

## Small Entity Compliance Guide

### **Medicare Program: Revisions to CY 2008 Physician Fee Schedule, Revisions to Ambulance Fee Schedule for CY 2008, and Amendment to E-Prescribing Rule on Computer-Generated Facsimile Transmissions**

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42 CFR Parts 409, 410, 411, 413, 414, 415, 418, 423, 424, 482, 484, and 485

CMS-1385-FC, RIN 0938-AO65

The Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA, P.L. 104-121, as amended by P.L. 110-28, May 25, 2007) contains requirements for issuance of “small entity compliance guides.” Guides are to explain what actions affected entities must take to comply with agency rules. Such guides must be prepared when agencies issue final rules for which agencies were required to prepare a Final Regulatory Flexibility Analysis under the Regulatory Flexibility Act.

The complete text of this interim and final rule with comment period can be found on the CMS Web site at: <http://www.cms.hhs.gov/QuarterlyProviderUpdates/downloads/Regs-4Q07QPU.pdf>

This final rule with comment period addresses certain provisions of the Tax Relief and Health Care Act of 2006, as well as making other changes to Medicare Part B payment policy. We are making these changes to ensure that our payment systems are updated to reflect changes in medical practice and the relative value of services. This final rule with comment period also discusses refinements to resource-based practice expense (PE) relative value units (RVUs); geographic practice cost index (GPCI) changes; malpractice RVUs; requests for additions to the list of telehealth services; several coding issues including additional codes from the 5-Year Review of work RVUs; payment for covered outpatient drugs and biologicals; the competitive acquisition program for Part B drugs (CAP); clinical lab fee schedule issues; payment for renal dialysis services; performance standards for independent diagnostic testing facilities; expiration of the physician scarcity area (PSA) bonus payment; conforming and clarifying changes for comprehensive outpatient rehabilitation facilities (CORFs); a process for updating the drug compendia; physician self referral issues; beneficiary signature for ambulance transport services; durable medical equipment (DME) update; the chiropractic services demonstration; a Medicare economic index (MEI) data change; technical corrections; standards and requirements related to therapy services under Medicare Parts A and B; revisions to the ambulance fee schedule; the ambulance inflation factor for CY 2008; and amending the e-prescribing exemption for computer-generated facsimile transmissions. This final rule with comment period also finalizes the calendar year (CY) 2007 interim RVUs and are issues interim RVUs for new and revised procedure codes for CY 2008.

As required by the statute, this final rule with comment period announces that the physician fee schedule update for CY 2008 is -10.1 percent, the initial estimate for the

sustainable growth rate for CY 2008 is -0.1 percent, and the conversion factor (CF) for CY 2008 is \$34.0682.

For purposes of the RFA, physicians, non-physician practitioners, and suppliers, including independent diagnostic testing facilities, are considered small businesses if they generate revenues of \$6.5 million or less, according to the Small Business Administration size schedule. Approximately 95 percent of physicians are considered to be small entities. There are about 980,000 physicians, other practitioners and medical suppliers that receive Medicare payment under the Physician Fee Schedule. About 80 percent of clinical diagnostic laboratories are considered to be small entities. Accordingly, our analysis under the Regulatory Flexibility Act assumes that all physicians and other entities affected by this rule are small entities.

The effects of this final rule with comment vary considerably by provider type. It has small effects or negligible economic effects on independent (?) diagnostic testing facilities, end stage renal disease facilities, and ambulance services. It does substantially reduce payments under the physician fee schedule as a result of applying the 10 percent reduction required under the statutory formula.

This rule imposes no direct Federal compliance requirements on affected entities. In order to assist physicians and others in understanding and adapting to changes in Medicare billing and payment procedures and amounts, we have developed a Web page for physician services that includes substantial downloadable explanatory materials at <http://www.cms.hhs.gov/center/physician.asp>. Additional material on the physician fee schedule can be found at the Web page: <http://www.cms.hhs.gov/PhysicianFeeSched/>. There are also Medicare Learning Network articles related to the physician fee schedule at: [http://www.cms.hhs.gov/MLNMattersArticles/01\\_Overview.asp#TopOfPage](http://www.cms.hhs.gov/MLNMattersArticles/01_Overview.asp#TopOfPage). Information for other issues discussed in this final rule such as ESRD and CAP is also available on the CMS Web page at <http://www.cms.hhs.gov/home/medicare.asp>. The Internet Only Manual at <http://www.cms.hhs.gov/Manuals/> is also updated to reflect changes in policy that may be included in the rule.