2. Line 2: ''PER FLTS WKG W FCM'' or ''NEWS FLTS WKG W FCM,'' as applicable.

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Neva R. Watson,

Attorney, Legislative.

[FR Doc. E6–8091 Filed 5–25–06; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 403

[CMS–4005–F]

RIN 0938–AJ67

Medicare Program; State Health Insurance Assistance Program (SHIP)

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

ACTION: Final rule.

SUMMARY: This rule adopts as final the provisions in the interim final regulation that published June 1, 2000, which explain the terms and conditions that apply to State grants for counseling and assistance to Medicare beneficiaries, and makes several minor technical clarifications.

DATES: These regulations are effective June 26, 2006.

FOR FURTHER INFORMATION CONTACT: Eric Lang, 410–786–3199.

SUPPLEMENTARY INFORMATION:

I. Background

A. Omnibus Budget Reconciliation Act of 1990

Section 4360 of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101–508, as amended, requires us to make grants to States for health insurance advisory service programs for Medicare beneficiaries. (By regulation, we have defined the term ''State'' or ''States'' to include the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.) Grants are available to provide information, counseling, and assistance relating to Medicare, Medicaid, Medicare supplemental policies, long-term care insurance, and other health insurance benefit information. This funding program is known as the State Health Insurance Assistance Program (SHIP).

For a detailed discussion of the regulatory background, please see the preamble section of the interim final rule with comment (65 FR 34983).

B. BBA and MMA

The preamble to the interim final regulation noted that amendments to the Social Security Act (the Act) provided an additional funding source for SHIP. On August 5, 1997, the Act was amended by the Balanced Budget Act of 1997 (the BBA), which established a new Part C of the Medicare program, sections 1851 through 1859 of the Act. Part C was known at that time as the Medicare+Choice (M+C) program. The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (''Medicare Modernization Act,'' or MMA) changed the name of Part C to the ''Medicare Advantage program,'' and added a new Part D of the Medicare program, section 1860D–1 through 1860D–42 of the Act, known as the Voluntary Prescription Drug Benefit Program.

Section 1851(d)(1) of the Act, ''Providing information to promote informed choice,'' requires us to provide for activities to broadly disseminate information to Medicare beneficiaries (and prospective Medicare beneficiaries) on available MA coverage options in order to promote an active, informed selection among these options. Section 1857(e)(2)(A) of the Act, ''Cost-sharing in enrollment-related costs,'' authorizes us to charge and collect an administration or user fee from MA organizations for the purpose of administering this information dissemination program.

Section 1860D–1(c) of the Act requires us to conduct similar activities to disseminate information about the Part D prescription drug benefit, in coordination with the activities under the Medicare Advantage program. Section 1860D–12(b)(3)(D) of the Act specifically incorporates section 1857(e)(2), giving us authority to charge user fees to sponsors of prescription drug plans under Part D.

Any amounts collected in accordance with section 1857(e)(2) of the Act are available for the purpose of carrying out section 1851 (relating to enrollment and dissemination of Medicare Advantage information), section 1860D–1(c) (Medicare prescription drug coverage), and section 4360 of OBRA '90 (SHIP).

II. Provisions of the Interim Final Regulation

On June 1, 2000, we published an interim final rule with comment that amended our regulations at 42 CFR part 403 to provide for a two-tiered approach for making grants under SHIP. Section 403.504(a) was revised to provide that for aggregate annual expenditures of up to $10 million, grants would be made according to the existing procedures set forth in § 403.504. That is, each eligible State will receive a fixed as well as variable amount as set forth in § 403.504(b) and § 403.504(c) of that section. We stated that we plan to continue to fund this first tier of grants from our program management budget and through any congressional appropriations made for the purpose of implementing this program.

With respect to the second tier, the interim final rule provided that any grants that exceed a total of $10 million annually will be made at our discretion according to criteria that will be communicated to States through the grant solicitation process (see revised § 403.504(a)). For example, in prior periods, second tier grants have been based on criteria such as the number of managed care enrollees or the number of low-income beneficiaries in each State. We decided to notify States of the criteria for awarding the grants rather than publish specific criteria in our regulations to give us the flexibility required by the dynamic nature of the health care industry.

The original legislation that created the SHIP, section 4360 of OBRA '90, directed that beneficiaries be informed about their rights and options in regard to Medicare supplemental (Medigap) insurance. After that section was enacted, changes such as Medicare reform, the implementation of Part C of the Medicare Program (known at the time as the ''Medicare+Choice'' program and since renamed the ''Medicare Advantage'' program), and ongoing consolidation within the managed care industry had greatly increased beneficiaries' choices. This created a need for sources of accurate and unbiased information to allow beneficiaries to make informed choices. Greater choice for beneficiaries and specific statutory changes required SHIPs to modify, and in many instances expand, the size of their programs and the scope of services they provide.

The interim final rule revised § 403.502, Availability of grants, to clarify that we award grants to States subject to fund availability, and if applicable, subject to the satisfactory progress in the State's project during the preceding grant period.

We revised § 403.504(a) to specify that, for available grant funds, up to and including $10,000,000, grants will be apportioned to States according to the grant award process currently in place. In addition, we revised § 403.504(b) to highlight the availability of funds as a condition of award.

We revised § 403.508(a) to emphasize the fact that States receiving grants under this subpart must use the grant money in accordance with the terms and conditions specified in the notice of grant award.

III. Analysis of and Responses to Public Comments

We received no public comments on the interim final rule. Therefore, we are adopting the provisions as final without change.

IV. Provisions of the Final Regulations

This final rule incorporates all of the provisions of the interim final rule.

• We revised Secs. 403.502 and 403.504 to change ''HCFA'' to ''CMS.''

V. Collection of Information Requirements

This final rule does not impose any information collection and recordkeeping requirements that are subject to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995.

VI. Regulatory Impact Statement

We have examined the impact of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), and Executive Order 13132.

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 1 year). This rule does not reach the economic threshold and thus is not considered a major rule.

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 small governmental jurisdictions. 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 rule will not have a significant economic 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 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Core-Based 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 rule will 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 whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $120 million. This rule will have no consequential effect on State, local, or tribal governments 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. Since this regulation does not impose any costs on State or local governments, the requirements of E.O. 13132 are not applicable.

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

List of Subjects in 42 CFR Part 403

Health insurance, Hospitals, Intergovernmental relations, Medicare, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

PART 403—SPECIAL PROGRAMS AND PROJECTS

■ 1. The authority citation for part 403 continues to read as follows:

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

■ 2. Section 403.502 is revised to read as follows:

§ 403.502 Availability of grants.

CMS awards grants to States subject to availability of funds, and if applicable, subject to the satisfactory progress in the State's project during the preceding grant period. The criteria by which progress is evaluated and the performance standards for determining whether satisfactory progress has been made are specified in the terms and conditions included in the notice of grant award sent to each State. CMS advises each State as to when to make application, what to include in the application, and provides information as to the timing of the grant award and the duration of the grant award. CMS also provides an estimate of the amount of funds that may be available to the State.

■ 3. Section 403.504 is amended by—

■ A. Revising paragraph (a); and

■ B. Revising paragraph (b) introductory text.

The revisions read as follows:

§ 403.504 Number and size of grants.

(a) *General.* For available grant funds, up to and including $10,000,000, grants will be made to States according to the terms and formula in paragraphs (b) and (c) of this section. For any available grant funds in excess of $10,000,000, distribution of grants will be at the discretion of CMS, and will be made according to criteria that CMS will communicate to the States via grant solicitation. CMS will provide information to each State as to what must be included in the application for grant funds. CMS awards the following type of grants:

(1) New program grants.

(2) Existing program enhancement grants.

(b) *Grant award.* Subject to the availability of funds, each eligible State that submits an acceptable application receives a grant that includes a fixed amount (minimum funding level) and a variable amount.

* * * * *

■ 4. Section 403.508(a) is revised to read as follows:

§ 403.508 Limitations.

(a) *Use of grants.* Except as specified in paragraph (b) of this section, and in the terms and conditions in the notice of grant award, a State that receives a grant under this subpart may use the grant for any reasonable expenses for planning, developing, implementing, and/or operating the program for which the grant is made as described in the solicitation for application for the grant.

* * * * *

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

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

Dated: January 26, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Approved: February 16, 2006.

Michael O. Leavitt,

Secretary.

[FR Doc. 06–4816 Filed 5–25–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 5420

[WO–270–1820–00–24 1A]

RIN 1004–AD70

Preparation for Sale

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Land Management (BLM) amends its regulations on preparation for timber sales to allow third party scaling on density management sales with an upper limit on the quadratic mean diameter at breast height (DBH) of the trees to be harvested of 20 inches. Third party scaling will be limited to the situations described in the amended provision, that is, if a timber disaster has occurred and a critical resource loss is imminent, and tree cruising and BLM scaling are inadequate to permit orderly disposal of the damaged timber, or if BLM is carrying out density management timber sales subject to the size limits stated above. Thus, third party scaling will generally not be used for sales of higher-value and/or larger diameter timber. BLM is amending the regulations in order to improve the efficiency of density management timber sales where the timber to be harvested may be designated by prescription (a written prescription included in the timber sale contract). The regulations will no longer require that BLM perform all scaling except in the event that a timber disaster is threatening imminent critical resource loss and scaling by BLM would be inadequate to permit orderly disposal of the damaged timber. In the case of density management timber sales when the quadratic mean DBH of trees to be cut and removed is equal to or less than 20 inches, the regulations will only allow third party scaling by scalers or scaling bureaus under contract to BLM.

DATES: *Effective Date:* June 26, 2006.

ADDRESSES: Inquiries or suggestions should be sent to Director (270), Bureau of Land Management, Eastern States Office, 7450 Boston Boulevard, Springfield, Virginia 22153, Attention: RIN 1004–AD70.

FOR FURTHER INFORMATION CONTACT: For technical questions about the rule, contact Lyndon Werner at (503) 808–6071 or Scott Lieurance at (202) 452–0316. For procedural questions about the rulemaking process, contact Ted Hudson at (202) 452–5042. Persons who use a telecommunications device for the deaf (TDD) may contact these persons through the Federal Information Relay Service (FIRS) at 1–800–877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Background

BLM Districts have been testing different methods of selling timber, such as Designation-by-Prescription (DxP), attempting to gain efficiencies, especially with a program comprised of substantially more density management and small logs than was historically the case. This testing has revealed that the gain in efficiency by using such methods is lost due to the regulatory requirement that BLM personnel conduct all the scaling if a DxP sale is scale as opposed to lump sum. Otherwise, scale DxP sales can be more efficient in certain situations (small diameter density management).

43 CFR 5422.1 states: ''[a]s the general practice, the Bureau will sell timber on a tree cruise basis,'' which means lump-sum sales. Section 5422.2(a) states: ''[s]caling by the Bureau will be used from time to time for administrative reasons.'' Lump-sum sale is the default. There must be an interest-of-the-Government reason to conduct a scale sale.

43 CFR 5422.2(b) allows third party scaling when all of three conditions are met:

(1) A timber disaster has occurred;

(2) A critical resource loss is imminent; and

(3) Lump-sum timber measurement practices are inadequate to permit orderly disposal of the damaged timber.

Regular commercial density management sales obviously do not meet these conditions. The definition of third party scaling found in 43 CFR 5400.0–5 is ''the measurement of logs by a scaling organization, other than a Government agency, approved by the Bureau.'' This includes the non-governmental scaling bureaus that normally contract with purchasers to scale in mill yards. BLM does contract with these scaling bureaus to scale for administrative check scales.

Historically, BLM timber sales, particularly in western Oregon, were clearcuts of high-value large timber. Log accountability was the principal reason for the aforementioned regulations limiting scale sales and third party scaling. These provisions are intended to minimize the potential for log theft.

Today's sale program, however, has a considerable component of density management sales in lower-value, smaller-log situations that meet one or more of the following objectives: Growth enhancement, habitat restoration, or fuels/fire hazard reduction. Density management sales are timber sales intended to accomplish these objectives by removing smaller trees and understory that may inhibit growth or forest health or contribute to fuel buildup. In addition, density management sales intended to enhance wildlife habitat may remove some dominant and co-dominant trees in the forest stand to enhance biological diversity. Smaller logs cannot be efficiently and effectively truck scaled. Scaling in the mill yards as trucks are unloaded is faster and more accurate.

II. Discussion of Public Comments

We published the proposed rule on November 17, 2005 (70 FR 69714). The comment period for the proposed rule closed on January 17, 2006. During the comment period, we received 4 public comments on the proposed rule.

One comment expressed general opposition to third party scaling, stating that it would be a way to let profiteers cheat U.S. citizens who own the public lands even more than they do now. The comment went on to criticize the Mining Law of 1872.

We have not changed the final rule in response to this comment. As we stated in the preamble to the proposed rule, third party scaling will provide flexibility in marketing and selling small diameter timber sales. This will be highly cost-effective for BLM and timber sale purchasers alike. The change to allow third party scaling of timber sales will lead to a dramatic efficiency improvement for the Bureau and timber sale purchasers when timber disasters threaten imminent resource loss. Ultimately, with third party scaling, BLM will receive higher timber payments for timber sold—as compared to the current regulation that precludes third party scaling. The current regulation is unnecessarily costly, inefficient, and affords no greater