



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

B-330521

November 27, 2018

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

The Honorable Greg Walden
Chairman
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

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 and Medicaid Programs; CY 2019 Home Health Prospective Payment System Rate Update and CY 2020 Case-Mix Adjustment Methodology Refinements; Home Health Value-Based Purchasing Model; Home Health Quality Reporting Requirements; Home Infusion Therapy Requirements; and Training Requirements for Surveyors of National Accrediting Organizations

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 and Medicaid Programs; CY 2019 Home Health Prospective Payment System Rate Update and CY 2020 Case-Mix Adjustment Methodology Refinements; Home Health Value-Based Purchasing Model; Home Health Quality Reporting Requirements; Home Infusion Therapy Requirements; and Training Requirements for Surveyors of National Accrediting Organizations” (RIN: 0938-AT29). We received the rule on November 2, 2018. It was published in the *Federal Register* as a final rule with comment period on November 13, 2018. 83 Fed. Reg. 56,406. The effective date of the final rule is January 1, 2019.

The final rule updates the home health prospective payment system payment rates, including the national standardized 60-day episode payment rates, the national per-visit rates, and the

non-routine medical supply conversion factor effective for home health episodes of care ending on or after January 1, 2019. The rule also updates the case-mix weights for calendar year 2019.

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 received by Congress on November 2, 2018, and was published in the *Federal Register* on November 13, 2018. 83 Fed. Reg. 56,406. The rule has a stated effective date of January 1, 2019. Therefore, the final rule does not have a 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 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 AND MEDICAID PROGRAMS; CY 2019 HOME HEALTH PROSPECTIVE
PAYMENT SYSTEM RATE UPDATE AND CY 2020 CASE-MIX ADJUSTMENT
METHODOLOGY REFINEMENTS; HOME HEALTH VALUE-BASED PURCHASING MODEL;
HOME HEALTH QUALITY REPORTING REQUIREMENTS; HOME INFUSION THERAPY
REQUIREMENTS; AND TRAINING REQUIREMENTS FOR SURVEYORS OF
NATIONAL ACCREDITING ORGANIZATIONS”
(RIN: 0938-AT29)

(i) Cost-benefit analysis

The Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) reported that the net transfer impact in calendar year 2019 related to the Temporary Transitional Payment for Home Infusion Therapy is estimated to be \$48 million. CMS also estimated that this rule will generate \$60 million in annualized cost savings.

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

CMS determined that this final rule would have a significant economic impact on a substantial number of small entities. CMS also determined that this final rule would not have a significant impact on the operations of small rural hospitals. CMS stated that it prepared a Regulatory Impact Analysis.

(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 is not anticipated to have an effect on state, local, or tribal governments, in the aggregate, or on the private sector of \$150 million or more.

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

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

On July 12, 2018, CMS published the proposed rule. CMS received 1,125 timely comments from the public including comments from home health agencies, home infusion therapy providers, and manufacturers of remote patient monitoring technology.

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

CMS stated that the final rule makes changes to the information collection request regarding Outcome and Assessment Information Set (OASIS), which is approved under Office of Management and Budget control number 0938-1279.

Statutory authorization for the rule

CMS stated that this final rule was promulgated pursuant to 42 U.S.C. §§ 1302 and 1395hh.

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

CMS determined that this rule is economically significant. CMS stated that it prepared a Regulatory Impact Analysis.

Executive Order No. 13,132 (Federalism)

CMS stated that this final rule will not impose substantial direct costs on state or local governments. CMS also determined that if regulations impose administrative costs on private entities, such as the time needed to read and interpret this final rule, the estimated total cost of reviewing the rule is \$767,729.39.