

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 million to \$29 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined that this proposed notice would not have a significant 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 a Metropolitan Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined that this proposed notice would not have a significant impact on the operations 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. This proposed notice would have no consequential effect on the governments mentioned or on the private sector.

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. We have reviewed this proposed notice and have determined that it would not have a substantial effect on State or local governments.

In accordance with the provisions of Executive Order 12866, this document was reviewed by the Office of Management and Budget.

Authority: Sections 1816(a), 1833, 1842(a), 1861, 1862(a)(1)(A), and 1862(a)(7) of the Social Security Act (42 U.S.C. 1395h(a), 1395l, 1395u(a), 1395x, 1395y(a)(1)(A), and 1395y(a)(7))

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital

Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: May 23, 2003.

Thomas A. Scully,

Administrator, Centers for Medicare & Medicaid Services.

Approved: September 16, 2003.

Tommy G. Thompson,

Secretary.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-1226-GNC]

RIN 0938-ZA44

Medicare Program; Criteria and Standards for Evaluating Intermediary, Carrier, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) Regional Carrier Performance During Fiscal Year 2004

AGENCY: Centers for Medicare & Medicaid Services (CMS), Health and Human Services (HHS).

ACTION: General notice with comment period.

SUMMARY: This notice describes the criteria and standards to be used for evaluating the performance of fiscal intermediaries, carriers, and Durable Medical Equipment, Prosthetics, Orthotics, and Supplies (DMEPOS) regional carriers in the administration of the Medicare program beginning on the first day of the first month following publication of this notice in the **Federal Register**. The results of these evaluations are considered whenever we enter into, renew, or terminate an intermediary agreement, carrier contract, or DMEPOS regional carrier contract or take other contract actions, for example, assigning or reassigning providers or services to an intermediary or designating regional or national intermediaries. We are requesting public comment on these criteria and standards.

DATES: *Effective Date:* The criteria and standards are effective January 2, 2004.

Comment Period: Comments will be considered if we receive them at the appropriate address as provided below no later than 5 p.m. (EDT) on January 23, 2004.

ADDRESSES: In commenting, please refer to file code CMS-1226-GNC. Because of staff and resource limitations, we cannot

accept comments by facsimile (fax) transmission. Mail written comments (one original and two copies) to the following address:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-1226-GNC, PO Box 8016, Baltimore, MD 21244-8016.

If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) to one of the following addresses:

Room 443-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC, 20201 or Room C5-14-03, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of the comments being filed.)

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 **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Sue Lathroum, (410) 786-7409.

SUPPLEMENTARY INFORMATION: In several instances, we identify a Medicare manual as a source of more detailed requirements. Medicare fee-for-service contractors have copies of the various Medicare manuals referenced in this notice. Members of the public also have access to our manual instructions.

Medicare manuals are available for review at local Federal Depository Libraries (FDLs). Under the FDL Program, government publications are sent to approximately 1,400 designated public libraries throughout the United States. To locate the nearest FDL, individuals should contact any public library.

In addition, individuals may contact regional depository libraries that receive and retain at least one copy of nearly every Federal government publication, either in printed or microfilm form, for use by the general public. These libraries provide reference services and interlibrary loans; however, they are not sales outlets. Individuals may obtain information about the location of the nearest regional depository library from any library. Information may also be obtained from the following Web site: <http://www.cms.hhs.gov/manuals>.

Finally, all of our regional offices (ROs) maintain all Medicare manuals for