



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

B-337741

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; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Updates to the Quality Reporting Program for Federal Fiscal Year 2026*

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; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities; Updates to the Quality Reporting Program for Federal Fiscal Year 2026” (RIN: 0938-AV47). We received the rule on August 6, 2025. It was published in the *Federal Register* on August 4, 2025. 90 Fed. Reg. 37310. The stated effective date of the rule is October 1, 2025.

According to CMS, this rule finalizes changes and updates to the policies and payment rates used under the Skilled Nursing Facility (SNF) Prospective Payment System for fiscal year 2026. CMS stated the rule also updates the requirements for the SNF Quality Reporting Program and the SNF Value-Based Purchasing 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). The rule was published in the *Federal Register* on

August 4, 2025. 90 Fed. Reg. 37310. The *Congressional Record* shows that the rule was received by the House of Representatives 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 Regulations Coordinator, HHS, to GAO, *Subject: Official Submission - RIN* (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 that reads "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; PROSPECTIVE PAYMENT SYSTEM
AND CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES;
UPDATES TO THE QUALITY REPORTING PROGRAM FOR FEDERAL FISCAL YEAR 2026”
(RIN: 0938-AV47)

(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. 37310, 37354–37365 (Aug. 4, 2025). CMS estimated that, among other things, the overall payments for Skilled Nursing Facilities (SNFs) under the SNF Prospective Payment System in fiscal year 2026 are projected to increase by approximately \$1.16 billion, or 3.2 percent, compared with those in fiscal year 2025. *Id.* at 37365.

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

CMS stated that the Secretary of Health and Human Services has determined that this rule will not have a significant impact on a substantial number of small entities for fiscal year 2026. See 90 Fed. Reg. at 37365. CMS further stated it anticipates that the impact on small rural hospitals will be similar to the impact on SNF providers overall. *Id.* CMS prepared a Regulatory Flexibility Act 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 will impose no mandates on state, local, or tribal governments or on the private sector of \$187 million or more. See 90 Fed. Reg. at 37365.

(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. 18590. CMS stated that they invited and received public comments on their proposals. 90 Fed. Reg. at 37346. CMS responded to comments in the rule. See *id.* at 37346–37351.

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 37352–37353.

Statutory authorization for the rule

CMS promulgated this rule pursuant to sections 1302, 1395d(d), 1395f(b), 1395g, 1395l(a), (i), and (n), 1395m, 1395x(v), 1395x(kkk), 1395hh, 1395rr, 1395tt, and 1395ww 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 37354.

Executive Order No. 13132 (Federalism)

CMS stated that this rule will have no substantial direct effect on state and local governments, preempt state law, or otherwise have federalism implications. See 90 Fed. Reg. at 37365.