



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

B-337944

December 19, 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 and Medicaid Programs; Calendar Year 2026 Home Health Prospective Payment System (HH PPS) Rate Update; Requirements for the HH Quality Reporting Program and the HH Value-Based Purchasing Expanded Model; Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program Updates; DMEPOS Accreditation Requirements; Provider Enrollment; and Other Medicare and Medicaid Policies*

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 and Medicaid Programs; Calendar Year 2026 Home Health Prospective Payment System (HH PPS) Rate Update; Requirements for the HH Quality Reporting Program and the HH Value-Based Purchasing Expanded Model; Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Competitive Bidding Program Updates; DMEPOS Accreditation Requirements; Provider Enrollment; and Other Medicare and Medicaid Policies” (RIN: 0938-AV53). We received the rule on December 4, 2025. It was published in the *Federal Register* on December 2, 2025. 90 Fed. Reg. 55342. The stated effective date of the rule is January 1, 2026.

According to CMS, this rule sets forth routine updates to the Medicare home health payment rates in accordance with existing statutory and regulatory requirements. In addition, the rule finalizes permanent and temporary behavior adjustments and recalibrates the case-mix weights

and updates the functional impairment levels; comorbidity subgroups; and low-utilization payment adjustment thresholds for calendar year 2026. The rule also finalizes changes to the face-to-face encounter policy and changes to the Home Health Quality Reporting Program and the expanded Health Value-Based Purchasing Model requirements. Furthermore, it updates the DMEPOS Competitive Bidding Program. Lastly, it finalizes a technical change to the home health conditions of participation; updates to DMEPOS supplier conditions of payment; updates to provider and supplier enrollment requirements; and changes to DMEPOS accreditation requirements.

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 December 2, 2025. 90 Fed. Reg. 55342. The House of Representatives and the Senate received the rule on December 4, 2025. 171 Cong. Rec. H5056 (daily ed. Dec. 5, 2025); 171 Cong. Rec. S8528 (daily ed. Dec. 8, 2025). The stated effective date of the rule is January 1, 2026. Therefore, the stated effective date is less than 60 days from the date of receipt by Congress.¹

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 me at (202) 512-8156.



Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Calvin E. Dukes II
Regulations Coordinator
Department of Health and Human Services

¹ CMS stated in the rule that there was good cause to waive the 60-day delay in the effective date in accordance with 5 U.S.C. § 808(2), as it would be contrary to the public interest to delay the effective date beyond January 1, the first day of the calendar year to which the payment policies, associated HH PPS Grouper, and quality reporting requirements are intended to apply. 90 Fed. Reg. at 55576. In particular, CMS noted that work on the rule was delayed due to a lapse in appropriations at the beginning of fiscal year 2026. *Id.* The exception in section 808(2) only applies when the agency has found good cause to waive notice and public procedure requirements when promulgating the rule and incorporates the finding and a brief statement therefor in the rule. 5 U.S.C. § 808(2). Here, CMS's good cause finding relates to waiving the delay in effective date, not to waiving the notice and public procedure requirements, and CMS published a notice of proposed rulemaking on July 2, 2025, 90 Fed. Reg. 29108, on which it solicited comments. Therefore, this exception does not apply.

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 AND MEDICAID PROGRAMS; CALENDAR YEAR 2026 HOME HEALTH
PROSPECTIVE PAYMENT SYSTEM (HH PPS) RATE UPDATE; REQUIREMENTS
FOR THE HH QUALITY REPORTING PROGRAM AND THE HH VALUE-BASED
PURCHASING EXPANDED MODEL; DURABLE MEDICAL EQUIPMENT, PROSTHETICS,
ORTHOTICS, AND SUPPLIES (DMEPOS) COMPETITIVE BIDDING PROGRAM UPDATES;
DMEPOS ACCREDITATION REQUIREMENTS; PROVIDER ENROLLMENT;
AND OTHER MEDICARE AND MEDICAID POLICIES”
(RIN: 0938-AV53)

(i) Cost-benefit analysis

The Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) prepared an analysis of the costs and benefits for this rule. See 90 Fed. Reg. 55342, 55578. CMS provided an accounting statement which estimates the costs and benefits of the rule with respect to each provision. *Id.* at 55599. Relating to the Home Health Prospective Payment System (HH PPS), CMS estimated a \$220 million decrease in net transfers from the federal government to Medicare home health agencies (HHAs) from calendar year (CY) 2025 to 2026. *Id.* Relating to the provider enrollment provisions for CY 2026, CMS estimated an annual savings to the federal government of approximately \$2.2 billion. *Id.* Relating to the Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) accreditation and survey fee provisions for CY 2026, CMS estimated an annualized savings of \$664 million to the federal government and an estimated annualized transfer of \$162 million from DMEPOS suppliers to DMEPOS accrediting organizations. *Id.* CMS further estimated an annualized cost of \$128.3 million related to these provisions. *Id.* Regarding the DMEPOS prior authorization provisions, CMS estimated a reduction in burden of approximately \$2.5 million for DMEPOS suppliers. *Id.* Finally, regarding implementation of the HH Quality Reporting Program provisions for CY 2026, CMS estimated a decrease in the burden on home health agencies by approximately \$17.8 million. *Id.*

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

CMS determined that this rule will have a significant economic impact on a substantial number of small entities and prepared a Final Regulatory Flexibility Analysis. 90 Fed. Reg. 55600. CMS stated that the Secretary of HHS has certified that the rule would not have a significant economic impact on a substantial number of small government entities. *Id.* at 55602. Furthermore, CMS stated that the Secretary of HHS has certified that the rule will not have a significant economic impact on the operations of small rural hospitals. *Id.* at 55601.

(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 rule will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million in 1995 dollars, updated annually for inflation, in any one year. See 90 Fed. Reg. 55342, 55603.

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

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

On July 2, 2025, CMS published a proposed rule. 90 Fed. Reg. 29108. CMS stated that they received comments from various interested parties. See 90 Fed. Reg. 55342, 55343. CMS responded to comments in the rule. *Id.*

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

CMS determined that this rule contains information collection requirements under the Act. 90 Fed. Reg. 55560.

Statutory authorization for the rule

CMS promulgated this rule pursuant to sections 1302, 1320a-7j, and 1395hh of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

CMS determined that the rule is significant under the Order. See 90 Fed. Reg. 55342, 55578. CMS stated that the rule was submitted to the Office of Management and Budget for review. *Id.*

Executive Order No. 13132 (Federalism)

CMS determined that this rule does not have federalism implications. See 90 Fed. Reg. at 55603.