



B-286731

November 16, 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; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2001

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 2001" (RIN: 0938-AK11). We received the rule on November 2, 2000. It was published in the Federal Register as a final rule with comment period on November 1, 2000. 65 Fed. Reg. 65376.

The final rule makes several changes affecting Medicare Part B payments. Some of the changes are: a refinement of resource-based practice expense relative value units (RVUs), the geographic practice cost indices, resource-based malpractice RVUs, and critical care RVUs.

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, 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 Dept. 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; REVISIONS TO PAYMENT POLICIES UNDER THE
PHYSICIAN FEE SCHEDULE FOR CALENDAR YEAR 2001"
(RIN: 0938-AK11)

(i) Cost-benefit analysis

HCFA prepared cost-benefit analyses for each of the provisions of the final rule, which are discussed in the preamble to the rule. HCFA notes that the changes in the Medicare physician fee schedule are statutorily required to be 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, it prepared an Initial Regulatory Flexibility Analysis, which it published in connection with its proposed rule.

All physicians are considered to be small entities for purposes of the act. There are more than 700,000 physicians and other practitioners who receive Medicare payments under the physician fee schedule.

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

As defined in title II, the final rule will not impose either an intergovernmental or private sector mandate of more than \$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.*

HCFA promulgated the final rule using the notice and comment procedures contained at 5 U.S.C. 553. On July 17, 2000, HCFA published a Notice of Proposed

Rulemaking in the Federal Register (65 Fed. Reg. 44177) and received over 600 comments in response. 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 any information collections that are subject to review and approval by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The final rule was promulgated pursuant to the authority contained in sections 1302, 1395hh, and 1395rr(b)(1) 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 order.

Executive Order No. 13132 (Federalism)

HCFA has determined that the final rule does not significantly affect the rights, roles, and responsibilities of the states.