

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 an appointment to view public comments, phone (410) 786-9994.

I. Background

Before October 1, 2000, section 226(b) of the Social Security Act (the Act) provided that disabled beneficiaries who continued to engage in substantial gainful activity after completing a trial work period would receive Medicare coverage for 24 months following the 15th month of the reentitlement period.

Effective October 1, 2000, section 202 of the Ticket to Work and Work Incentives Improvement Act of 1999 (Pub. L. 106-170) amended section 226(b) of the Act to extend the period of Medicare coverage to 78 months after the 15th month of the reentitlement period. Because Section 202 was implemented effective October 1, 2000, Medicare coverage has already been extended to 78 months for all disabled individuals who continue to engage in substantial gainful activity after completing a trial work period. This regulation is intended to codify these statutory provisions.

II. Provisions of the Proposed Regulations

We are proposing to revise § 406.12(e)(2)(i) of our regulations to be consistent with the amended section 226(b) of the Act, which was implemented effective October 1, 2000. We are proposing to change the 24 months of extended Medicare coverage to 78 months of Medicare coverage following the 15th month of the re-entitlement period.

III. Collection of Information Requirements

This proposed rule does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

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 Statement

A. Overall Impact

We have examined the impact of this proposed rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) (September 19, 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. This proposed rule would essentially conform our regulations to the plain language of the statute.

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). We estimate a cost of \$100 million to the Medicare trust fund in 2005. This cost estimate includes Medicare payments for disabled beneficiaries who are currently working and entitled to Medicare coverage, as well as payments for individuals who will become entitled to disability benefits in the future and subsequently return to work with extended Medicare coverage. As noted above, the plain language of the statute leaves us no discretion in interpreting this provision, and these costs flow directly from the statute, with or without this proposed rule. Therefore, this proposed rule is not a major rule and does not have a significant economic effect.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of \$6 to \$29 million in any 1 year. For purposes of the RFA, beneficiaries are not considered to be small entities. Individuals and States are not included in the definition of a small entity. This regulation proposes to codify provisions of the Ticket to Work and Work Incentives Improvement Act of 1999 that were implemented on October 1, 2000. Eligible working disabled

individuals are already receiving this extended Medicare benefit. This regulation would merely codify statutory provisions that have already been implemented and would not impose any regulatory burdens on small entities. Therefore, we have determined, and we certify that this proposed rule will not have a significant economic impact on a substantial number of small entities.

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 would not significantly affect the operations of a substantial number of small rural hospitals because it simply codifies a statutory extension of the period of Medicare entitlement for individuals who are already entitled to and receiving the coverage. Therefore, we have determined, and we certify, that this proposed rule will not have a significant impact on the operation of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$110 million. State, local, or tribal governments will not be affected since this proposed rule simply extends the length of time individuals who complete a trial work period and continue to work can receive Medicare benefits.

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, which was implemented effective October 1, 2000, would not have a substantial effect on State or local governments because the extension of Medicare entitlement is for individuals already receiving the coverage.