

State that seeks to administer and enforce the requirements established by the Agency under section 402 of TSCA must submit to the Administrator a request for authorization of such a program. The proposed rule originally provided a 90-day public comment period. In response to requests by interested parties to extend the public comment period by 90 days, EPA announced on July 22, 1998 (63 FR 39262) (FRL-6017-4) that it was extending the public comment period by 30 days, until October 1, 1998. The Agency did not grant the request for the full 90 days because, at the time, it felt that a 120-day comment period was adequate. EPA, however, continues to receive requests to extend the comment period. Given the complexity of the proposed rule and the number of requests that the Agency has and continues to receive, EPA now believes that an extension of the public comment period is warranted. The Agency, therefore, is extending the public comment period by 60 days, until November 30, 1998.

II. Public Record and Electronic Submissions

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number OPPTS-62156B (including comments and data submitted electronically as described in this unit). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE-B607, 401 M St., SW., Washington, DC.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPPTS-62156B. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substances, Lead-based paint, Lead

poisoning, Reporting and recordkeeping requirements.

Dated: September 29, 1998.

William H. Sanders, III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 98-26476 Filed 9-29-98; 2:28 pm]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 416 and 488

[HCFA-1885-2N]

RIN 0938-AH81

Medicare Program; Update of Ratesetting Methodology, Payment Rates, Payment Policies, and the List of Covered Procedures for Ambulatory Surgical Centers Effective October 1, 1998; Reopening of Comment Period and Delay in Adoption of the Proposed Rule as Final

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

ACTION: Notice of reopening of comment period for proposed rule and delay in adoption of provisions of the proposed rule as final.

SUMMARY: This notice reopens the comment period for a proposed rule affecting Medicare payments to ambulatory surgical centers (ASCs) that was originally published in the **Federal Register** on June 12, 1998 (63 FR 32290). This document gives notice of a delay in the adoption of the provisions of the June 12, 1998 ASC proposed rule as a final rule to be concurrent with the adoption as final of the hospital outpatient prospective payment system (PPS) that is the subject of a proposed rule published in the **Federal Register** on September 8, 1998 (63 FR 47551). In addition this document confirms that the current ASC payment rates that are effective for services furnished on or after October 1, 1998, will remain in effect until rebased ASC rates and the provisions of the June 12, 1998 ASC proposed rule are adopted as final to be concurrent with the adoption as final of the Medicare hospital PPS.

DATES: The comment period is reopened to 5 p.m. on November 9, 1998.

ADDRESSES: Mail written comments (one original and three copies) to the following address: Health Care Financing Administration, Department of Health and Human Services,

Attention: HCFA-1885-P, P.O. Box 26688, Baltimore, MD 21207-5178.

If you prefer, you may deliver your written comments (one original and three 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, Central Building, 7500 Security Boulevard, Baltimore, MD 21244-1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA-1885-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 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 comments that relate to information collection requirements, mail a copy of comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Attn: Allison Herron Eydt, HCFA Desk Officer.

FOR FURTHER INFORMATION CONTACT: Joan H. Sanow (410) 786-5723.

SUPPLEMENTARY INFORMATION: On June 12, 1998, we issued a proposed rule in the **Federal Register** (63 FR 32290) that would—

- Update the criteria for determining which surgical procedures can be appropriately and safely performed in an ambulatory surgical center (ASC);
- Make additions to and deletions from the current list of Medicare covered ASC procedures based on the revised criteria;
- Rebase the ASC payment rates applying cost, charge, and utilization data collected by a 1994 survey of ASCs to a clinically coherent ambulatory payment classification (APC) system of grouping procedures;
- Refine the ratesetting methodology that was implemented by a final notice published on February 8, 1990 in the **Federal Register**;
- Require that ASC payment, coverage, and wage index updates be implemented annually on January 1, rather than having these updates occur randomly throughout the year;
- Reduce regulatory burden; and
- Make several technical policy changes.

The proposed rule would also implement requirements of section

1833(i)(1) and (2) of the Social Security Act (the Act). We indicated that comments would be considered if we received them by August 11, 1998.

Representatives of numerous industry and professional associations and organizations requested additional time to analyze the June 12, 1998 ASC proposed rule to determine its impact on ASCs, physician practices, and hospitals and to allow comparison of the ASC proposed rule with the outpatient PPS rule. We agreed to extend the comment period an additional 30 days, to September 10, 1998.

Members of trade and professional associations also strongly urged us to postpone implementing the changes contained in the June 12, 1998 ASC proposed rule from October 1, 1998 to January 1, 1999, to coincide with implementation of the hospital outpatient prospective payment system (PPS) authorized by the Balanced Budget Act of 1997. They based their argument for delaying implementation of the ASC changes both on the need for more time for cross-analysis of the ASC proposed rule with the hospital outpatient PPS proposed rule and the overlap and interrelationship between the two payment systems.

On September 8, 1998, a proposed rule outlining the provisions of a Medicare prospective payment system for hospital outpatient services was published in the **Federal Register** (63 FR 47551).

The ambulatory payment classification (APC) system introduced in the June 12, 1998 ASC rule is the same classification system we used to set rates that are proposed for surgical services in the September 8, 1998 hospital outpatient PPS rule. In both rules, we explicitly propose a method of setting payment rates for ASC services and for hospital outpatient surgical services that is as consistent as possible, within the constraints imposed by statutory requirements. When we drafted these proposed rules, we did so with the intent of using APC groups as the basis for setting payment rates for surgical services furnished at ASCs to coincide with using APC groups as the basis for prospectively setting payment rates for surgical services furnished in hospital outpatient settings. We assumed that implementation of APCs and the other provisions of the June 12, 1998 ASC proposed rule would be approximately concurrent with implementation on January 1, 1999 of a hospital outpatient prospective payment system and would replace the payment blend required for hospital services

under the provisions of section 1833(i)(3) of the Act.

However, when we projected these implementation dates, we did not take into account the emergent challenges posed by year 2000 issues that are now compelling us to delay implementation of some Medicare program changes in order to assure that health care services for Medicare beneficiaries are not affected by computer failures on January 1, 2000. The outpatient PPS is one of the program changes affected by HCFA's Millennium ("Y2K") compliance project, and, as we explain in the September 8, 1998 proposed rule, the outpatient PPS is now scheduled for implementation as soon as possible after January 1, 2000.

Given the delay in publication of the hospital outpatient PPS proposed rule and our having to postpone for a year or more implementation of the hospital outpatient PPS; given our efforts to relate to the maximum possible extent the provisions of the June 12, 1998 ASC proposed rule with the new hospital outpatient PPS; and given the concerns expressed by members of trade and professional organizations about the financial and systems impact of implementing the provisions of the June 12, 1998 ASC proposed rule separately from implementing the hospital outpatient PPS, we have decided upon the following course of action.

- We are reopening the comment period for the ASC proposed rule. The comment period for the ASC proposed rule published on June 12, 1998, entitled "Medicare Program; Update of Ratesetting Methodology, Payment Rates, Payment Policies, and the List of Covered Surgical Procedures for Ambulatory Surgical Centers Effective October 1, 1998" (HCFA-1885-P), is hereby reopened until 5:00 pm on November 9, 1998, concurrent with the end of the comment period for the hospital outpatient PPS proposed rule that was published on September 8, 1998.

- There is considerable, intentional overlap between the payment system for surgical services contained in the June 12, 1998 ASC proposed rule and the payment system for surgical services contained in the September 8, 1998 hospital outpatient PPS proposed rule. We envisioned that implementation of the former would coincide with implementation of the latter. Hospitals are concerned about the impact on their systems of implementing APCs for ASCs without their also implementing APCs for hospital outpatient services. Given the overlap and close relationship between the two payment systems, and the unknown effect of implementing the changes proposed in the June 12, 1998

notice for ASCs, without concurrently implementing the changes proposed in the September 8, 1998 hospital outpatient PPS notice, we are delaying implementation of the provisions of the June 12, 1998 ASC proposed rule until such time as the provisions of the September 8, 1998 hospital outpatient PPS proposed rule are implemented. This means that implementation of the rebased ASC rates using 1994 ASC survey data, of the APC groups, of the additions to and deletions from the ASC list, and of the other technical policy and regulatory changes proposed in the June 12, 1998 are all deferred, pending implementation of the hospital outpatient PPS as early as possible after January 1, 2000.

- During years in which the Secretary has not otherwise updated ASC rates based on a survey of actual audited costs, section 1833(i)(2)(C) of the Act requires application of an inflation adjustment. Section 4555 of the Balanced Budget Act of 1997 amends section 1833(i)(2)(C) of the Act to require that the inflation adjustment be the percentage increase in the consumer price index for all urban consumers (CPI-U) as estimated by the Secretary for the 12-month period ending with the midpoint of the year involved, reduced (but not below zero) by 2.0 percentage points in each of the fiscal years 1998 through 2002. Based on estimates prepared by Data Resources, Inc./ McGraw Hill, the rate of increase in the CPI-U forecast for the fiscal year that ends March 31, 1999 is 2.1 percent. Reducing the CPI-U factor by 2.0 percentage points results in an adjustment factor of 0.1 percent. Because applying this factor to the current ASC rates yields a negligible change of less than \$1 for each of the payment groups, we elected to keep the current ASC rates in effect for services furnished on or after October 1, 1998 and until rebased ASC rates and other provisions of the June 12, 1998 ASC proposed rule are implemented to be concurrent with implementation of the hospital outpatient PPS. The ASC payment rates for services furnished on or after October 1, 1998 are as follows. These rates remain in effect until rebased ASC rates are implemented concurrent with implementation of the hospital outpatient PPS.

Group 1—\$314
 Group 2—422
 Group 3—482
 Group 4—595
 Group 5—678
 Group 6—789 (\$639+\$150 for IOL)
 Group 7—941
 Group 8—928 (\$778+\$150 for IOL)

- Carriers will continue using the same fiscal year 1998 wage index values that they are using currently to standardize ASC payment rates for wage differences, for services furnished on or after October 1, 1998 and until rebased ASC rates are implemented to be concurrent with implementation of the Medicare outpatient PPS.

- Additions to and deletions from the ASC list (other than procedure codes deleted by the American Medical Association from Physicians' Current Procedural Terminology (CPT)) are deferred until APC groups are implemented as the basis for setting payment rates for ASC services, to be concurrent with implementation of APC groups under the hospital outpatient PPS proposed in the September 8, 1998 Federal Register.

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).
(Catalog of Federal Domestic Assistance No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 10, 1998.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

Dated: September 22, 1998.

Donna E. Shalala,

Secretary.

[FR Doc. 98-26249 Filed 9-30-98; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94-102; DA 98-1936]

Compatibility of Wireless Services With Enhanced 911

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission seeks additional comment in wireless Enhanced 911 (E911) rulemaking proceeding with respect to an *ex parte* presentation filed by Ad Hoc Alliance for Public Access to 911 (Alliance) on September 17, 1998. In its *ex parte* filing and its accompanying engineering report, Alliance has presented an approach under which the Commission would require that, if the signal from the user's provider is "inadequate" at the time a 911 call is placed through the use of an analog cellular handset, then the handset must have the capability to select automatically the strongest available compatible channel of

communications for purpose of completing the 911 call. Additional comment is sought to assist the Commission in determining whether to adopt the approach presented by the Alliance in its September 17 *ex parte* filing. The effect of adopting the Alliance approach would be to improve reliability of 911 services to wireless customers.

DATES: Comments must be filed on or before October 7, 1998 and reply comments must be filed on or before October 19, 1998.

ADDRESSES: Federal Communications Commission, 1919 M St. N.W. Room 222, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT: Won Kim, Policy Division, Wireless Telecommunications Bureau, (202) 418-1310.

SUPPLEMENTARY INFORMATION: On September 17, 1998, Ad Hoc Alliance for Public Access to 911 (Alliance) filed an *ex parte* presentation in the wireless Enhanced 911 (E911) rulemaking proceeding.¹ 61 FR 40348, 40374 (August 2, 1996), 63 FR 2631 (January 16, 1998), accompanied with an engineering report prepared by the Trott Communications Group (Trott). In addition, a letter addressing the Alliance *ex parte* filing was jointly submitted to the Commission on September 21, 1998, by the Association of Public-Safety Communications Officials-International, Inc. (APCO) and the National Association of State Nine-One-One Administration (NASNA). A separate letter addressing the Alliance *ex parte* filing was submitted to the Commission on September 22, 1998, by the National Emergency Number Association (NENA). The full text of the Alliance *ex parte* presentation, its accompanying Trott report, and the letters filed by APCO, NASNA, and NENA are available for inspection and duplication during regular business hours in the FCC Reference Center, Federal Communications Commission, 1919 M Street, N.W., Room 239, Washington, D.C. 20554. Copies may also be obtained from International Transcription Service, Inc. (ITS), 1231 20th Street, N.W., Suite 140, Washington, D.C. 20036, (202) 857-3800.

Pursuant to Section 1.415(d) of the Commission's Rules, 47 CFR. 1.415(d),

¹ See Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Report and Order and Further Notice of Proposed Rulemaking, 11 FCC Rcd 18676 (1996) (E911 First Report and Order) (E911 Second NPRM); Memorandum Opinion and Order, 12 FCC Rcd 22665 (1997).

the Commission seeks additional comment in the wireless Enhanced 911 (E911) rulemaking proceeding with respect to an *ex parte* presentation filed by Alliance on September 17, 1998. In its *ex parte* filing, Alliance has presented an approach under which the Commission would require that, if the signal from the user's provider is "inadequate" at the time a 911 call is placed through the use of an analog cellular handset, then the handset must have the capability to select automatically the strongest available compatible channel of communication for purposes of completing the 911 call. Alliance also has provided the Commission with an engineering report regarding the minimum level of signal strength at the cellular handset considered necessary for "good" communication.

In the wireless E911 rulemaking proceeding, the Commission established rules requiring wireless carriers to implement basic 911 and E911 services. One of the important issues in the E911 Second NPRM concerned the Alliance proposal to require that all 911 calls be sent to the cellular system with the strongest control channel signal.² To address issues raised by Alliance's strongest signal proposal, the Wireless E911 Implementation Ad Hoc Committee (WEIAD) recommended to the Commission, in an *ex parte* report, the use of an "A over B," or "B over A" option in the case of all analog cellular phones.³ Public safety organizations have expressed concerns about Alliance's original proposal because, they have maintained, the strongest signal would be selected even if there is a reliable communications channel available from the user's provider.⁴

In its *ex parte* filing, Alliance states that it commissioned a report by Trott to address two aspects of its proposed solution. Trott has recommended a signal strength threshold of -80 dBm as being necessary to establish and maintain a "good" channel of communication between a handset and the cellular system. Trott also has concluded that minimal effort and cost would be required to provide handsets with the capability to make such a threshold determination and to enable strongest compatible signal selection

² See E911 Second NPRM, 11 FCC Rcd at 18746-48 (paras. 144-148).

³ See Report of the Cellular Telecommunications Industry Association (CTIA), the Personal Communications Industry Association (PCIA), APCO, NENA, NASNA, and Alliance, filed Jan. 30, 1998 (1997 E911 Annual Joint Status Report).

⁴ See Public Safety Organizations (NENA, APCO, NASNA) response to Alliance's January 27, 1998, Trott Communications Group Report, filed Feb. 23, 1998.