



U.S. GOVERNMENT ACCOUNTABILITY OFFICE

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

B-331855

February 20, 2020

The Honorable Chuck Grassley
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

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

The Honorable Richard Neal
Chairman
The Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of Health and Human Services: Medicare and Medicaid Programs: CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates. Price Transparency Requirements for Hospitals To Make Standard Charges Public*

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 (HHS) entitled "Medicare and Medicaid Programs: CY 2020 Hospital Outpatient PPS Policy Changes and Payment Rates and Ambulatory Surgical Center Payment System Policy Changes and Payment Rates. Price Transparency Requirements for Hospitals To Make Standard Charges Public" (RIN: 0938-AU22). We received the rule on February 6, 2020. It was published in the *Federal Register* as a final rule on November 27, 2019. 84 Fed. Reg. 65524. The effective date of the rule is January 1, 2021.

The final rule establishes requirements for hospitals operating in the United States to establish, update, and make public a list of their standard charges for the items and services that they provide. HHS stated that these actions are necessary to promote price transparency in health care and public access to hospital standard charges. By disclosing hospital standard charges, HHS believes the public (including patients, employers, clinicians, and other third parties) will have the information necessary to make more informed decisions about their care. HHS also

believes this rule will increase market competition and ultimately drive down the cost of health care services, making them more affordable for all patients.

Enclosed is our assessment of HHS'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 Janet Temko-Blinder, Assistant General Counsel, at (202) 512-7104.

signed

Shirley A. Jones
Managing Associate General Counsel

Enclosure

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

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT HEALTH AND HUMAN SERVICES,
ENTITLED

“MEDICARE AND MEDICAID PROGRAMS: CY 2020 HOSPITAL OUTPATIENT PPS POLICY
CHANGES AND PAYMENT RATES AND AMBULATORY SURGICAL CENTER PAYMENT
SYSTEM POLICY CHANGES AND PAYMENT RATES. PRICE TRANSPARENCY
REQUIREMENTS FOR HOSPITALS TO MAKE STANDARD CHARGES PUBLIC”
(RIN: 0938-AU22)

(i) Cost-benefit analysis

The Department of Health and Human Services (HHS) estimates the total burden for hospitals to review and post their standard charges under this final rule for the first year to be 900,300 hours with a total cost of \$71,415,397. HHS also estimates the total annual burden for hospitals to review and post their standard charges for subsequent years to be 276,092 hours with a total annual cost of \$21,672,502. Annualized, these costs are \$38.7 million at a 3 percent discount rate and \$39.4 million at a 7 percent discount rate for 2020 through 2022.

HHS anticipates the rule to have qualitative benefit of potentially reducing the range of prices charged by hospitals such that a net savings would result for payers and consumers from a corresponding reduction in income to hospitals. HHS stated that price transparency would help to create a healthcare information ecosystem that allows and encourages the healthcare market to tailor products and services to compete for patients, thereby increasing quality, decreasing costs, and helping them live better, healthier lives.

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

HHS determined that this final rule will not have a significant impact on a substantial number of small entities. HHS also concluded that this final rule 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

HHS determined that this final rule contains no mandates requiring spending in any one year of \$154 million (\$100 million, adjusted for inflation) under the Act.

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

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

On July 29, 2019, HHS published a proposed rule that included, among other things, proposed provisions for price transparency of hospital standard charges. 84 Fed. Reg. 39398. HHS responded to comments in this final rule.

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

HHS determined that this final rule contains an information collection requirement under the Act. HHS estimates the total burden for the first year to be 900,300 hours with a total cost of \$71,415,397. HHS estimates the total annual burden for subsequent years to be 276,092 hours with a total cost of \$21,672,502.

Statutory authorization for the rule

HHS promulgated this final rule under the authority of sections 300gg-18 and 1302, title 42, United States Code.

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

The Office of Management and Budget determined that this final rule is economically significant under the Order and reviewed the rule.

Executive Order No. 13,132 (Federalism)

HHS determined that this rule does not impose any costs on state or local governments and, therefore, the requirements of the Order are not applicable.