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United States General Accounting Office  
Washington, DC 20548

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B-286796

November 27, 2000

The Honorable William V. Roth  
Chairman  
The Honorable Daniel Patrick Moynihan  
Ranking Minority Member  
Committee on Finance  
United States Senate

The Honorable Thomas J. Bliley, Jr.  
Chairman  
The Honorable John D. Dingell  
Ranking Minority Member  
Committee on Commerce  
House of Representatives

The Honorable Bill Archer  
Chairman  
The Honorable Charles Rangel  
Ranking Minority Member  
Committee on Ways and Means  
House of Representatives

Subject: Department of Health and Human Services, Health Care Financing Administration; Medicare Program; Prospective Payment System for Hospital Outpatient Services

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, Health Care Financing Administration (HCFA), entitled "Medicare Program; Prospective Payment System for Hospital Outpatient Services" (RIN: 0938-AI56). We received the rule on November 2, 2000. It was published in the Federal Register as an interim final rule with comment period on November 13, 2000. 65 Fed. Reg. 67798.

The rule provides for the annual update to the Medicare hospital outpatient prospective payment system conversion factor that is used to calculate the payment amount for each payment group, effective January 1, 2001. It also updates the wage index values and incorporates the year 2001 changes in the procedure codes that are used to make payments under the system.

Enclosed is our assessment of the HCFA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that HCFA complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is William Scanlon, Managing Director, Health Care. Mr. Scanlon can be reached at (202) 512-7114.

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: Ms. Sandra Bart  
Acting Deputy Executive Secretary  
to the Department of HHS  
Department of Health and Human Services

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES  
HEALTH CARE FINANCING ADMINISTRATION  
ENTITLED  
"MEDICARE PROGRAM; PROSPECTIVE PAYMENT SYSTEM  
FOR HOSPITAL OUTPATIENT SERVICES"  
(RIN: 0938-AI56)

(i) Cost-benefit analysis

The impact of implementing the hospital outpatient prospective payment system is estimated to be:

Fiscal year 2001	\$3,030 million
Fiscal year 2002	3,520 million
Fiscal year 2003	4,230 million
Fiscal year 2004	4,670 million

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

The Administrator of HCFA has certified that the rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The rule does not contain an intergovernmental or private sector mandate, as defined in title II, of over \$100 million in any one year.

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

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

This rule was issued as an interim final rule with comment period without the normal notice and comment procedures contained at 5 U.S.C. 553. The rule follows closely the methodologies and procedures contained in the April 7, 2000, final rule with comment period (65 Fed. Reg. 18501) and the 747 comments received under that rule were considered in the issuance of this rule. Therefore, the Administrator found "good cause" under 5 U.S.C. 553 to forego notice and comment here. However, a 60-day comment period is being offered in connection with the instant rule.

Since there was no Notice of Proposed Rulemaking issued, the rule may also become effective without regard to the 60-day delay in effective date usually required under the Congressional Review Act for major rules.

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

The rule does not contain any information collections that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The rule is promulgated under the authority contained in sections 1102, 1833(t), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395(t), and 1395hh).

Executive Order No. 12866

The rule was reviewed by the Office of Management and Budget and determined to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

HCFA has determined that the final rule will not have a negative impact on the rights, roles, and responsibilities of state, local, or tribal governments.