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September 19, 2012

The Honorable Tom Harkin
Chairman
The Honorable Michael B. Enzi
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Fred Upton
Chairman
The Honorable Henry A. Waxman
Ranking Member
Committee on Energy and Commerce
House of Representatives

The Honorable Dave Camp
Chairman
The Honorable Sander M. Levin
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of Health and Human Services, Centers for Medicare & Medicaid Services: Administrative Simplification: Adoption of a Standard for a Unique Health Plan Identifier; Addition to the National Provider Identifier Requirements; and a Change to the Compliance Date for the International Classification of Diseases, 10th Edition (ICD-10-CM and ICD-10-PCS) Medical Data Code Sets*

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 "Administrative Simplification: Adoption of a Standard for a Unique Health Plan Identifier; Addition to the National Provider Identifier Requirements; and a Change to the Compliance Date for the International Classification of Diseases, 10th Edition (ICD-10-CM and ICD-10-PCS) Medical Data Code Sets" (RIN: 0938-AQ13). We received the rule on September 4, 2012. It was published in the *Federal Register* as a final rule on September 5, 2012. 77 Fed. Reg. 54,664.

The final rule adopts the standard for a national unique health plan identifier (HPID) and establishes requirements for the implementation of the HPID. In addition, it adopts a data element that will serve as an other entity identifier (OEID), or an identifier for entities that are not health plans, health care providers, or individuals, but that need to be identified in standard transactions. This final rule also specifies the circumstances under which an organization-covered health care provider must require certain noncovered individual health care providers who are prescribers to obtain and disclose a National Provider Identifier (NPI). Lastly, this final rule changes the compliance date for the International Classification of Diseases, 10th Revision, Clinical Modification (ICD–10–CM) for diagnosis coding, including the Official ICD–10–CM Guidelines for Coding and Reporting, and the International Classification of Diseases, 10th Revision, Procedure Coding System (ICD–10–PCS) for inpatient hospital procedure coding, including the Official ICD–10–PCS Guidelines for Coding and Reporting, from October 1, 2013, to October 1, 2014.

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). This final rule was received by the House of Representatives on August 27, 2012, published in the *Federal Register* on September 5, 2012, and received by the Senate on September 11, 2012. 158 Cong. Rec. H5763 (September 10, 2012); 77 Fed. Reg. 54,664; 158 Cong. Rec. S6270 (September 12, 2012). The rule has a stated effective date of November 5, 2012. However, this rule has compliance dates ranging from May 6, 2013, to November 7, 2016. To the extent this rule takes effect on November 5, 2012, rather than May 6, 2013, or later, it does not have the required 60-day delay in effective date under the CRA.

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. Our review of the procedural steps taken indicates that CMS complied with the applicable requirements.

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

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Ann Stallion
Program Manager
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 OF HEALTH AND HUMAN SERVICES,
CENTERS FOR MEDICARE & MEDICAID SERVICES
ENTITLED
"ADMINISTRATIVE SIMPLIFICATION: ADOPTION OF A STANDARD FOR A UNIQUE HEALTH PLAN IDENTIFIER; ADDITION TO THE NATIONAL PROVIDER IDENTIFIER REQUIREMENTS; AND A CHANGE TO THE COMPLIANCE DATE FOR THE INTERNATIONAL CLASSIFICATION OF DISEASES, 10TH EDITION (ICD-10-CM AND ICD-10-PCS) MEDICAL DATA CODE SETS"
(RIN: 0938-AQ13)

(i) Cost-benefit analysis

The Centers for Medicare & Medicaid Services (CMS) discussed the impacts of this final rule, including the costs and benefits of implementation of the national unique health plan identifier (HPID) and the costs and cost avoidance of a 1-year delay in the compliance date of the International Classification of Diseases, 10th Revision (ICD–10). CMS calculated the HPID costs and benefits over an 11-year period, 2016 through 2026. The cost avoidance and costs of the delay of the compliance date of ICD–10 will all occur in 2014. CMS estimated that the total savings and cost avoidance of this rule to be in the range of $7,172 million to $14,968 million and the total costs to be between $2,123 million and $8,784 million. This produces a mean net savings for the rule of $5,611 million.

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

CMS prepared two regulatory impact analyses. The first analyzes the impact of the adoption and use of the HPID and the second analyzes the impact associated with the delay of the compliance date for transition to ICD–10. In the first analysis, CMS determined that although a significant number of small entities may be affected by adoption and use of the HPID, the economic impact on small entities will not be significant. In the second analysis CMS determined that small entities will be positively impacted economically by the compliance date delay and that there will be no significant burden for this part of the rule.

(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 final rule contains mandates that would likely impose spending costs on state governments and the private sector of more than $139 million. Since CMS determined these costs are above the $100 million

($139 million adjusted for inflation) threshold, the agency illustrated the costs of adoption of the HPID to state governments, specifically state Medicaid programs, and to the private sector. CMS also illustrated the costs of the delay of ICD–10 to the private sector.

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

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

On April 17, 2012, CMS published a proposed rule. 77 Fed. Reg. 22,950. CMS received approximately 536 timely pieces of correspondence and summarized and responded to the public comments that were within the scope of the proposed rule in this final rule.

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

CMS determined that this final rule contains two information collection requirements which will impose a total annual burden of 60,300 hours for a total cost of $1,447,200.

Statutory authorization for the rule

CMS promulgated this final rule under the authority of sections 1171 through 1180 of the Social Security Act. 42 U.S.C. §§ 1320d through 1320d–9.

Executive Order Nos. 12,866 and 13,563 (Regulatory Planning and Review)

CMS determined that this final rule is economically significant under Executive Order 12,866 as it will have an impact on the economy of over $100 million in any one year. This rule was reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

CMS determined that this final rule will not have a substantial direct effect on state or local governments, does not preempt states, or otherwise have federalism implications.