



Office of the General Counsel

B-275366

November 8, 1996

The Honorable William V. Roth, Jr.
Chairman
The Honorable Daniel Patrick Moynihan
Ranking Minority Member
Committee on Finance
United States Senate

The Honorable Bill Archer
Chairman
The Honorable Sam M. Gibbons
Ranking Minority Member
Committee on Ways and Means
House of Representatives

Subject: Department of Health and Human Services, Health Care Financing
Administration: Medicare Program; Inpatient Hospital Deductible and
Hospital and Extended Care Services Coinsurance Amounts for 1997

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by Department of Health and Human Services, Health Care Financing Administration (HCFA), entitled "Medicare Program; Inpatient Hospital Deductible and Hospital and Extended Care Services Coinsurance Amounts for 1997" (RIN: 0938-AH08). We received the notice on November 5, 1996. It was published in the Federal Register as a notice on November 4, 1996. 61 Fed. Reg. 56690.

The notice announces the inpatient hospital deductible and the hospital and extended care services coinsurance amounts for services furnished in 1997 under Medicare Part A. The amounts are determined based on a formula contained in the Medicare statute. For 1997, the inpatient hospital deductible will be \$760. The daily coinsurance amounts will be \$190 for the 61st through 90th days of hospitalization, \$380 for lifetime reserve days and \$95 for the 21st through 100th days of extended care services in a skilled nursing facility in a benefit period.

Enclosed is our assessment of the HCFA's compliance with the procedural steps required by sections 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Many of the various statutes and Executive Orders which normally apply to the issuance of a final rule were found by HCFA to be inapplicable because the notice merely announces amounts required by legislation. Our review indicates that the HCFA complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Senior Attorney, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Department of Health and Human Services, Health Care Financing Administration is William Scanlon, Director, Health Systems Issues. Mr. Scanlon can be reached at (202) 512-7119.

Robert P. Murphy
General Counsel

Enclosure

cc: The Honorable Donna E. Shalala
The Secretary 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; INPATIENT HOSPITAL DEDUCTIBLE AND HOSPITAL
AND EXTENDED CARE SERVICES COINSURANCE AMOUNTS FOR 1997"
(RIN: 0938-AH08)

(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. Comparing the number of deductibles paid, the number of days subject to coinsurance for hospital days 61 through 90, the number of lifetime reserve days and extended care days subject to coinsurance estimated for 1997 with those estimated for 1996 and considering the increase in the deductible and coinsurance amounts, HCFA estimates that the total increase in cost to beneficiaries will be \$610 million (rounded to the nearest \$10 million).

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

HCFA has reviewed the notice and certifies in the notice that no analyses under the Act are required as there will not be a 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 a federal mandate under Title 2 of the Act for State, local or tribal governments or the private sector.

(iv) Other relevant information or requirements under Acts and Executive orders

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

In accordance with HCFA's past practice regarding the publication of deductible and coinsurance amounts under Medicare where such amounts are determined according to the statute, general notices rather than the notice and comment rulemaking procedures contained in section 553 of the Administrative Procedure Act are used. HCFA states that it found good cause to waive publication of a proposed notice and solicitation of public comments because, as noted, the amounts and the

time period for which the deductibles and coinsurance amounts will apply were statutorily directed.

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

The notice does not contain any information collections which are subject to review under the Act.

Statutory authorization for the rule

Section 1813 of the Social Security Act (42 U.S.C. § 1395e) has been cited by HCFA as the statutory authority for HCFA's yearly computation of the deductible and coinsurance amounts.

Executive Order No. 12866

The notice was reviewed by the Office of Information and Regulatory Affairs, Office of Management and Budget and was determined to be "economically significant" under the Order.