



**United States General Accounting Office
Washington, DC 20548**

B-291639

November 4, 2002

The Honorable Max Baucus
Chairman
The Honorable Chuck Grassley
Ranking Minority Member
Committee on Finance
United States Senate

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

Subject: Department of Health and Human Services, Centers for Medicare and Medicaid Services: Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 2003

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 and Medicaid Services (CMS), entitled "Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 2003" (RIN: 0938-AL56). We received the rule on October 21, 2002. It was published in the Federal Register as a notice on October 21, 2002. 67 Fed. Reg. 64641.

The notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in calendar year 2003 under Medicare's hospital insurance program (Medicare Part A). The Medicare statute specifies the formula used to determine these amounts.

The inpatient hospital deductible will be \$840. The daily coinsurance amounts will be: (a) \$210 for the 61st through the 90th day of hospitalization in a benefit period; (b) \$420 for lifetime reserve days; and (c) \$105 for the 21st through 100th day of extended care services in a skilled nursing facility in a benefit period.

Enclosed is our assessment of the 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 indicates that the CMS 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.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Ann Stallion
Regulations Coordinator
Department of Health and
Human Services

ENCLOSURE

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,
CENTERS FOR MEDICARE AND MEDICAID SERVICES
ENTITLED
"MEDICARE PROGRAM; INPATIENT HOSPITAL DEDUCTIBLE
AND HOSPITAL AND EXTENDED CARE SERVICES
COINSURANCE AMOUNTS FOR 2003"
(RIN: 0938-AL56)

(i) Cost-benefit analysis

While a cost-benefit analysis was not conducted because the increases were statutorily directed, the cost to beneficiaries is discussed in the notice. Due to the increase in the deductible and coinsurance amounts and the change in the number of deductibles and daily coinsurance amounts paid, CMS estimates that the total increase in cost to beneficiaries will be \$580 million.

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

CMS has reviewed the notice and has found that no analyses under the Act are required. Since states and individuals are not considered small entities, there will be no significant 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 notice will not impose either an intergovernmental or private sector mandate, as defined in title II, 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.*

In accordance with CMS's past practice regarding publication of deductible and coinsurance amounts under Medicare where such amounts are determined according to the statute, general notice rather than notice and comment rulemaking procedures contained in section 553 of the Administrative Procedure Act are used.

Likewise, since there was no notice and public comment, the exception contained at 5 U.S.C. 808(2) regarding the need for a 60-day delay in the effective date of a major rule is properly invoked and the rule may become effective when CMS determines.

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

The notice does not contain any information collections that are required to be reviewed by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

The notice was issued under the authority contained in section 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e-2(b)(2)).

Executive Order No. 12866

The notice was reviewed by OMB and found to be an “economically significant” regulatory action.