



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

B-330477

November 5, 2018

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

The Honorable Kevin Brady
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 and Medicaid Services: Medicare Program; CY 2019 Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts*

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 and Medicaid Services (CMS) entitled "Medicare Program; CY 2019 Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts" (RIN: 0938-AT33). We received the rule on October 22, 2018. It was published in the *Federal Register* as a notice on October 17, 2018. 83 Fed. Reg. 52,459. The effective date of the notice is January 1, 2019.

The notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year (CY) 2019 under Medicare's Hospital insurance Program (Medicare Part A). The Medicare statute specifies the formulae used to determine these amounts. For CY 2019, the inpatient hospital deductible will be \$1,364. The daily coinsurance amounts for CY 2019 will be \$341 for the 61st through 90th day of hospitalization in a benefit period, \$682 for lifetime reserve days, and \$170.50 for the 21st through 100th day of extended care services in a skilled nursing facility in a benefit period.

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 Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Julia C. Matta
Managing Associate General Counsel

Enclosure

cc: Agnes Thomas
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 AND MEDICAID SERVICES
ENTITLED
“MEDICARE PROGRAM; CY 2019 INPATIENT HOSPITAL
DEDUCTIBLE AND HOSPITAL AND EXTENDED CARE SERVICES
COINSURANCE AMOUNTS”
(RIN: 0938-AT33)

(i) Cost-benefit analysis

The Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) estimates the total increase in costs to beneficiaries is about \$390 million (rounded to the nearest \$10 million) due to the increase in the number of deductible and coinsurance amounts and the increase in the number of deductibles and daily coinsurance amounts paid. CMS determines the increase in cost to beneficiaries by calculating the difference between 2018 and 2019 deductible and coinsurance amounts paid.

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

CMS states that this notice will not have a significant economic impact on a substantial number of small entities. CMS also states that the notice 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 states that the notice does not impose mandates that will have a consequential effect of \$150 million or more on state, local, or tribal governments or on the private sector.

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

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

CMS states that it did not publish a proposed rule or solicit public comments. CMS states that it believes the notice does not constitute agency rulemaking because the agency is merely following the statutory formulae and has no discretion over the amount or time periods. CMS also states that, to the extent the notice is subject to notice and comment rulemaking, the agency finds good cause to waive the requirement. CMS further states that under APA the agency may waive notice and comment procedures if it finds good cause that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. CMS finds such good cause exists because the amounts and time period contained in the notice are simply applications of the statutory formulae and rules over which CMS has no discretion to change.

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

CMS states that this notice does not impose information collection requirements.

Statutory authorization for the rule

CMS states that this notice is issued under section 1813 of the Social Security Act.

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

CMS states that the notice is economically significant under the Order and that the Office of Management and Budget has reviewed the notice.

Executive Order No. 13,132 (Federalism)

CMS states that the notice will not have a substantial direct effect on state or local governments, preempt state law, or otherwise have federalism implications.