

Secretary has the authority to prescribe regulations as may be necessary to administer the Medicare program. It is under these statutory authorities that we propose to change the Medicare regulations to allow a party to request a review of a Part B initial claim determination by telephone or by electronic transmission.

We propose to revise § 405.807 (Review of Initial Determination) as follows:

- Redesignate existing paragraph (d) as new paragraph (b) and remove the words "in writing" from newly redesignated paragraph (b).
- Redesignate existing paragraph (b) as paragraph (c) and revise it to allow the additional methods of telephone and electronic transmission for a party (other than a PRO) to request a review of an initial determination by a carrier.
- Redesignate existing paragraph (c) as paragraph (d) and revise it to allow for a period of 150 days after the date of the notice of the initial determination for a party to telephone the carrier and request a review.
- Add new paragraph (e) to clarify that a beneficiary, provider, or attending practitioner who is dissatisfied with a PRO initial determination may request a review of an initial determination only in writing.

VI. Collection of Information Requirements

Section 405.807 of this document contains information collection and recordkeeping requirements that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). These reporting and recordkeeping requirements are not effective until a notice of OMB's approval is published in the **Federal Register**. This proposed rule would impose minimal recordkeeping requirements. We would require carriers to assign a confirmation number to a party that initiates a request for review by telephone. The party would be given the confirmation number by the person who received his or her telephone request. We anticipate that the confirmation number would be the same number the carrier uses as its internal control number/documentation number (usually a 13-digit number). If this can be done, there would not be any additional recordkeeping on the carrier's part. The carrier is already assigning this number and recording it.

The party who would be given the confirmation number would have to record the number. This number would confirm that the party timely filed a request should that become an issue

later. The confirmation number would assist the carrier in locating its record of the telephone request. It would take less than one minute for the carrier to assign and record the confirmation number and the same for the party to record the confirmation number. While providing a confirmation number serves as additional protection for the party, loss of the number would not affect access to the appeal process and/or appeal records. Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements should direct them to the OMB official whose name appears in the **ADDRESSES** section of this preamble.

VII. Response to Comments

Because of the large number of items of correspondence we normally receive on Federal Register documents published for comments, 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.

VIII. Regulatory Impact Statement

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless we certify that a rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, carriers and beneficiaries are not considered to be small entities. We consider all providers, physicians, and other suppliers to be small entities. Under this proposed rule, beneficiaries, providers, and physicians and other suppliers may request a review of an initial claim determination by telephone or through electronic transmission. This review is the first level of appeal for Part B claims and is performed by carrier staff who had no part in making the initial determination. This review, without the presence of oral testimony by the appellant party, is considered to be less costly to all parties and is a more expeditious way of handling complaints than a hearing.

Section 1102(b) of the Act requires us to prepare a regulatory impact statement if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. Such an 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 50 beds.

We are not preparing a regulatory impact statement since we have determined, and we certify, that this rule would not have a significant economic impact on the operations of a substantial number of small rural hospitals.

In accordance with the provisions of Executive Order 12866, this proposed rule was not reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 405 would be amended as follows:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. The authority citation for part 405, subpart H is revised to read as follows:

Authority: Secs. 205(a), 1102, 1842(b)(3)(C), 1869(b), and 1871, and 1872 of the Social Security Act, as amended. (42 U.S.C. 405(a), 1302, 1395u(b)(3)(C), 1395ff(b), 1395hh and 1395ii.)

Subpart H—Appeals Under the Medicare Part B Program

2. Section 405.807 is revised to read as follows:

§ 405.807 Review of initial determination.

(a) *General.* A party to an initial determination by a carrier, who is dissatisfied with the initial determination, may request that the carrier review the determination. If a review is requested, the request for review does not constitute a waiver of the right to a hearing (under § 405.815) subsequent to the review.

(b) *Definition.* *Request for review* is a clear expression by a party to an initial determination that indicates he or she is dissatisfied with the initial determination and wants to appeal the matter.

(c) *Place and method of filing a request.* Except for the limitation on PRO requests set forth in paragraph (e) of this section, a request by a party for a carrier to review the initial determination may be made only in one of the following ways:

(1) In writing and filed at an office of the carrier or at an office of SSA or HCFA.

(2) By telephone to the telephone number designated by the carrier as the