

HHS to be considered a significant impact. Nonetheless, we have prepared the analysis below to describe the impact of this rule.

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 604 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 rule applies to small rural hospitals that furnish at least one Medicare covered ambulance service to at least one Medicare beneficiary.

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. This final rule does not result in an expenditure in any 1 year by State, local, or tribal governments of \$110 million.

Executive Order 13132 establishes certain requirements that an agency must meet when it publishes 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 rule will not have a substantial effect on State or local governments.

This final rule sunsets the rural mileage bonus for rural mileage 18 through 50 as required by statute, provides an update for inflation as mandated by statute, and changes the term "supplier" to the term "entity" in the definition of an emergency service. Elimination of the bonus payment for rural mileage 18 through 50 will result in a savings to the program of \$6 million in CY 2004. Therefore, this is not a major rule.

We estimate that the total program expenditure for CY 2004 for ambulance services covered by the Medicare program is approximately \$3 billion. Application of an AIF of 2.1 percent will result in an additional total program expenditure of approximately \$65 million.

Our clarification that an ALS intervention must be furnished by ALS personnel will have negligible impact because generally ALS services are required to be furnished by ALS personnel.

The insertion of the comma that had been inadvertently omitted in the definition of "Advanced life support, Level 2 (ALS2)" will have no impact since it conforms the regulation to the existing implementing instructions.

Changing the term "supplier" to the term "entity" in the definition of "emergency services" is not a material change because it simply conforms the regulation to actual practice as the program is currently administered.

Our clarification in the definition of "Rural area" that NECMAs apply in New England and our addition of NECMA to the discussion of the Goldsmith Modification have a negligible impact because of the very few ambulance suppliers affected. Also, the statute requires that this policy be followed in updating rates by using the most recent Goldsmith modifications.

Our clarification for loaded mileage has no impact because it conforms the regulation to actual practice as the program is correctly administered.

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 414

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services is amending 42 CFR chapter IV as follows:

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

- 1. The authority citation for part 414 continues to read as follows:

Authority: Secs. 1102, 1871, and 1881(b)(1) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr(b)(1)).

Subpart H—Fee Schedule for Ambulance Services

§ 414.605 [Amended]

- 2. In § 414.605, the following changes are made:

■ A. The definition of "Advanced life support (ALS) intervention" is revised by removing the phrase "beyond the scope of authority of an emergency medical technician-basic (EMT-Basic)" and adding in its place the phrase "required to be furnished by ALS personnel."

■ B. A comma is inserted in the definition of "Advanced Life Support, Level 2 (ALS2)" after the phrase "or by continuous infusion" and before the phrase "excluding crystalloid. * * *

■ C. The term "supplier" in the definition of "Emergency response" is removed and the term "entity" is added in its place.

■ D. The definition of "Rural area" is revised to read as follows:

§ 414.605 Definitions.

* * * * *

Rural area means an area located outside a Metropolitan Statistical Area (MSA), or, in New England, a New England County Metropolitan Area (NECMA), or an area within an MSA or NECMA that is identified as rural by the Goldsmith modification.

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■ 3. Section 414.610 is amended by revising paragraphs (c)(3) and (c)(5) to read as follows:

§ 414.610 Basis of payment.

* * * * *

(c) * * *

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(3) Loaded mileage. Payment is based on loaded miles. Payment for air mileage is based on loaded miles flown as expressed in statute miles. There are three mileage payment rates: a rate for FW services, a rate for RW services, and a rate for all levels of ground transportation.

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(5) Rural adjustment factor (RAF). For ground ambulance services where the point of pickup is in a rural area, the mileage rate is increased by 50 percent for each of the first 17 miles and, for services furnished before January 1, 2004, by 25 percent for miles 18 through 50. The standard mileage rate applies to every mile over 50 miles and, for services furnished after December 31, 2003, to every mile over 17 miles. For air ambulance services where the point of pickup is in a rural area, the total payment is increased by 50 percent; that is, the rural adjustment factor applies to the sum of the base rate and the mileage rate.

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(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 2, 2003.

Thomas A. Scully,
Administrator, Centers for Medicare & Medicaid Services.

Approved: October 27, 2003.

Tommy G. Thompson,
Secretary.

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