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B-327619

December 21, 2015

The Honorable Orrin G. Hatch
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

The Honorable Fred Upton
Chairman
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

The Honorable Kevin Brady
Chairman
The Honorable Sander M. Levin
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of Health and Human Services, Centers for Medicare & Medicaid Services: Medicare Program; Mechanized Claims Processing and Information Retrieval Systems (90/10)*

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 & Medicaid Services (CMS) entitled "Medicare Program; Mechanized Claims Processing and Information Retrieval Systems (90/10)" (RIN: 0938-AS53). We received the rule December 3, 2015. It was published in the *Federal Register* as a final rule on December 4, 2015. 80 Fed. Reg. 75,817.

The final rule will extend enhanced funding for Medicaid eligibility systems as part of a state's mechanized claims processing system and will update conditions and standards for such systems, including adding to and updating current Medicaid Management Information Systems conditions and standards. According to CMS, these changes will allow states to improve customer service and support the dynamic nature of Medicaid eligibility, enrollment, and delivery systems.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress,

whichever is later. 5 U.S.C. § 801(a)(3)(A). This final rule has a stated effective date of January 1, 2016. The rule was received on December 3, 2015, and published in the *Federal Register* on December 4, 2015. Therefore, the final rule does not have the full required 60-day delay in its effective date.

Enclosed is our assessment of 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 of the procedural steps taken indicates that, other than the 60-day delay requirement, CMS complied with the applicable requirements.

If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Ann Stallion
Deputy Director, ODRM
Department of Health and Human Services

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
CENTERS FOR MEDICARE & MEDICAID SERVICES
ENTITLED
"MEDICARE PROGRAM; MECHANIZED CLAIMS PROCESSING
AND INFORMATION RETRIEVAL SYSTEMS (90/10)"
(RIN: 0938-AS53)

(i) Cost-benefit analysis

The Centers for Medicare & Medicaid Services (CMS) described the costs and benefits of this final rule. CMS estimates the federal net costs for fiscal years 2016 through 2025 of implementing the final regulation on eligibility systems will be approximately \$3 billion. This includes approximately \$5.1 billion in increased federal costs for system design, development, or installation, offset by lower anticipated maintenance and operations costs. As stated in the final rule, these costs represent only the federal share, and these figures were derived from states' actual system development and maintenance costs as the foundation for projected costs. CMS estimates the state costs for fiscal years 2016 through 2025 for system design, development, or installation of \$572 million will be offset by lower anticipated maintenance and operations costs resulting in a net benefit of \$1.1 billion.

CMS also projects lower costs for the federal share over the 10-year budget window due to the increased savings of operating one eligibility and enrollment system and eliminating legacy systems. The costs shift from mostly 90 percent federal financial participation (FFP) for design, development, or installation to 75 percent FFP for maintenance and operations over time. CMS projects savings for states over the 10-year budget window due to moving away from operating two or more systems, and replacing legacy systems.

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

CMS determined that this final rule will not be likely to have a significant economic impact on a substantial number of small entities. CMS further determined that this final rule will not have a significant economic impact on the operations of a substantial number of small rural hospitals.

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

CMS determined that this final rule does not mandate expenditures by the state governments, local governments, tribal governments, or the private sector.

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

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

On April 16, 2015, CMS published a proposed rule. 80 Fed. Reg. 20,455. CMS received 54 timely responses and included a summary of the proposed revisions, public comments received, and its responses in the final rule.

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

While this final rule sets out information collection requirements, CMS concluded that the Act does not apply as the rule does not contain any new or revised reporting, recordkeeping, or third-party disclosure requirements.

Statutory authorization for the rule

CMS promulgated this final rule under the authority of section 1102 of the Social Security Act. 42 U.S.C. § 1302.

Executive Order No. 12,866 (Regulatory Planning and Review)

CMS determined that this final rule is economically significant under the Order. This rule was reviewed by the Office of Management and Budget.