



United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

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November 15, 1999

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; Revisions to Payment Policies Under the
Physician Fee Schedule for Calendar Year 2000**

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; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2000" (RIN: 0938-AJ61). We received the rule on November 4, 1999. It was published in the Federal Register as a final rule on November 2, 1999. 64 Fed. Reg. 59380.

The final rule makes several changes affecting Medicare Part B payment. The changes include, among others, implementation of resource-based malpractice insurance relative value units (RVUs), refinement of resource-based practice expense RVUs, and payment for physician pathology and independent laboratory services.

Enclosed is our assessment of 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, Director, Health Financing and Public Health Issues. Mr. Scanlon can be reached at (202) 512-7114.

Sincerely yours,

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Jacquelyn Y. White
Deputy Executive Secretary
to the Department
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; REVISIONS TO PAYMENT POLICIES
UNDER THE PHYSICIAN FEE SCHEDULE
FOR CALENDAR YEAR 2000"
(RIN: 0938-AJ61)

(i) Cost-benefit analysis

HCFA prepared cost-benefit analyses for each of the provisions of the final rule, which are discussed in the Final Regulatory Flexibility Analysis contained in the final rule's preamble.

HCFA reports that the changes in the Medicare physician fee schedule are, for the most part, budget neutral.

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

Because HCFA determined that this rule will have a significant economic impact on a substantial number of small entities,¹ it prepared an Initial Regulatory Flexibility Analysis, which it published in connection with its proposed rule.

The preamble to the final rule contains the Final Regulatory Flexibility Analysis. It explains the rationale for and purposes of the final rule, details the costs and benefits of the rule, analyzes alternatives, and presents the measures HCFA proposed to minimize the burden on 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 final rule will not impose either an intergovernmental or private sector mandate in any one year of \$100 million or more.

¹For purposes of the Regulatory Flexibility Analysis, all physicians are considered to be small entities. There are about 700,000 physicians and other practitioners who receive Medicare payments under the physician fee schedule.

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

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

HCFA promulgated this rule using the notice and comment procedures of 5 U.S.C. 553. On July 22, 1999, HCFA published a Notice of Proposed Rulemaking in the Federal Register (64 Fed. Reg. 39609) and received 2,050 comments in response to the Notice. In the preamble to the final rule, HCFA responds to the comments and discusses the actions it took as a result of the comments.

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

The final rule does not contain an information collection which is subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

This rule was issued under the authority of sections 1302, 1395a, and 1395hh of Title 42 of the United States Code.

Executive Order No. 12866

The final rule was determined to be an “economically significant” regulatory action and was reviewed and approved by the Office of Management and Budget as complying with the requirements of the executive order.