



441 G St. N.W.
Washington, DC 20548

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August 14, 2023

The Honorable Ron Wyden
Chairman
The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate

The Honorable Cathy McMorris Rodgers
Chair
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

The Honorable Jason Smith
Chairman
The Honorable Richard Neal
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of Health and Human Services, Centers for Medicare & Medicaid Services: Medicare Program; FY 2024 Inpatient Psychiatric Facilities Prospective Payment System—Rate Update*

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; FY 2024 Inpatient Psychiatric Facilities Prospective Payment System—Rate Update” (RIN: 0938-AV06). We received the rule on July 26, 2023. It was published in the *Federal Register* as a final rule on August 2, 2023. 88 Fed. Reg. 51054. The effective date is October 1, 2023.

CMS states that the final rule updates the prospective payment rates, the outlier threshold, and the wage index for Medicare inpatient hospital services provided by Inpatient Psychiatric Facilities (IPF), which include psychiatric hospitals and excluded psychiatric units of an acute care hospital or critical access hospital. Additionally, according to CMS, the final rule rebases and revises the IPF market basket to reflect a 2021 base year. CMS states that these changes will be effective for IPF discharges occurring during the Fiscal Year (FY) beginning October 1, 2023, through September 30, 2024. Lastly, CMS states that the final rule discusses quality measures and reporting requirements under the Inpatient Psychiatric Facilities Quality Reporting (IPFQR) Program with changes beginning with the FY 2025 payment determination through changes beginning with the FY 2028 payment determination.

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. 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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in black ink, reading "Shirley A. Jones". The signature is written in a cursive, flowing style.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Calvin E. Dukes II
Regulations Coordinator
Centers for Medicare & Medicaid Services
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; FY 2024 INPATIENT PSYCHIATRIC FACILITIES
PROSPECTIVE PAYMENT SYSTEM—RATE UPDATE”
(RIN: 0938-AV06)

(i) Cost-benefit analysis

The Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) conducted an economic analysis of this final rule. This analysis included a discussion of the final rule’s impact on the federal Medicare budget, Inpatient Psychiatric Facilities (IPFs), and providers, as well as the final rule’s effects on beneficiaries, the effects of updates to the Inpatient Psychiatric Facilities Quality Reporting (IPFQR) Program, and the costs of regulatory review.

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

CMS stated that most IPFs and most other providers and suppliers are small entities within the meaning of the Act. CMS further estimated that the overall revenue impact of the final rule on IPFs is to increase estimated Medicare payments by 2.3 percent and that, as a result, the final rule will have a positive revenue impact on a substantial number of small entities. Finally, CMS stated that the final rule will not have a significant 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 stated that the final rule does not mandate any requirements for state, local, or tribal governments, or for the private sector. CMS further stated that the final rule will not impose a mandate that will result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of more than \$177 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.*

On April 10, 2023, CMS published a proposed rule. 88 Fed. Reg. 21241. CMS received 2,506 public comments from IPFs, health systems, national and state level provider and patient advocacy organizations, the Medicare Payment Advisory Commission (MedPAC), and individuals. CMS responded to comments in the final rule.

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

CMS stated that the final rule makes changes to information collection requirements related to the IPFQR Program, and that it will submit these changes to the Office of Management and Budget (OMB) for approval under OMB Control Number 0938-1171 (CMS-10432). CMS estimated that the overall impact of these changes will be a decrease of 380,897 hours in information collection burden and a savings of \$8,150,478.

Statutory authorization for the rule

CMS promulgated this final rule pursuant to sections 1302 and 1395hh of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

CMS stated that OMB's Office of Information and Regulatory Affairs has determined that this final rule is not significant per section 3(f)(1) of the Order, as amended. CMS indicated that it nevertheless prepared a Regulatory Impact Analysis, and that OMB reviewed this final rule, despite the rule not being significant under the Order.

Executive Order No. 13132 (Federalism)

CMS determined that the final rule does not impose substantial direct costs on state or local governments or preempt state law within the meaning of the Order.