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Washington, DC 20548

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October 19, 2007

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

The Honorable Charles B. Rangel
Chairman
The Honorable Jim McCrery
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 Calendar Year 2008*

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 Calendar Year 2008” (RIN: 0938-AO61). We received the rule on October 5, 2007. It was published in the *Federal Register* as a notice on October 5, 2007. 72 Fed. Reg. 57,035.

The notice announces the inpatient hospital deductible and the hospital and extended care service coinsurance amounts for services furnished in calendar year 2008 under Medicare’s Hospital Insurance program (Medicare Part A). The statute specifies the formulae used to determine these amounts.

The inpatient hospital deductible will be \$1,024. The daily coinsurance amounts for CY 2008 will be: (a) \$256 for the 61st through 90th day of hospitalization in the benefit period; (b) \$512 for lifetime reserve days; and (c) \$128 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 CMS complied with the applicable requirements.

If you have any questions about this report, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236. The official responsible for GAO evaluation work relating to the subject matter of the rule is Marjorie Kanof, Managing Director, Health Care. Ms. Kanof can be reached at (202) 512-7114.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

cc: Ann Stallion
Program Manager
Department of Health and
Human Services

ENCLOSURE

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON 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 CALENDAR YEAR 2008"
(RIN: 0938-AO61)

(i) Cost-benefit analysis

A cost-benefit analysis was not conducted because the increases were statutorily directed. CMS did estimate that the total increase in cost to beneficiaries associated with the notice to be approximately \$870 million.

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

CMS has determined that the notice will not have a significant economic impact on a substantial number of small entities and, as a result, CMS did not prepare an analysis under the Regulatory Flexibility Act.

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

CMS has determined that the notice will not result in the expenditure of more than \$120 million in any one year by state, local or tribal governments, in the aggregate, or by 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 CMS's past practice regarding publication of deductible and coinsurance amounts under Medicare where such amounts are determined according to the statute, a general notice is used rather than notice and comment rulemaking procedures contained in section 553 of the Administrative Procedure Act.

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

The notice does not impose information collection and recordkeeping requirements; therefore, it need not be reviewed 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. 12,866

The notice was deemed to be economically significant under Executive Order 12866 and was reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

CMS has determined that the notice does not have federalism implications.