

EPA has determined that the approval action proposed does not include a Federal mandate that may result in estimated costs of \$100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposes to approve pre-existing plans under state or local law, and take other actions which impose no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Volatile organic compounds, Nitrogen oxides, ozone.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: March 23, 2001.

Wanda L. Johnson,

Acting Regional Administrator, Region 7.
[FR Doc. 01-8019 Filed 4-2-01; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 36

Meetings of the Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance

AGENCY: Indian Health Services, HHS.

ACTION: Notice of meetings.

SUMMARY: The Secretary of Health and Human Services has established a Negotiated Rulemaking Committee on Joint Tribal and Federal Self-Governance (Committee) to negotiate and develop a proposed rule implementing the Tribal Self-Governance Amendments of 2000 (the Act). We intend to publish the proposed rule for notice and comment no later than one year after the date of enactment of the Act (August 18, 2000+ one year), as required by section 517(a)(2) of the Act.

DATES: Upcoming meetings of the Committee are as follows:

1. April 17-19, 8:30 a.m.-5 p.m., Washington, DC.
2. May 22-24, 8:30 a.m.-5 p.m., Oklahoma City, OK.

ADDRESSES: The meeting locations are:

1. Washington, DC—Hyatt Regency Washington on Capitol Hill, 400 New

Jersey Avenue, NW., Washington, DC 20001, Phone: (202) 737-1234.

2. Oklahoma City, OK—Waterford Marriott, 6300 Waterford Boulevard, Oklahoma City, OK 73118, Phone: 1-800-228-9290.

Written statements may be submitted to Paula Williams, Director, Office of Tribal Self-Governance, Indian Health Service, 5600 Fishers Lane, Room 5A-55, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Paula Williams, Director, Office of Tribal Self-Governance, Indian Health Service, 5600 Fishers Lane, Room 5A-55, Rockville, MD 20857, Telephone 301-443-7821. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: Both meetings are open to the public without advance registration. Public attendance may be limited to the space available. Members of the public may make statements during the meetings to the extent time permits and file written statements with the Committee for its consideration. Submit your written statements to the address listed above. Summaries of the Committee meetings will be available for public inspection and copying ten days following each meeting at the same address.

Dated: March 29, 2001.

Michael H. Trujillo,

Assistant Surgeon General, Director, Indian Health Service.

[FR Doc. 01-8233 Filed 3-30-01; 11:31 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Part 447

[HCFA-2100-P]

RIN 0938-AK89

Medicaid Program; Modification of the Medicaid Upper Payment Limit Transition Period for Inpatient Hospital Services, Outpatient Hospital Services, Nursing Facility Services, Intermediate Care Facility Services for the Mentally Retarded, and Clinic Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule would modify the Medicaid upper payment (UPL) limit provisions to establish a new transition period for States that submitted plan amendments before March 13, 2001 that do not comply with

the new UPLs effective on that date (but do comply with the prior UPLs) and were approved on or after January 22, 2001. This new transition period would apply to payments for inpatient hospital services, outpatient hospital services, nursing facility services, intermediate care facility services for the mentally retarded, and clinic services.

DATES: We will consider comments if we receive them at the appropriate address, as provided below, no later than 5 p.m. on May 3, 2001.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: HCFA-2100-P, P.O. Box 8016, Baltimore, MD 21244-8016

To ensure that mailed comments are received in time for us to consider them, please allow for possible delays in delivering them.

If you prefer, you may deliver your written comments (1 original and 3 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, MD 21244.

Comments mailed to the above addresses may be delayed and received too late for us to consider them.

Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA-2100-P. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room C5-10-04 of the headquarters of the Health Care Financing Administration, 7500 Security Blvd., Baltimore, MD on Monday through Friday of each week from 8:30 a.m. to 5 p.m. To schedule a time to view the public comments, please call (410) 786-7195.

FOR FURTHER INFORMATION CONTACT:

Robert Weaver, (410) 786-5914—

Nursing facility services and intermediate care facility services for the mentally retarded.

Larry Reed, (410) 786-3325—Inpatient and outpatient hospital services and clinic services.

SUPPLEMENTARY INFORMATION:

I. Background

In the final rule published on January 12, 2001 in the **Federal Register** (66 FR 3148), we specified transition periods for those States with State plan amendments (SPAs) approved before

the final rule effective date of March 13, 2001. In our March 13, 2001 letter to State Medicaid Directors, we clarified that state plan amendments submitted on or after the effective date of the final rule would be subject to the new requirements of the final rule. We further explained that any state plan amendment that is submitted on or after that date, including modifications to existing state plans, that does not conform with the new upper payment limitations would be disapproved.

The State Medicaid Directors letter did not address the amendments pending HCFA approval. After reviewing the legal and policy issues involved, the Administration now believes that each State's pending amendment should be reviewed under the criteria in place before March 13, 2001, rather than applying the provisions of the January 12, 2001 final rule. However, the Administration is also committed to phasing out the UPL loophole and assuring that tax dollars are spent properly. Absent modification of the UPL transition provisions, approval of these State plan amendments could trigger a 2-year transition period through September 30, 2002, which would have greater budget implications than anticipated. Therefore, we are proposing to limit the transition period to one year.

II. Provisions of the Proposed Rule

As this administration takes additional steps to address the Medicaid UPL loophole, we are proposing to create a separate UPL transition period for those State plan amendments that were submitted to us before March 13, 2001 but were approved on or after January 22, 2001. These State plan amendments would qualify for a transition period that would end on the later of March 13, 2001 or 1 year after the approved effective date of each State plan amendment. With respect to pending UPL plans that are expansions of previously approved plans, the separate transition period described in this rule would only apply to the portion of spending under the pending plan that is above the amount that was previously approved.

This proposed rule does not include those State plan amendments that were actively (not deemed) approved after January 12, 2001 based on their compliance with the final rule of January 12, 2001. Because these amendments comply with the final rule, the amendments are not subject to the transition periods specified in the January 12, 2001 final rule. Also, as noted in the State Medicaid Directors letter of March 13, 2001, any State plan

amendments submitted on or after March 13, 2001 would be reviewed and acted upon under the January 12, 2001 final rule. We would also treat any material change submitted on or after March 13, 2001 to a State plan amendment pending on that date as a new State plan amendment. We would not be able to approve such a submission under the UPL requirements in effect, and it would not be eligible for the new transition period.

III. 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.

IV. Collection of Information Requirements—Paperwork Reduction Act

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. 35).

V. Regulatory Impact Analysis

A. Introduction

We have examined the impact of this proposed rule as required by Executive Order (EO) 12866, the Unfunded Mandates Act of 1995, and the Regulatory Flexibility Act (RFA) (Pub. L. 96-354). 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 one year). We consider this to be a major rule and we have provided an analysis below.

B. Overall Impact

The estimates provided below are based on State-reported Federal fiscal year information submitted with State plan amendments and State expenditure information, where available.

We have identified 11 States with pending rate proposals that would potentially qualify for the transition period in the final rule. Were these state plan amendments now to be approved, we estimate the increase in spending attributed to these amendments would total \$1.1 billion over fiscal years 2001 and 2002 as a result of the two-year transition period ending on September 30, 2002. Restricting the transition period to one year only, as proposed in this rule, would reduce the potential costs for expenditures by \$0.6 billion over the same period.

C. Impact on Small Entities and Rural Hospitals

The Regulatory Flexibility Act requires agencies to analyze options for regulatory relief of small entities. 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 \$5 million to \$25 million (see 65 FR 69432) or less annually. For purposes of the RFA, all hospitals, nursing facilities, intermediate care facilities for the mentally retarded, and clinics are considered to be small entities. Individuals and States are not included in the definition of a small entity.

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.

We do not believe the 1-year transition policy proposed in this would have a significant impact on small entities, including small rural hospitals. Although the proposed transition policy would allow States to make higher payments to government providers than what otherwise would have been allowable under the rules that were effective on March 13, 2001, this flexibility would only be available for a year. Therefore, we would not expect small entities to develop any reliance on these payments.

We invite public comments on the possible effects this proposed rule would have on small entities in general and on small rural hospitals in particular.

D. The Unfunded Mandates Act

The Unfunded Mandates Reform Act of 1995 also requires (in section 202) that agencies perform an assessment of anticipated costs and benefits before proposing any rule that may result in a mandated expenditure in any one year by State, local, or Tribal governments, in the aggregate, or by the private sector, of \$100 million. Because this proposed rule does not mandate any new spending requirements or costs, but rather provides for a 1 year transition policy, we do not believe it has any unfunded mandate implications.

E. Federalism

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 compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We do not believe this proposed rule in any way imposes substantial direct compliance costs on State and local governments or preempts or supersedes State or local law.

F. Executive Order 12866

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

List of Subjects Affected in 42 CFR Part 447

Accounting, Administrative practice and procedure, Drugs, Grant programs—health, Health facilities, Health professions, Medicaid, Reporting and recordkeeping requirements, Rural areas.

For the reasons set forth in the preamble, the Health Care Financing Administration proposes to amend 42 CFR part 447 as follows:

PART 447—PAYMENTS FOR SERVICES

1. The authority citation for part 447 continues to read as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

2. In § 447.272, revise paragraph (e)(2)(ii)(A) and add a new paragraph (e)(2)(ii)(D) to read as follows:

§ 447.272 Inpatient services: application of upper payment limits.

* * * * *

- (e) * * *
- (2) * * *
- (ii) * * *

(A) For State plan provisions that are effective on or after October 1, 1999 and

were approved before January 22, 2001, payments may exceed the upper payment limit in paragraph (b) of this section until September 30, 2002.

* * * * *

(D) For State plan provisions that were effective on or after October 1, 1999 and were submitted to HCFA before March 13, 2001 (and were approved on or after January 22, 2001), payments may exceed the limit in paragraph (b) of this section until the later of March 13, 2001, or 1 year from the approved effective date of each State plan provision.

* * * * *

3. In § 447.321, revise paragraph (e)(2)(ii)(A) and add a new paragraph (e)(2)(ii)(D) to read as follows:

§ 447.321 Outpatient hospital and clinic services: Application of upper payment limits.

* * * * *

- (e) * * *
- (2) * * *
- (ii) * * *

(A) For State plan provisions that are effective on or after October 1, 1999 and were approved before January 22, 2001, payments may exceed the upper payment limit in paragraph (b) of this section until September 30, 2002.

* * * * *

(D) For State plan provisions that were effective on or after October 1, 1999 and were submitted to HCFA before March 13, 2001 (and were approved on or after January 22, 2001), payments may exceed the limit in paragraph (b) of this section until the later of March 13, 2001, or 1 year from the approved effective date of each State plan provision.

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(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: March 27, 2001.

Michael McMullan,

Acting Deputy Administrator, Health Care Financing Administration.

[FR Doc. 01-8178 Filed 3-29-01; 3:47 pm]

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DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Parts 223 and 224**

[Docket No. 010312061-1061-01; I.D. 061199B]

RIN 0648-XA63

Endangered and Threatened Species: Puget Sound Populations of Copper Rockfish, Quillback Rockfish, Brown Rockfish, and Pacific Herring

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of determination of status review.

SUMMARY: NMFS has completed an Endangered Species Act (ESA) status review for copper rockfish (*Sebastes caurinus*), quillback rockfish (*S. maliger*), brown rockfish (*S. auriculatus*), and Pacific herring (*Clupea pallasii*) populations in the eastern North Pacific Ocean. After reviewing the available scientific and commercial information, NMFS has determined that the petitioned populations of the three rockfish species in Puget Sound, WA do not warrant listing as threatened or endangered at this time. NMFS also concludes that the petitioned Pacific herring populations are part of a larger distinct population segment (DPS) that qualifies as a species under the ESA but does not warrant listing as threatened or endangered at this time.

ADDRESSES: Protected Resource Division, NMFS, 525 NE Oregon Street, Suite 500, Portland, OR 97232. Reference materials regarding this determination can be obtained via the Internet at www.nwr.noaa.gov/1salmon/salmesa/pubs.htm.

FOR FURTHER INFORMATION CONTACT: Garth Griffin, NMFS, Northwest Region (503) 231-2005, or Marta Nammack, NMFS, Office of Protected Resources (301) 713-1401.

SUPPLEMENTARY INFORMATION:**Petition Background**

On February 8, 1999, the Secretary of Commerce received a petition from Sam Wright of Olympia, WA, to list as threatened or endangered under the ESA and to designate critical habitat for 18 species of marine fishes in Puget Sound, WA. On June 21, 1999 (64 FR 33037), NMFS accepted the petition for seven of these species, including Pacific herring and three members of the genus