

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 that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$110 million. This interim final rule with comment period does not have any costs associated with this requirement and will not approach the Unfunded Mandates Reform Act threshold.

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 422

Administrative practice and procedure, Health facilities, Health Maintenance Organizations (HMO), Medicare+Choice, Penalties, Privacy, Provider-sponsored organizations (PSO), Reporting and recordkeeping requirements.

■ Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendments:

#### PART 422—MEDICARE ADVANTAGE PROGRAM

■ 1. The authority citation for part 422 continues to read as follows:

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

■ 2. Section 422.752(a) introductory text is revised to read as follows:

##### § 422.752 Basis for imposing sanctions.

(a) All intermediate sanctions. For the violations listed in this paragraph (a), we may impose the sanctions specified in § 422.750(a)(2), (a)(3), or (a)(4) on any MA organization that has a contract in effect. The MA organization may also be

subject to other applicable remedies available under law.

\* \* \* \* \*

■ 3. Section 422.758 is revised to read as follows:

##### § 422.758 Maximum amount of civil money penalties imposed by CMS.

If CMS makes a determination under § 422.752(b), based on any determination under § 422.510(a) except a determination under § 422.510(a)(4), CMS may impose civil money penalties, pursuant to § 422.756(f)(3), in the following amounts:

(a) If the deficiency on which the determination is based has directly adversely affected (or has the substantial likelihood of adversely affecting) one or more Medicare Advantage enrollees—up to \$25,000 for each determination.

(b) For each week that a deficiency remains uncorrected after the week in which the Medicare Advantage organization receives CMS' notice of the determination—up to \$10,000.

(c) If CMS makes a determination, based on a determination under § 422.510(a)(1) that a Medicare Advantage organization has terminated its contract with CMS in a manner other than as described under § 422.512—\$250 per Medicare enrollee from the terminated Medicare Advantage plan or plans at the time the Medicare Advantage organization terminated its contract, or \$100,000, whichever is greater.

Dated: June 23, 2004.

**Mark B. McClellan,**

*Administrator, Centers for Medicare & Medicaid Services.*

Approved: September 8, 2004.

**Tommy G. Thompson,**

*Secretary.*

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#### FEDERAL COMMUNICATIONS COMMISSION

##### 47 CFR Parts 0, 4 and 63

[ET Docket No. 04-35; FCC 04-188]

##### Disruptions to Communications

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** The Federal Communications Commission announces the effective date for Part 4, Disruptions to Communications, and the amendments to § 63.100, Notification of service outage, which also contain information

collection requirements subject to approval by OMB. Furthermore, the Federal Communications Commission has received approval from the Office of Management and Budget (OMB) for the new and/or revised information collection requirements contained in the information collection 3060-0484, "New Part 4 of the Commission's Rules Concerning Disruptions to Communications."

**DATES:** Part 4 and the amendments to § 63.100, published at 69 FR 70316 (December 3, 2004), and the information collection requirements contained therein are effective January 3, 2005.

**FOR FURTHER INFORMATION CONTACT:** Charles Iseman at (202) 418-2444, [charles.iseman@fcc.gov](mailto:charles.iseman@fcc.gov), Office of Engineering and Technology, TTY (202) 418-2989.

**SUPPLEMENTARY INFORMATION:** The FCC published a document in the **Federal Register** of December 3, 2004 (69 FR 70316) that set forth an effective date of January 3, 2005, except for part 4 and the amendments to § 63.100, which contain information collection requirements that had not been approved by the Office of Management and Budget. The document stated that the Commission will publish a document in the **Federal Register** announcing the effective date for part 4 and the amendments to § 63.100, and the information collection requirements contained therein. On December 21, 2004, OMB approved the information collection requirements for 3060-0484, "Part 4 of the Commission's Rules Concerning Disruptions to Communications." Therefore, by this Notice, the Commission announces that the effective date for part 4 and the amendments to § 63.100, and the information collection requirements contained therein (3060-0484), will be January 3, 2005. The expiration date for the information collection requirements will be December 31, 2007.

Under OMB's terms of clearance, OMB's approval of the information collection is based on the Commission's Order Granting Partial Stay, FCC 04-291, adopted December 20, 2004 and released December 22, 2004. That Order grants an immediate partial stay of the provisions of paragraph 134 of the Report and Order (summarized as 69 FR 70316, December 3, 2004) insofar as it requires the reporting as outages of DS3 simplex events that are not corrected within five days of their discovery. At this time, the duration of the partial stay is unknown and the Commission continues discussions with both homeland security officials and impacted industry representatives. The

Commission has committed to seek public comment on this matter.

Pursuant to the Paperwork Reduction Act of 1995, Public Law 104-13, an agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Notwithstanding any other provisions of law, no person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Questions concerning this information collection, 3060-0484, should be directed to Leslie F. Smith, Federal Communications Commission, (202) 418-0217 or via the Internet at [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov).

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

[FR Doc. 04-28504 Filed 12-29-04; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

### 47 CFR Part 64

[CG Docket No. 02-278; FCC 04-204]

#### Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991

**AGENCY:** Federal Communications Commission.

**ACTION:** Final rule; announcement of effective date.

**SUMMARY:** In this document, the Commission announces that the Office of Management and Budget (OMB) has approved for three years the information collections contained in the Commission's amended telemarketing rule at 47 CFR 64.1200(c)(2)(i)(D). FCC

announces the effective date for § 64.1200(c)(2)(i)(D).

**DATES:** 47 CFR 64.1200(c)(2)(i)(D), published at 69 FR 60311, October 8, 2004, is effective January 1, 2005.

**ADDRESSES:** Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:**

Erica H. McMahon at 202-418-2512, Consumer & Governmental Affairs Bureau, [Erica.McMahon@fcc.gov](mailto:Erica.McMahon@fcc.gov).

**SUPPLEMENTARY INFORMATION:** On July 3, 2003, the Commission released a *Report and Order, In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, published at 68 FR 44144, July 25, 2003. On September 29, 2003, OMB approved for three years the information collections contained in the Commission's telemarketing rules at section 64.1200. On September 21, 2004, the Commission released an *Order, In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991*, published at 69 FR 60311, October 8, 2004, in which the Commission revised one of its telemarketing rules, 47 CFR 64.1200(c)(2)(i)(D), to require telemarketers to access the national registry every 31 days, rather than every 3 months in order to qualify for the safe harbor protections. The Commission publishes this notice of the effective date of the information collection requirement contained in 47 CFR 64.1200(c)(2)(i)(D). The information collection requirement was approved by OMB on December 21, 2004. OMB Control No. 3060-0519. If you have any comments on the burden estimates, or how we can improve the collection(s) and reduce the burden(s) they cause you, please write to Les Smith, Federal Communications Commission, Room 1-A804, 445 12th Street, SW.,

Washington, DC 20554. Please include the OMB Control Number, 3060-0519, in your correspondence. We will also accept your comments regarding the Paperwork Reduction Act aspects of the collections via the Internet, if you send them to [Leslie.Smith@fcc.gov](mailto:Leslie.Smith@fcc.gov) or call (202) 418-0217.

### Synopsis

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the FCC is notifying the public that it received approval for three years from OMB on December 21, 2004 for the collection(s) of information contained in the Commission's amended telemarketing rule at 47 CFR 64.1200(c)(2)(i)(D). Due to the modification to 47 CFR 64.1200(c)(2)(i)(D), the revised annual reporting burden for this collection(s) of information, including the time for gathering and maintaining the collection of information, is estimated to be: 144,497 responses, a total annual hour burden of 1,851,600 hours, and \$4,361,000 in total annual costs. Under 5 CFR 1320, an agency may not conduct or sponsor a collection of information unless it displays a current valid OMB Control Number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid OMB Control Number. The OMB Control Number is 3060-0519.

The foregoing notice is required by the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, 44 U.S.C. 3507.

Federal Communications Commission.

**Marlene H. Dortch,**  
*Secretary.*

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