

We encourage the national associations and their affiliates to communicate information on these innovative programs to their entire membership, and to encourage expansion of these innovative programs across the country. We also encourage the development of partnerships among nursing homes, CMS, the State agencies, Quality Improvement Organizations (QIOs), consumers, and other stakeholders in developing and promoting programs designed to maintain and enhance high quality care. We also encourage the national organizations to continue to share information on potential quality initiatives with and between their State affiliates and providers. Finally, we encourage these stakeholders to work with us to design Federal demonstration projects to examine more fully a variety of quality models, including the development of payment systems with integrated quality incentives.

#### IV. Provisions of the Final Rule

The provisions of this final rule are as follows:

- We are revising § 411.15(p)(2)(xii) to incorporate additional chemotherapy service exclusions from SNF consolidated billing, as well as a conforming revision in the regulations at § 489.20(s)(12).
- We are revising § 413.337(d) by adding a new paragraph (2), which establishes an adjustment to the annual increase in the SNF market basket index amount to account for forecast error.
- We are revising § 483.5 to include specific definitions of the terms “distinct part” and “composite distinct part.” We are also making conforming changes in subpart B of part 483 of the regulations, as well as in parts 413 and 440.

In addition, we are making the following technical corrections in the regulations text, as discussed in the proposed rule:

- We are revising a cross-reference that appears in § 409.20(c) of the regulations. Section 409.20 provides a general introduction to the subsequent sections (§ 409.21 through § 409.36) that set forth the specific requirements pertaining to the SNF benefit. However, in referring to the sections that follow, the cross-reference in § 409.20(c) concerning terminology inadvertently omits a reference to § 409.21, and we are now correcting that omission by revising the cross-reference to read “§ 409.21 through § 409.36”.
- We are correcting the spelling of the word “describe” as it appears in the second sentence of the regulations text at § 483.20(k)(1).

Also, as discussed in the supplemental proposed rule, we are correcting the spelling of the word “standardized” in the second sentence of § 413.345 of the regulations. Further, we are taking this opportunity to make the following additional technical corrections:

- We are restoring a portion of the regulations text that was inadvertently deleted from § 488.438(d), dealing with civil money penalties. As originally published in the **Federal Register** on November 10, 1994 (59 FR 56248), paragraph (d) of § 88.438 contained three numbered paragraphs. However, when this section of the regulations was republished on March 18, 1999 (64 FR 13361), paragraph (3) was inadvertently omitted. Accordingly, we are now restoring this portion of the regulations text, which reads as follows: “(3) Repeated deficiencies are deficiencies in the same regulatory grouping of requirements found at the last survey, subsequently corrected, and found again at the next survey.”

- In paragraph (d) of § 489.22, which deals with prepayment requirements in providers, we are correcting the phrase “covered inpatient services” to read “covered inpatient services”.

#### V. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of the technical corrections included in this final rule take effect. We can waive this procedure, however, if we find good cause that a notice and comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporate a statement of the finding and its reasons in the notice issued.

We find it unnecessary to undertake notice and comment rulemaking as to these technical changes as they merely provide technical corrections to the regulations and do not make any substantive changes to the regulations. Therefore, for good cause, we waive notice and comment procedures.

#### VI. 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 under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

#### VII. Regulatory Impact Analysis

##### A. Overall Impact

We have examined the impacts of this final 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 Act), the Unfunded Mandates Reform Act of 1995 (UMRA), (Pub. L. 104–4), and Executive Order 13132.

Executive Order 12866 (as amended by Executive Order 13258, which merely assigns responsibility of duties) 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 final rule is a major rule, as defined in Title 5, United States Code, section 804(2), because we estimate the impact of the standard update will increase payments to SNFs by approximately \$400 million. In addition, we have adjusted the FY 2004 rates to reflect the 3.26 percent cumulative forecast error since the start of the SNF PPS on July 1, 1998. This adjustment increases payments to SNFs by an additional \$450 million, for an aggregate increase in payments of \$850 million.

The update set forth in this final rule applies to payments in FY 2004. Accordingly, the analysis that follows describes the impact of this one fiscal year only. In accordance with the requirements of the Act, we will publish a notice for each subsequent fiscal year that will provide for an update to the payment rates and that will include an associated impact analysis.

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 SNFs and most other providers and suppliers are small entities, either by their nonprofit status or by having revenues of \$11.5 million or less in any 1 year. For purposes of the RFA, approximately 53 percent of SNFs are considered small businesses according to the Small Business Administration's latest size standards with total revenues of \$11.5 million or less in any 1 year (for further information, see 65 FR 69432, November 17, 2000). Individuals and