

subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co., v. U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

#### F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (“Unfunded Mandates Act”), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of \$100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of \$100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

#### G. Submission to Congress and the Comptroller General

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other

required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This rule is not a “major” rule as defined by 5 U.S.C. 804(2).

#### H. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use “voluntary consensus standards” (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today’s action does not require the public to perform activities conducive to the use of VCS.

#### I. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 25, 2000. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: November 5, 1999.

**Laura Yoshii,**

*Deputy Regional Administrator, Region IX.*

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

#### PART 52—[AMENDED]

1. The authority citation for Part 52 continues to read as follows:

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

#### Subpart F—California

2. Section 52.220 is amended by adding paragraphs (c)(207)(i)(C)(8), (248)(i)(E), (254)(C)(5) and (256)(i)(G) to read as follows:

#### § 52.220 Identification of plan.

\* \* \* \* \*

(c) \* \* \*

(207) \* \* \*

(i) \* \* \*

(C) \* \* \*

(8) Rule 2.23 adopted on March 23, 1994.

\* \* \* \* \*

(248) \* \* \*

(i) \* \* \*

(E) Ventura County Air Pollution Control District.

(1) Rule 70 revised on May 13, 1997.

\* \* \* \* \*

(254) \* \* \*

(C) \* \* \*

(5) Rule 316 revised on April 17, 1997.

\* \* \* \* \*

(256) \* \* \*

(i) \* \* \*

(G) Sacramento Metropolitan Air Quality Management District.

(1) Rule 447 amended on April 2, 1998.

\* \* \* \* \*

[FR Doc. 99–30609 Filed 11–24–99; 8:45 am]

**BILLING CODE 6560–50–P**

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

#### Health Care Financing Administration

#### 42 CFR Part 420

[HCFA–4000–FC]

RIN 0938–AJ30

#### Medicare Program; Suggestion Program on Methods to Improve Medicare Efficiency

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

**ACTION:** Final rule with comment period.

**SUMMARY:** This final rule with comment period establishes a program to encourage individuals to submit suggestions that could improve the efficiency of the Medicare program. The rule implements section 203(c) of the Health Insurance Portability and Accountability Act of 1996. The intent of this rule is to encourage suggestions and to award, if we deem appropriate, monetary payments to individuals for suggestions that improve efficiency and produce monetary savings to the Medicare program.

**DATES:** *Effective date:* This final rule is effective December 27, 1999. *Comment date:* Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. eastern time on January 25, 2000.

**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-4000-FC, P.O. Box 26688, Baltimore, MD 21207-0488.

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 C5-09-26, 7500 Security Boulevard, Baltimore, MD 21244-1850.

Comments may also be submitted electronically to the following e-mail address: hcfa4000fc@hcfa.gov. E-mail comments must include the full name and address of the sender and must be submitted to the referenced address to be considered. All comments must be incorporated in the e-mail message because we may not be able to access attachments. Electronically submitted comments will be available for public inspection at the Independence Avenue address below.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA-4000-FC. 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 443-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 690-7890).

**FOR FURTHER INFORMATION CONTACT:** Sam Della Vecchia, (410) 786-4481.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Background**

###### *A. Establishment of a Program to Collect Suggestions for Improving Medicare Program Efficiency and to Reward Suggesters for Monetary Savings*

It has long been our policy to encourage the use of incentive awards to recognize and reward individuals who directly contribute to the economy, efficiency, and effectiveness of government programs. For example, recognition of Federal employee

suggestions and rewards for individuals whose adopted ideas benefit the government motivate Federal employees to increase productivity and creativity.

With the August 1996 enactment of the Health Insurance Portability and Accountability Act of 1996 (HIPPA) (Public Law 104-191), the Congress recognized that the public at large, especially the beneficiaries, physicians, and suppliers actively involved in the delivery and utilization of Medicare health care services, may be in a position to suggest ideas that might contribute directly to improving Medicare program efficiency. By enacting section 203(c) of HIPPA, the Congress has required us to establish a program that encourages individuals to submit suggestions on methods that might improve the efficiency of the Medicare program. This legislation gives us the discretion to make a payment to a suggester, in an amount that we consider appropriate, as a reward for, and in recognition of, a suggestion we adopt that improves efficiency and results in monetary savings to the Medicare program.

##### *B. Provisions of This Final Rule*

As required by section 203(c), this final rule establishes a program that will provide a vehicle to submit suggestions on methods that could improve the efficiency of the Medicare program. Therefore, we are adding a new § 420.410 to subpart E of part 420, "Establishment of a program to collect suggestions for improving Medicare program efficiency and to reward suggesters for monetary savings," that sets forth procedures and requirements for the public to submit suggestions, for us to evaluate them and, if appropriate, to reward the suggester whose suggestion we adopt.

In § 420.410(a), we define a "suggestion program" to mean the specific procedures and requirements established by us for receiving suggestions, evaluating the suggestions, and, if appropriate, paying a reward to the suggester for an adopted suggestion that improves efficiency and produces monetary savings to the Medicare program. We define "suggester" as an individual, a group of individuals, or a legal entity, such as a corporation, partnership, or professional association, not otherwise excluded under § 420.410(d), who submits a suggestion under this section.

We specify that "suggestion" used in this context means an original idea submitted in writing. We specify that "payment" means a monetary award given to the suggester in recognition of, and as a reward for, a suggestion we

adopt that improves the efficiency of the Medicare program and results in monetary savings. We define "savings" to mean the monetary value of the net benefits the Medicare program derives from implementing the suggestion.

In § 420.410(b), we specify that, as a general rule, we may make a payment to the suggester for suggestions we have adopted that increase efficiency and result in monetary savings to the Medicare program. However, in order to ensure that the suggestion program does not duplicate other Government incentive programs, we specify that we may make a monetary award only in instances in which an award is not otherwise provided by law. That is, if the suggestion furnished by the suggester qualifies for an award under another Government program, the suggester is not entitled to an award under this program.

This paragraph also specifies that we have the sole discretion to determine whether it is appropriate and desirable for us to adopt a particular suggestion, to make monetary payment for any adopted suggestion, and to select the method by which we will calculate the payment award.

We believe that the Congress intended that any individual, group of individuals or legal entity would be eligible to submit suggestions that improve Medicare program efficiency. For the reasons discussed below, we have chosen to exclude suggesters who have one of the relationships with the Federal Government described in § 420.410(d). Therefore, in § 420.410(c), we provide that, except as specified in § 420.410(d), any individual, group of individuals or legal entity is eligible to submit suggestions under this suggestion program and to be considered for a reward if the suggester submits the information in the prescribed manner discussed in § 420.410(e).

In § 420.410(d), we list who is ineligible to receive a reward under this suggestion program. Specifically, we provide that Medicare contractors, their officers and employees, individuals who work for Federal agencies under a contract, employees of Federally-sponsored research and demonstration projects, Federal officers and employees, and immediate family members of any of these groups of individuals, are not eligible for a reward under this suggestion program. The purpose of the exclusion is to prevent Federal employees, contractors, or grantees from personally profiting from information gained while doing public business. Suggestions made by Federal employees are covered under the Office

of Personnel Management policies and requirements for administering incentive award programs, which are set forth at 5 CFR Part 451. If, after the suggester receives an award, we later find that the suggester was ineligible, the recipient must refund the reward money.

To discourage submission of frivolous suggestions, we indicate in § 420.410(e) that suggesters must mail all suggestions in writing to us. This allows us to make a thorough and fair evaluation of all the relevant facts, to have an adequate record of the suggester's idea, to document the date the idea was sent to us, and to identify any redundancy or overlap with previously submitted suggestions. We will not accept oral suggestions because we could misconstrue them or have difficulty evaluating them. In addition, while we do not plan to develop a standardized format for submitting suggestions, we specify that written suggestions must include the following pertinent information:

- (1) A description of an existing problem or need;
- (2) A suggested method for solving the problem or filling the need; and
- (3) If known, an estimate of the savings potential that could result from implementing the suggestion.

This information will enable us to evaluate suggestions expeditiously, fairly, and uniformly. Suggestions that do not contain the above information will not be considered under this program. All suggestions must be mailed to Health Care Financing Administration, Suggestion Program, 7500 Security Blvd., Baltimore, Maryland 21224-1850.

In § 420.410(e), we also specify that any suggester wishing to receive an award for submitting a suggestion must provide us with a name, address, telephone number, and any other identifying information we request so that we can contact the suggester if we need additional information and, in appropriate cases, so that we can mail the reward payment. We also require all of the names constituting a group of suggesters, or the name of a legal entity and its representative. For example, when we deem it appropriate to pay a reward, we must request, for income tax purposes, the suggester's social security number or tax identification number.

We specify in § 420.410(f) that we evaluate all suggestions, as presented by the suggester, on the basis of originality, accuracy, feasibility, nature and complexity, estimated potential monetary savings to the Medicare program, the extent to which Medicare program efficiency would be improved

if we were to adopt the suggestion, and any other factors that appear to us to be relevant to a particular situation. If, in the final evaluation, we determine that the suggestion is likely to improve efficiency and result in monetary savings to the Medicare program, we will decide whether, all factors considered, it would be appropriate for us to adopt the suggestion. One of the major factors may be budget constraints at the time we complete our review of a suggestion. This constraint could preclude us from adopting the suggestion if it requires a significant outlay of funds to implement, even though it may be demonstrated that the Medicare program would realize savings in the long run. Also, we may choose to adopt a suggestion in part. We may adopt and reward a suggestion in part if the program would realize verifiable monetary savings from a partial adoption.

While it is our intention to evaluate suggestions as quickly as possible, some suggestions may require more processing time than others. The complexity of the suggestion, consideration of the feasibility of various implementation strategies, and our workload or manpower constraints make it difficult to specify how long it will take us to evaluate a suggestion. Therefore, we specify that the evaluation process will be concluded in a reasonable amount of time, not to exceed 2 years from the date we receive a suggestion, taking into consideration the complexity of the suggestion, the number of possible implementation strategies, and our current workload.

We indicate in § 420.410(g) that, should we choose to adopt a suggestion in its entirety, or a part of a suggestion, and issue monetary payment as a reward, the payment amount will be determined based either on the actual first-year net savings, or the average annual net savings expected to be realized over a period of not more than 3 years. In either case, (as we discuss later in § 420.410(h)(2)), we will not make the reward payment until the suggestion has been in operation for 1 year. We use the average annual net savings to calculate a reward payment if we expect that an improvement is likely to yield monetary savings for more than 1 year and implementation involves substantial costs, or we believe that monetary savings will be negligible in the first year but we expect them to substantially increase in subsequent years. We have the sole discretion in selecting the methodology for calculating net savings. In accordance with § 420.410(g)(2), the reward

payment amount will be calculated as follows:

- Net savings from \$1,000 to \$10,000—10 percent of the savings, with a minimum award amount of \$100 (that is, we will only pay awards that amount to \$100 or more).
- Net savings of \$10,001 to \$100,000—\$1,000 for the first \$10,000 of savings, plus 3 percent of the savings over \$10,000.
- Net savings of more than \$100,000, \$3,700 for the first \$100,000 of savings, plus 0.5 percent of the savings over \$100,000, not to exceed \$25,000.

Because we have successfully used this same payment calculation methodology to determine award amounts for Federal employees whose suggestions have resulted in monetary savings to the Medicare program, we have chosen to adopt this same process for this program.

In accordance with section 203(c) of HIPPA and as noted above in our discussion of § 420.410(b), we specify in § 420.410(h)(1) that we determine whether it would be appropriate and desirable for us to adopt or to reward a particular suggestion. If we receive the same or an overlapping suggestion from two or more unrelated parties, we will consider a reward only for the suggestion we received first, if the suggestion or overlapping part of the suggestion are identical, and we have adopted that part. If the suggestions are not identical, we will consider rewarding the suggestion we received first, if it is feasible and we have been able to adopt and implement the suggestion. If the first suggestion cannot be implemented, we may consider rewarding the suggestion we received next, even if it is similar, provided we can adopt and implement the suggestion.

We specify in § 420.410(h)(2) that payment will be mailed only after the suggestion has been in operation for 1 year.

We specify in § 420.410(i) that if a group of individuals submits a suggestion that we deem appropriate to reward, individuals in the group will receive an equal share of the award. If the suggestion is submitted by an organization, such as a corporation, partnership, or professional association, we will make a single reward payment to that organization.

We specify in § 420.410(j) that it is the suggester's responsibility to notify us of any change in the information required in § 420.410(e) above. If our mailed award is returned to us as "undeliverable" or "address unknown," the suggester has up to 1 year from the date of our notification letter to claim

the award. We have set this 1-year limitation to minimize the administrative burden associated with this program. We believe 1 year is a reasonable period of time to claim a monetary award that has been returned to us. In addition, the 1-year limitation protects the Government from the administrative and fiscal burden that would be associated with maintaining claims for a longer or indefinite period. Awards not claimed within 1 year from the date they were first mailed to the suggester will not be awarded. Also, no interest will be paid on awards for any reason.

We specify in § 420.410(k), that, if the suggester has become incapacitated or has died, an executor, administrator, or other legal representative may claim the award payment on behalf of the suggester or the suggester's estate. In order to protect participants from being defrauded by individuals falsely claiming to be their legal representatives, we state that the claimant must submit certified copies of letters testamentary, letters of administration, or other similar evidence to show his or her authority to claim the award payment. We also specify that the payment must be claimed within 1 year from the date on which we first mailed the award.

Finally, in § 420.410(l), we indicate that all records related to the administration of this suggestion program are retained in accordance with the regulations of the National Archives and Records Administration (36 CFR Part 1228). We state that no information submitted under this suggestion program will be disclosed, except as required by law.

## II. 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 comments in the preamble to that document.

## III. Regulatory Impact Analysis

### A. Introduction

We have examined the impact of this final rule as required by Executive Order 12866 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,

when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). 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 governmental agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of \$5 million or less annually. Individuals are not considered to be small entities.

Section 1102(b) of the Social Security Act requires us to prepare a regulatory impact analysis for any proposed rule that 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), we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds.

The Unfunded Mandates Reform Act of 1995 also requires (in section 202) that agencies prepare an assessment of anticipated costs and benefits before proposing any rule that may mandate an annual expenditure by State, local, or Tribal governments, in the aggregate, or by the private sector, of \$100 million or more. We believe that this proposed rule does not mandate such expenditures.

### B. Summary of the Final Rule

The final rule establishes a suggestion program as a means of (1) encouraging the submission of suggestions for improving the efficiency of the Medicare program and (2) rewarding those who make suggestions when we deem that it is appropriate and when a reward is not otherwise provided by law or prohibited by this program. The rule describes the program, lists information requirements and eligibility criteria, establishes a lower and an upper limit for payments, and outlines the process and time limitations we must follow in issuing a reward.

### C. Discussion of Impact

This rule is expected to affect beneficiaries and their personal representatives and advocates, providers, physicians, other suppliers, and managed care plans. Taxpayers, small rural hospitals, and the Medicare Trust Fund could also be impacted by this rule.

Beneficiaries as a group are expected to be impacted by this regulation in several ways. First, beneficiaries are often the first to recognize and question

provider and program practices. This knowledge may stimulate the formation of ideas for improvement in our program operations. This regulation encourages these individuals to share program improvement suggestions with us by (1) providing a clearly defined process for submitting information to the appropriate source and, (2) in appropriate cases, offering a monetary incentive to support the effort.

Advocates for beneficiaries and other private sector organizations have often shared ideas with agency components for improving the Medicare program. Some of these have been related to specific activities like proposed rulemaking and the development of program guidelines, and special committee recommendations. This regulation expands the opportunity for these individuals or their organizations to apply their creative energies to any and all aspects of the Medicare program for potential improvement. It is also likely that advocacy groups and other beneficiary representatives will view this regulation as supporting their efforts to identify areas for program improvement and bring their suggestions to our attention.

We expect a similar potential impact on business entities, providers, other suppliers, managed care organizations, small rural hospitals, and others. Overall we expect that all of these groups could benefit qualitatively from this rule. Many of these individuals and entities and the associations representing them have contributed ideas to us over the years in much the same way as the beneficiary advocacy groups. We believe that they are a valuable source of ideas about how to make the Medicare program more efficient, and the suggestion program provides them with a specific, ongoing mechanism for submitting these ideas to us. In addition, these groups could receive a monetary award for their suggestions.

Because this is a new program, we cannot predict at this time what effect any particular suggestion might have on a specific individual or entity; we have no way of knowing what kinds of suggestions we will receive or whether we will achieve any results if we adopt them. Also, this rule does not address the substance of any particular suggestions we may receive in the future; it simply describes the process by which individuals or entities can submit their ideas. Therefore, we cannot in any way predict the aggregate economic impact of any suggestions in which this rulemaking may result on any particular individual or entity, including small business entities, nor

can we estimate the savings to the Medicare Trust Fund, or the taxpayer. However, we anticipate that establishing the program described in this rulemaking will itself have a minimal economic impact.

#### D. Conclusion

We conclude that this final rule could ultimately lead to program improvements and money saved, and could help extend the solvency of the Medicare Trust Fund. Because the Medicare program is continually becoming more complex, we recognize the value of objective critiques by those who are most affected by the myriad of Medicare statutes, provisions, and guidelines.

Based on the above analysis we have determined and certify that this final rule would not have a significant economic impact on a substantial number of small entities. We also have determined and certify that this final rule would not have a significant impact on the operations of a substantial number of small rural hospitals. We are, however, inviting comments on whether this rule would have a significant impact on any of the groups listed in this section.

#### IV. Federalism

We have reviewed this notice under the threshold criteria of Executive Order 13132, Federalism. We have determined that it does not significantly affect the States rights, roles, and responsibilities.

#### V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on each of these issues for the

information collection requirement discussed below.

#### *Section 420.410 Establishment of a program to collect suggestions for improving Medicare program efficiency and to reward suggesters for monetary savings*

Section 420.410 establishes a program to collect suggestions for improving Medicare program efficiency and to reward some suggesters for monetary savings. The "respondents" for the collection of information described in these regulations will be self-selected individuals and entities that choose to submit suggestions.

*Section 420.410(e)* states that in order to be considered, the suggestion must be in writing, mailed to us and must include the following information:

- (1) A description of an existing problem or need;
- (2) A suggested method for solving the problem or filling the need; and
- (3) If known, an estimate of the savings potential that could result from implementing the suggestion. Any suggester interested in receiving a reward must provide us with a name, address, telephone number, and any other identifying information we may need to contact the suggester, if we require additional information and, where applicable, to mail the reward.

The burden associated with this requirement is the time and effort for the suggester to submit to us the information described above. It is estimated that this requirement will take each suggester 20 minutes. We anticipate 400 suggestions for a total of 134 burden hours.

*Section 420.410(j)* states that it is the suggester's responsibility to notify HCFA of any change of address or other relevant information.

We believe the above requirement is not subject to the PRA in accordance with 5 CFR 1320.3(c)(4) since this requirement does not collect information from ten or more persons on an annual basis. We have submitted a copy of this final rule with comment to OMB for its review of the information collection requirements described above. These requirements are not effective until they have been approved by OMB.

If you comment on any of these information collection and record keeping requirements, please mail copies directly to the following:

Health Care Financing Administration,  
Office of Information Services,  
Security and Standards Group,  
Division of HCFA Enterprise  
Standards, Room N2-14-26, 7500  
Security Boulevard, Baltimore, MD

21244-1850, Attn: Louis Blank,  
HCFA-4000-FC, and

Office of Information and Regulatory  
Affairs, Office of Management and  
Budget, Room 10235, New Executive  
Office Building, Washington, DC  
20503, Attn: Allison Eydt, HCFA Desk  
Officer.

#### VI. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking can be waived, however, if an agency finds good cause that notice-and-comment procedures are contrary to the public interest, and it incorporates a statement of the finding and its reasons in the rule issued.

Publishing this final rule expeditiously to supplement activities that identify and reduce the drain on the Medicare Trust Fund is in the public interest. Specifically, we anticipate that the implementation of this rule will encourage suggestions that will improve program efficiency and result in savings to the Medicare program.

We find good cause to waive notice-and-comment procedures for this final rule because it is in the public interest to establish this suggestion program as soon as possible to afford the general public the opportunity to submit their suggestions for program improvement. To employ notice-and-comment procedures would only delay potential program savings. We are providing a 60-day period for public comment.

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

#### List of Subjects in 42 CFR Part 420

Fraud, Health facilities, Health professions, Incentive programs, Medicare.

For the reasons set forth in the preamble, 42 CFR part 420 is amended as set forth below:

#### PART 420—PROGRAM INTEGRITY: MEDICARE

1. The authority citation for part 420 continues to read as follows:

**Authority:** Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

2. The heading of subpart E is revised to read as follows:

**Subpart E—Rewards for Information Relating to Medicare Fraud and Abuse, and Establishment of a Program to Collect Suggestions for Improving Medicare Program Efficiency and to Reward Suggesters for Monetary Savings**

3. Section 420.400 is revised to read as follows:

**§ 420.400 Basis and scope.**

This subpart implements sections 203(b) and (c) of Public Law 104–191, which require the establishment of programs to encourage individuals to report suspected cases of fraud and abuse and submit suggestions on methods to improve the efficiency of the Medicare program. Sections 203(b) and (c) of Public Law 104–191 also provide the authority for HCFA to reward individuals for reporting fraud and abuse and for submitting suggestions that could improve the efficiency of the Medicare program. This subpart sets forth procedures for rewarding individuals.

4. New § 420.410 is added to read as follows:

**§ 420.410 Establishment of a program to collect suggestions for improving Medicare program efficiency and to reward suggesters for monetary savings.**

(a) *Definitions.* As used in this section, the following definitions apply:

*Payment* means a monetary award given to a suggester in recognition of, and as a reward for, a suggestion adopted by HCFA that improves the efficiency of, and results in monetary savings to, the Medicare program.

*Savings* means the monetary value of the net benefits the Medicare program derives from implementing the suggestion.

*Suggester* means an individual, a group of individuals, or a legal entity such as a corporation, partnership, or professional association, not otherwise excluded under § 420.410(d), who submits a suggestion under this section.

*Suggestion* means an original idea submitted in writing.

*Suggestion program* means the specific procedures and requirements established by HCFA for receiving suggestions from the suggester on methods to improve the efficiency of the Medicare program, evaluating the suggestions and, if appropriate, paying a reward to the suggester for adopted suggestions that result in improved efficiency and produce monetary savings to the Medicare program.

(b) *General rule.* HCFA may make payment for adopted suggestions that increase the efficiency of the Medicare program and result in monetary savings.

HCFA only makes payment for suggestions in instances in which a reward is not otherwise provided by law. The determination to adopt a suggestion, to reward the suggester, and the method of calculating a reward are at the sole discretion of HCFA.

(c) *Eligibility.* Except as specified in paragraph (d) of this section, any individual, group of individuals or legal entity, such as a corporation, partnership or professional association, is eligible to submit a suggestion and be considered for a reward under this suggestion program if the suggestion is submitted to HCFA in the manner set forth in paragraph (e) of this section.

(d) *Exclusions.* Medicare contractors, their officers and employees, individuals who work for Federal agencies under a contract, employees of Federally-sponsored research and demonstration projects, Federal officers and employees, and immediate family members of these individuals, are excluded from receiving payment under the suggestion program. If, after the suggester receives a reward payment, HCFA determines that the suggester was ineligible to receive the reward, HCFA is not liable for the reward payment and the suggester must refund all monies received.

(e) *Requirements for submitting suggestions.*—(1) To be considered, the suggestion must be in writing, mailed to HCFA, and must include the following information:

- (i) A description of an existing problem or need;
- (ii) A suggested method for solving the problem or filling the need; and
- (iii) If known, an estimate of the savings potential that could result from implementing the suggestion.

(2) Suggestions must be mailed to: Health Care Financing Administration Suggestion Program, 7500 Security Blvd., Baltimore, Maryland 21244–1850.

(3) Any suggesters interested in receiving a reward must provide HCFA with the following information: An individual suggester must provide his or her name, a group of suggesters must provide the names of all the group members, and a legal entity must provide its name and the name of its representative. All suggesters must provide an address, telephone number, and any other identifying information that HCFA needs to contact the suggester for additional information and, where applicable, to mail the reward.

(f) *Evaluation process.*—(1) *Relevant factors.* HCFA evaluates all suggestions on the basis of the following factors:

- (i) Originality of suggestion.

- (ii) An estimate of potential monetary savings to the Medicare program.

- (iii) The extent to which Medicare program efficiency would be improved if HCFA adopts the suggestion.

- (iv) Accuracy of the information reflected in the suggestion.

- (v) Feasibility of implementation.

- (vi) Nature and complexity of the suggestion.

- (vii) Any other factors that appear to be relevant.

(2) *Evaluation time limit.* HCFA concludes the evaluation process in a reasonable amount of time, not to exceed 2 years from the receipt date, taking into consideration the complexity of the suggestion, the number of possible implementation strategies, and HCFA's current workload.

(g) *Basis for reward payment.*—(1) *General rule.* If HCFA determines that it is appropriate to make a reward payment for a suggestion adopted in whole or in part, that results in improved efficiency and monetary savings to the Medicare program, the payment is based on—

- (i) The actual first-year net savings to the Medicare program, or

- (ii) The average annual net savings to the Medicare program expected to be realized over a period of not more than 3 years if—

- (A) An improvement is expected to yield monetary savings for more than 1 year and implementation involves substantial costs; or

- (B) Monetary savings are negligible in the first year but are expected to substantially increase in subsequent years.

(2) *Reward payment amount.* HCFA determines the amount of a reward payment using the following formula:

- (i) Net savings from \$1,000 to \$10,000—10 percent of the savings, with a minimum award amount of \$100;

- (ii) Net savings of \$10,001 to \$100,000—\$1,000 for the first \$10,000 of savings, plus 3 percent of the net savings over \$10,000;

- (iii) Net savings of more than \$100,000—\$3,700 for the first \$100,000 of savings, plus 0.5 percent of savings over \$100,000, with a maximum award amount of \$25,000.

(h) *Adoption of suggestion and issuance of reward payment.*—(1) *Adoption.* Upon completing its evaluation, HCFA decides whether to adopt a suggestion. If HCFA receives the same or an overlapping suggestion from two or more unrelated parties, HCFA will consider a reward only for the suggestion HCFA received first, if the suggestion or overlapping part of the suggestion are identical, and HCFA has adopted that part. If the suggestions are

not identical, HCFA will consider rewarding the suggestion received first, if it is feasible and HCFA is able to adopt and implement the suggestion. If the first suggestion cannot be implemented, HCFA may consider rewarding the suggestion received next, even if it is similar, provided HCFA can adopt and implement the suggestion.

(2) *Issuance of reward payment.* After the reward payment amount is determined, as described in paragraph (g) of this section, HCFA mails payment to the suggester (or to the legal representatives referenced in paragraph (k) of this section) only after the suggestion has been in operation for 1 year.

(i) *Group suggestions.* When HCFA deems that a reward payment is appropriate for a suggestion submitted by a group of individuals, HCFA pays an equal share of the reward to each of the individuals identified in the group. If an organization such as a corporation, partnership, or professional association submits a suggestion, HCFA makes a single reward payment to that organization.

(j) *Change in name or address.* It is the suggester's responsibility to notify HCFA of any change of address or other relevant information. If the suggester fails to update HCFA on any change in this information, and the reward payment mailed to the suggester is returned to HCFA, the suggester must claim the reward payment by contacting HCFA within 1 year from the date HCFA first mailed the reward payment to the suggester. HCFA does not pay interest on rewards that, for any reason, are delayed or are not immediately claimed.

(k) *Incapacitated or deceased suggester.* If the suggester is incapacitated or has died, an executor, administrator, or other legal representative may claim the reward on behalf of the suggester or the suggester's estate. The claimant must submit certified copies of the letters testamentary, letters of administration, or other similar evidence to HCFA showing his or her authority to claim the reward. The claim must be filed within 1 year from the date on which HCFA first attempted to pay the reward to the individual who submitted the suggestion.

(l) *Maintenance of records*—(1) HCFA retains records related to the administration of the suggestion program in accordance with 36 CFR part 1228 (the regulations for the National Archives and Records Administration).

(2) HCFA does not disclose information submitted under the

suggestion program, except as required by law.

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

Dated: April 30, 1999.

**Nancy-Ann Min DeParle,**

*Administrator, Health Care Financing Administration.*

Dated: May 25, 1999.

**Donna E. Shalala,**

*Secretary.*

[FR Doc. 99-30678 Filed 11-24-99; 8:45 am]

**BILLING CODE 4120-01-P**

## **CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

### **45 CFR Part 2505**

**RIN 3045-AA21**

### **Rules Implementing the Government in the Sunshine Act**

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Final rule.

**SUMMARY:** These rules implement provisions of the Government in the Sunshine Act (Sunshine Act), which applies to meetings of the Board of Directors of the Corporation for National and Community Service (the Corporation).

**DATES:** The final rules are effective December 27, 1999.

**FOR FURTHER INFORMATION CONTACT:** Frank Trinity, Associate General Counsel, Corporation for National and Community Service, (202) 606-5000, ext. 256. T.D.D. (202) 565-2799. This rule may be requested in an alternative format for persons with visual impairments.

**SUPPLEMENTARY INFORMATION:** On May 11, 1999 (64 FR 25260), we published a proposed rule to implement provisions of the Sunshine Act, soliciting comments from the public for 60 days, ending July 12, 1999. We did not receive any comments. The information we provided in the proposed rule document still provides the basis for this final rule. Therefore, based on the rationale explained in the proposed rule document, we are adopting the provisions of the proposed rule as a final rule with no changes.

### **Executive Order 12866**

The Corporation has determined that this regulatory action is not a "significant" rule within the meaning of Executive Order 12866 because it is not likely to result in: (1) an annual effect

on the economy of \$100 million or more, or an adverse and material effect on a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal government or communities; (2) the creation of a serious inconsistency or interference with an action taken or planned by another agency; (3) a material alteration in the budgetary impacts of entitlement, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) the raising of novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in Executive Order 12866.

### **Regulatory Flexibility Act**

The Corporation has determined that this regulatory action will not result in (1) an annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. Therefore, the Corporation has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for major rules that are expected to have such results.

### **Other Impact Analyses**

Because this regulatory action does not authorize any information collection activity it is not subject to review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3500 *et seq.*).

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531-1538, as well as Executive Order 12875, this regulatory action does not contain any federal mandate that may result in increased expenditures in either Federal, State, local, or tribal governments in the aggregate, or impose an annual burden exceeding \$100 million on the private sector.

This regulatory action does not establish requirements that will adversely affect the Year 2000 readiness of organizations supported under the national service laws.

### **List of Subjects in 45 CFR Part 2505**

Sunshine Act.