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United States General Accounting Office
Washington, DC 20548

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January 15, 2004

The Honorable Charles E. Grassley
Chairman
The Honorable Max Baucus
Ranking Minority Member
Committee on Finance
United States Senate

The Honorable William M. Thomas
Chairman
The Honorable Charles B. 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; Notice of One-Time Appeal Process for Hospital Wage Index Classification*

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; Notice of One-Time Appeal Process for Hospital Wage Index Classification" (RIN: 0938-AN00). We received the rule on December 31, 2003. It was published in the Federal Register as a notice on January 6, 2004. 69 Fed. Reg. 661.

The notice establishes a one-time appeal process by which a hospital may appeal the wage index classification otherwise applicable to the hospital.

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

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; NOTICE OF ONE-TIME APPEAL PROCESS FOR
HOSPITAL WAGE INDEX CLASSIFICATION"
(RIN: 0938-AN00)

(i) Cost-benefit analysis

CMS estimates that the impact of the appeal provision would be to increase payments to hospitals by up to \$900 million.

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

Since CMS did not issue a notice of proposed rulemaking, the requirements of the Regulatory Flexibility Act do not apply to the notice.

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

The notice does not impose either an intergovernmental or private sector mandate, as defined in title II, of more than \$110 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.

The Secretary of Health and Human Services has found that waiver of the 30-day delay in the effective date is necessary to comply with the statutory requirements of section 508 of Public Law 108-173, which directs that appeals be filed as soon as possible after the date of the enactment of the statute.

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

The notice does not contain any new information collections that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The notice is issued under the authority of section 508(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108-173).

Executive Order No. 12866

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

Executive Order No. 13132 (Federalism)

CMS found that the notice does not have sufficient federalism implications to warrant the preparation of a federalism impact analysis.