

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and could be considered late.

For information on viewing public comments, *see* the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Nancy Braymer, (410) 786-4323.

SUPPLEMENTARY INFORMATION: *Inspection of Public Comments:* Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after the publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule and appointment to view public comments, telephone (410) 786-7197.

Copies: To order copies of the **Federal Register** containing this document, send your request to: New Orders, Superintendent of Documents, P.O. Box 371954, Pittsburgh, PA 15250-7954. Specify the date of the issue requested and enclose a check or money payable to the Superintendent of Documents, or enclose your Visa or Master Card number and expiration date. Credit card orders can also be placed by calling the order desk at (202) 512-1800 (or toll-free at 1-888-293-6498) or by faxing to (202) 512-2250. The cost for each copy is \$9. As an alternative, you can view and photocopy the **Federal Register** document at most libraries designated as Federal Depository Libraries and at many other public and academic libraries throughout the country that receive the **Federal Register**.

This **Federal Register** document is also available from the **Federal Register** online database through *GPO Access*, a service of the U.S. Government Printing Office. The Web site address is: <http://www.access.gpo.gov/nara/index.html>.

I. Background

A. Interest Calculation

Sections 1815(d) and 1833(j) of the Social Security Act (the Act) require that whenever a payment to a provider, supplier, or other entity is more than (overpayment) or less than (underpayment) the amount that was due to the provider, supplier, or other entity, we assess interest on the amount of the overpayment that the provider, supplier, or other entity owes to us or the underpayment that we owe to the provider, supplier, or other entity. This interest becomes due if the overpayment amount owed to us or the underpayment amount owed by us is

not paid within 30 days of the date of the final determination of the overpayment or underpayment. We determine the rate of interest in accordance with 42 CFR 405.378 by comparing the Private Consumer Rate with the Current Value of Funds Rate and assessing the interest at the higher of the two rates that is in effect on the date of the final determination of the amount of the overpayment or underpayment.

Interest is calculated from the date of the final determination and is owed if the amount of the overpayment or underpayment is not paid within 30 days. Interest is calculated in 30-day periods. A period that is less than 30 days is considered to be a full 30-day period.

In this proposed rule, we are proposing to change the method of calculating the amount of interest that is assessed on overpayments and underpayments to better align our practices to a commercial business model. We now assess interest prospectively (30 days into the future). Under private sector practices, interest is assessed on delinquent debts retrospectively.

We are proposing that periods of less than 30 days would not be treated as a full 30-day period. Interest would be assessed only for full 30-day periods when payment is not made on time.

The change in the method of calculation would apply only to overpayments and underpayments whose date of final determination occurred after the effective date of the final regulation implementing this proposed rule.

B. Technical Correction

We are making a technical correction to correct a reference that was cited in a previous revision of the Code of Federal Regulations (CFR). In § 411.24, the rate of interest to be assessed on the recovery of Medicare conditional payments is incorrectly referenced as appearing in § 405.376(d), rather than § 405.378(d), which is the correct reference.

II. Provisions of the Proposed Regulations

The provisions of this proposed rule are as follows:

- In § 405.378, we would revise paragraph (b)(2) to delete the requirement that periods of less than 30 days be treated as a full 30-day period.
- In § 411.24, we would revise paragraph (m)(2)(iii) to correct the reference to § 405.376(d) by changing the reference to § 405.378(d).

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget (OMB) under the authority of the Paperwork Reduction Act of 1995 (PRA).

IV. Response to Comments

Because of the large number of items of correspondence we normally receive on **Federal Register** documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, if we proceed with a subsequent document, we will respond to the major comments in the preamble to that document.

V. Regulatory Impact Analysis

A. Overall Impact

We have examined the impacts of this rule as required by Executive Order 12866, (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96-354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4), and Executive Order 13132.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year).

This proposed rule is not a major rule. It simply changes the way we calculate interest on overpayments and underpayments. It does not change how overpayments or underpayments are determined, nor does it require providers, suppliers, or other entities to change the way they interact with us in determining overpayments and underpayments.

During fiscal year (FY) 2001, we recovered \$167 million in interest on delinquent overpayments. Had this proposed rule been in effect, interest recoveries would have been \$153 million, a difference of \$14 million due to the change in the interest calculation. During FY 2002, we recovered \$115.7 million in interest on delinquent