

We do not believe this proposed rule in any way would impose substantial direct compliance costs on State and local governments or preempt or supersede State or local law. This proposed rule would permit States to use State licensed audiologists to provide Medicaid audiology services, thereby giving them increased flexibility in providing Medicaid audiology services. In addition, after researching national audiology usage and reviewing States' currently approved Medicaid States Plans, we anticipate that most, if not all, qualified audiologists currently enrolled in the Medicaid program would continue to be qualified as a result of the continued flexibility proposed in this rule. We also anticipate that States will continue to provide audiology services by using the additional flexibility already granted under the Medicaid program to provide audiology services using individuals meeting State provider qualifications and working within State practice acts "under the direction of" a qualified Medicaid audiologist. We believe the additional flexibility proposed in this rule to recognize State licensure will serve to enhance States ability to provide services. We do not, however, anticipate this rule will have a significant affect on the actual provision of audiology services in State Medicaid programs and therefore does not have Federalism implications.

B. Anticipated Effects

We anticipate this proposed rule will give States increased flexibility in determining who is a Medicaid qualified audiologist. We also anticipate that the quality care standards proposed in this rule would help ensure that Medicaid audiology services continue to be provided by, or under the direction of, highly qualified and trained individuals. Additionally, we believe conforming the Medicare and Medicaid provider requirements would help eliminate any confusion providers may experience in complying with Federal rules and help reduce or eliminate conflict where audiologists provide services to both the Medicaid and Medicare populations (such as in nursing facilities or through home health care agency providers). Additionally, this proposed rule also serves to eliminate inconsistencies in Medicaid provider standards by no longer recognizing equivalency rulings. Under the current Medicaid rules, states can seek equivalency rulings from their State Attorney General in instances where they believe State licensure is equivalent to ASHA certification. Since the proposed rule recognizes State

licensure that meets Medicare-equivalent standards, equivalency rulings are no longer necessary or required. We believe States would look favorably on the elimination of equivalency rulings since they proved administratively burdensome and time-consuming to obtain.

C. Alternatives Considered

In developing the policies set forth in this proposed rule, we met with professional organizations and interested parties to solicit their ideas and concerns. We also worked with our national regional office Staffs to review currently approved Medicaid state plans for information on the provision of audiology services in States' Medicaid programs. We considered the role of audiology services in the Medicaid program and the potential impact changes in the standards for audiology providers would have overall. We considered several options that included (1) no change to the current Medicaid audiology requirements, (2) retain current requirements but issue updated policy guidance on issues such as provider equivalency authority, (3) rewrite the current Medicaid regulations to adopt the current Medicare requirements, and (4) rewrite the current Medicaid regulations to adopt the Medicare standards, but with minimum standards that would apply in States that do not license or that exempt some practitioners from State licensure requirements.

After much research and consideration of the impact of each of the options, we concluded that option 4—the standards proposed in this rule—best satisfy the commitment made by the Secretary and address the request raised by interested parties to conform the definition of a qualified audiologist under the Medicare and Medicaid programs by recognizing the role of state licensure as a Medicaid provider requirement. We also concluded that the standards proposed in this rule best continue to recognize states rights under Medicaid by retaining program flexibility while at the same time also building in quality standards that continue to ensure Medicaid services are provided to all Medicaid-eligible individuals by recognized, highly trained professionals.

D. Conclusion

For the reason stated above, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we certify, that this rule would not have a significant economic impact on a substantial number of small entities or

a significant impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this regulation was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 440

Grant programs—Health, Medicaid.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services would amend 42 CFR chapter IV, part 440 as set forth below:

PART 440—SERVICES: GENERAL PROVISIONS

Subpart A—Definitions

1. The authority citation for part 440 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 440.110(c), the introductory text of paragraph (c)(2) is revised, and a new paragraph (c)(3) is added to read as follows:

§ 440.110 Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

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(c) *Services for individuals with speech, hearing, and language disorders.*

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(2) A "speech pathologist" is an individual who—

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(3) A "qualified audiologist" means an individual with a master's or doctoral degree in audiology who—(i) Is licensed as an audiologist to perform those services by the State in which the individual furnishes those services, providing that the State licensure requirements meet or exceed those in paragraph (c)(3)(ii)(A) or (c)(3)(ii)(B) of this section;

(ii) In the case of an individual who furnishes audiology services in a State that does not license audiologists, or that exempts audiologists practicing in specific institutions or settings from licensure, the individual must meet one of the following standards:

(A) Have a Certificate of Clinical Competence in Audiology granted by the American Speech-Language-Hearing Association; or

(B) Have successfully completed a minimum of 350 clock-hours of supervised clinical practicum (or is in the process of accumulating that supervised clinical experience under the supervision of a qualified master or doctoral-level audiologist), performed not fewer than 9 months of supervised