are discussed in

the preamble of the final rule. In addition, HHS has found “good cause” to forgo the notice and comment and the 30-day delay in the effective date requirements of section 553 with regard to the portion of the final rule which is a correcting amendment to move the text from 45 Code of Federal Regulations Part 142 to Part 162.

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

The final rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. HHS has submitted the required information to OMB including the annual burden associated with the collections. For both the initial application and the yearly updates for 2007 through 2011, the total annualized burden is \$15,436,252.

Statutory authorization for the rule

The final rule is promulgated pursuant to the authority contained in sections 1171 through 1179 of the Social Security Act (42 U.S.C. 1320d through 1320d-8), as added by section 262 of Pub. L. 104-191, 110 Stat. 2021-2031, and section 264 of Pub. L. 104-191, 110 Stat. 2033-2034 (42 U.S.C. 1320d-2(note)).

Executive Order No. 12866

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

Executive Order No. 13132 (Federalism)

HHS finds that the final rule will have a substantial effect on state and local governments to the extent they are “covered entities.” The preamble to the final rule describes the steps taken to involve state and local governments in workgroups and the consultations between interdepartmental teams and state and local agencies.