

overpayments. Had this proposed rule been in effect, interest recoveries would have been \$106.1 million, a difference of \$9.6 million. During FY 2001, we paid \$2.6 million in interest on underpayments. Had this proposed rule been in effect, interest payments would have been \$2.4 million, a difference of \$0.2 million. During FY 2002, we paid \$5.2 million in interest on underpayments. Had this proposed rule been in effect, interest payments would have been \$4.8 million, a difference of \$0.4 million.

The RFA requires agencies to analyze options for regulatory relief of small businesses, nonprofit organizations, and government agencies. Most hospitals, and most other providers, suppliers, health maintenance organizations, competitive medical plans, and health care prepayment plans are small entities, either by nonprofit status or by having revenues of \$29 million or less in any 1 year. During FY 2001, we recovered \$167 million in interest on delinquent overpayments; during FY 2002, we recovered \$115.7 million. Had this proposed rule been in effect, interest recoveries would have been \$153 million during FY 2001 and \$106.1 million during FY 2002, a difference of \$14 million and \$9.6 million, respectively. This would amount to 0.1 percent of the \$13.5 billion in overpayments recovered during FY 2001 and less than 0.1 percent of the \$13.4 billion recovered during FY 2002. During FY 2001, we paid \$2.6 million in interest on underpayments; during FY 2002, we paid \$5.2 million. Had this proposed rule been in effect, we would have paid \$2.4 million during FY 2001 and \$4.8 million during FY 2002, a difference of \$0.2 million and \$0.4 million, respectively. This would amount to less than 0.1 percent of the \$236 billion and \$246.8 billion in benefit payments made during FY 2001 and FY 2002. For further details, see the Small Business Administration's regulation that set forth size standards for health care industries at 65 FR 69432.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

This proposed rule has no operations impact on any provider, supplier, or other entity including small rural

hospitals. The proposed rule simply changes the way we calculate interest we assess on overpayments and underpayments. It does not change how overpayments or underpayments are determined nor require providers, suppliers, or other entities to change how they interact with us in determining overpayments or underpayments. Therefore, we have determined that this proposed rule would not have a significant effect on the operations of a substantial number of rural hospitals. Because the interest we collect in a year far exceeds the interest we pay, the majority of providers, suppliers, and other entities would benefit from changing the method of calculating interest.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in an expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$110 million. During FY 2001 and FY 2002, we recovered \$167 million and \$115.7 million, respectively, in interest on delinquent overpayments. Had this proposed rule been in effect, interest recoveries would have been \$153 million during FY 2001, a difference of \$14 million. For FY 2002, interest recoveries would have been \$106.1 million, a difference of \$9.6 million. During FY 2001, we paid \$2.6 million in interest on underpayments. Had this proposed rule been in effect, we would have paid \$2.4 million, a difference of \$0.2 million. During FY 2002, we paid \$5.2 million in interest on underpayments. Had this proposed rule been in effect, interest payments would have been \$4.8 million, a difference of \$0.4 million.

This proposed rule would have no impact on State, local, or tribal governments. It would reduce annual expenditures by providers, suppliers, or other entities in the private sector because it changes the way that we compute interest on any delinquent overpayments owed to us. Additionally, the change in interest calculation that we pay on underpayments owed to providers, suppliers, and other entities would not be an expenditure by a State, local, or tribal government.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This proposed rule would impose no

direct requirement costs on State and local governments, would not preempt State law, or have any Federalism implications. By changing how we calculate interest, we are reducing the amount of interest assessed on overpayments owed to us and underpayments owed by us to providers, suppliers, and other entities.

B. Effects on the Medicare and Medicaid Programs

This proposed rule would reduce the amount of interest assessed on Medicare overpayments and underpayments. During 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. During FY 2001, we paid \$2.6 million in interest on underpayments. Had this proposed rule been in effect, we would have paid \$2.4 million, a difference of \$0.2 million. During FY 2002, we recovered \$115.7 million in interest on delinquent overpayments. Had this proposed rule been in effect, interest recoveries would have been \$106.1 million, a difference of \$9.6 million. During FY 2002, we paid \$5.2 million in interest on underpayments. Had this proposed rule been in effect, we would have paid \$4.8 million, a difference of \$0.4 million. There is no effect on the Medicaid program.

C. Alternatives Considered

We considered a number of other methods to use in calculating the amount of interest owed. We assessed the relative merits of alternative calculation methods based on two primary criteria: Comparability to a commercial business model and secondly, relative ease and cost of administration. Applying the first criterion precludes continuing our current calculation method. Under the proposed rule, we would be able to use commercially obtained off-the-shelf software to calculate interest. As in the private sector, the debtor would still have a set payment period (30 days) to pay the amount owed without additional interest being assessed during the payment period. We considered calculating and assessing interest on a daily basis but determined this would be prohibitively expensive and administratively burdensome for Medicare contractors, providers and beneficiaries.

D. Conclusion

This proposed rule is not a major rule. It would not change the way overpayments or underpayments are