



B-286101

August 29, 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, Office of the Secretary: Health Insurance Reform: Standards for Electronic Transactions

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), Office of the Secretary, entitled "Health Insurance Reform: Standards for Electronic Transactions" (RIN: 0938-AI58). We received the rule on August 16, 2000. It was published in the Federal Register as a final rule on August 17, 2000. 65 Fed. Reg. 50312.

The final rule adopts standards for eight electronic transactions and for code sets used in those transactions and requires the use of these standards by health plans, health care clearinghouses, and certain health care providers. The purpose of the rule is to simplify the administration of the health care system, including Medicare and Medicaid, by enabling the efficient electronic transmission of certain health information.

Enclosed is our assessment of HHS' 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 HHS 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,
OFFICE OF THE SECRETARY
ENTITLED
"HEALTH INSURANCE REFORM: STANDARDS FOR
ELECTRONIC TRANSACTIONS"
(RIN: 0938-AI58)

(i) Cost-benefit analysis

HHS performed a cost-benefit analysis in connection with the proposed rule which was substantially revised for the final rule, including extending the timeframe of the analysis from 5 to 10 years.

The estimated costs of the final rule are \$7.0 billion over the 10 years, with the majority of the costs incurred in the first 3 years, and savings of \$29.9 billion over 10 years. The discounted present value of the savings is \$19.1 billion over 10 years.

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

The preamble to the final rule contains HHS' Final Regulatory Flexibility Analysis. The analysis discusses the number and size of the entities affected by the rule. Also, the impact of each of the eight electronic transaction standards on the different health care entities is discussed.

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

In the preamble to the final rule, HHS discusses its position regarding the rule's impact under the Unfunded Mandates Reform Act of 1995.

With regard to the private sector, HHS states that, while the costs are unfunded, they will be offset by the subsequent savings noted above in the cost-benefit analysis.

Regarding the unfunded costs to state, local, or tribal governments, HHS contends that it does not have sufficient information for programs other than Medicaid to provide estimates of the impact of the final rule on these entities.

While some state Medicaid agencies have estimated it may cost as much as \$10 million per state to implement the final rule, HHS points to a Congressional Budget Office analysis that reports that the costs should not be substantial. HHS

believes the net effect is that some states may have to pay \$1 million to comply and other states may have already incurred some of these costs.

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

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

The final rule was issued using the notice and comment procedures contained at 5 U.S.C. 553. On May 7, 1998, HHS published a Notice of Proposed Rulemaking in the Federal Register. 63 Fed Reg. 25272. In response, HHS received over 17,000 comments, which are grouped together by subject and responded to in the preamble to the final rule.

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

In its proposed rule (63 Fed. Reg. 25299), HHS requested comments on the issue of whether the Electronic Data Interchange (EDI) constitutes an information collection subject to the Paperwork Reduction Act. While certain public comments argued that the EDI's were not subject to the Act, the Office of Management and Budget determined that EDI's constituted an agency-sponsored third party disclosure under the Act.

HHS estimates the initial burden on health plans and health care providers to modify their computer systems software to be 10 hours or \$300 per entity for a total burden of 52 million hours or \$1.56 billion.

Statutory authorization for the rule

The final rule was promulgated pursuant to the authority of sections 1171 through 1179 of the Social Security Act (42 U.S.C. 1320d-1320d-8), as added by section 262 of Pub. L. 104-191, 110 Stat. 2021-2031, and section 264 of Pub. L. 104-191, 110 Stat. 2033-2034 (42 U.S.C. 1320d-2(note)).

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget and found to be an "economically significant" regulatory action.

Executive Order No. 13132 (Federalism)

While the proposed rule was published before the enactment of the executive order, HHS, in the preamble to the final rule, discusses the consultations that were held with state agencies in developing the rule and its consideration of the comments of the state agencies in clarifying portions of the proposed rule.