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United States General Accounting Office  
Washington, DC 20548

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B-288480

August 15, 2001

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

The Honorable W. J. "Billy" Tauzin  
Chairman  
The Honorable John D. Dingell  
Ranking Minority Member  
Committee on Energy and Commerce  
House of Representatives

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; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities--Update

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; Prospective Payment System and Consolidated Billing for Skilled Nursing Facilities--Update" (RIN: 0938-AK47). We received the rule on August 1, 2001. It was published in the Federal Register as a final rule on July 31, 2001. 66 Fed. Reg. 39562.

The final rule sets forth the updates required in section 1888(e) of the Social Security Act, as amended by the Medicare, Medicaid, and State Children's Health Insurance Program (SCHIP) Balanced Budget Refinement Act of 1999 and the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, related to Medicare payments and consolidated billing for skilled nursing facilities.

Enclosed is our assessment of the CMS' 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: Ms. 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; PROSPECTIVE PAYMENT SYSTEM AND  
CONSOLIDATED BILLING FOR SKILLED NURSING FACILITIES--UPDATE"  
(RIN: 0938-AK47)

(i) Cost-benefit analysis

CMS has estimated the budgetary impact of the final rule to result in an increase in payments to skilled nursing facilities of approximately \$1.5 billion (a 10.3-percent increase) in fiscal year 2002.

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

CMS performed a Final Regulatory Flexibility Analysis as part of its Regulatory Impact Analysis and concludes that the final rule will not have a significant economic impact on a substantial number of small entities. The final rule increases the payments made to skilled nursing facilities.

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

The final rule does not contain 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.

CMS published a Notice of Proposed Rulemaking on May 10, 2001, in the Federal Register (66 Fed. Reg. 23984) and received approximately 200 comments in response. CMS addresses the comments in the preamble to the final rule.

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

The final rule contains an information collection that is subject to review and approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The proposed rule contained the information required by the Act and the preamble to the final rule contains a discussion of the changes to the collection

CMS has made based on the comments it received. These include reducing the collection from six pages to two pages and a 75-percent reduction in the data items.

Statutory authorization for the rule

The final rule is issued pursuant to the authority in section 1888(e) of the Social Security Act (42 U.S.C. 1395yy(e)).

Executive Order No. 12866

The final rule was reviewed and approved by OMB as complying with Executive Order No. 12866.

Executive Order No. 13132 (Federalism)

CMS found that the final rule does not contain federalism implications sufficient to warrant the preparation of a Federalism Assessment.