



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

B-337743

August 21, 2025

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

The Honorable Brett Guthrie
Chairman
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; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2026 and Updates to the IRF Quality Reporting Program*

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; Inpatient Rehabilitation Facility Prospective Payment System for Federal Fiscal Year 2026 and Updates to the IRF Quality Reporting Program" (RIN: 0938-AV48). We received the rule on August 6, 2025. It was published in the *Federal Register* on August 5, 2025. 90 Fed. Reg. 37678. The stated effective date of the rule is October 1, 2025.

According to CMS, this rule updates the prospective payment rates for inpatient rehabilitation facilities (IRFs) for federal fiscal year (FY) 2026. CMS stated the rule includes the classification and weighting factors for the IRF prospective payment system's case-mix groups and a description of the methodologies and data used in computing the prospective payment rates for FY 2026. CMS also stated the rule includes updates to the IRF Quality Reporting Program.

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 rule was published in the *Federal Register* on August 5, 2025. 90 Fed. Reg. 37678. The *Congressional Record* reflects that the House of Representatives received the rule on August 6, 2025. 171 Cong. Rec. H3697 (daily ed. Aug. 15, 2025). The *Congressional Record* does not reflect the date of receipt by the Senate. According to documents submitted by CMS, the Senate received the rule on August 6, 2025. Email from CMS to GAO, *Subject: Official Submission - RIN 0938-AV48* (Aug. 6, 2025). The rule has a stated effective date of October 1, 2025. Therefore, the rule does not have the 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. 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 Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

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
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; INPATIENT REHABILITATION FACILITY
PROSPECTIVE PAYMENT SYSTEM FOR FEDERAL FISCAL YEAR 2026
AND UPDATES TO THE IRF QUALITY REPORTING PROGRAM”
(RIN: 0938-AV48)

(i) Cost-benefit analysis

The Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) prepared an analysis of the costs and benefits for this rule. See 90 Fed. Reg. 373678, 37723–37724 (Aug. 5, 2025). CMS stated that, among other things, inpatient rehabilitation facilities (IRFs) are estimated to experience a net increase in payments as a result of the policies in the rule with the largest payment increase estimated to be 7.6 percent for IRFs in the rural mountain region. *Id.* at 37724.

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

CMS certified that this rule will not have a significant economic impact on a substantial number of small entities. See 90 Fed. Reg. at 37718. CMS prepared a Regulatory Flexibility Analysis. See *id.*

(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 this rule does not mandate any requirements for state, local, or tribal governments, or for the private sector. 90 Fed. Reg. at 37719.

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

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

On April 30, 2025, CMS published a proposed rule. 90 Fed. Reg. 18534. CMS stated that it received approximately 69 timely responses from the various trade associations, inpatient rehabilitation facilities, individual physicians, therapists, clinicians, healthcare industry organizations, healthcare consulting firms, technology vendors, academic institutions, and anonymous persons. 90 Fed. Reg. 37681. CMS responded to comments in the rule. See *id.*

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

In its submission to us, CMS indicated that this rule contains information collection requirements under the Act. See *also* 90 Fed. Reg. at 37715–37717.

Statutory authorization for the rule

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

Executive Order No. 12866 (Regulatory Planning and Review)

CMS stated that the Office of Information and Regulatory Affairs has determined this rule is significant under the Order. See 90 Fed. Reg. at 37718.

Executive Order No. 13132 (Federalism)

CMS stated that this rule will not have a substantial effect on state and local governments, preempt state law, or otherwise have a federalism implication. See 90 Fed. Reg. at 37719.