

# Proposed Rules

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This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Health Care Financing Administration

#### 42 CFR Part 405

[HCFA-1002-N3]

#### Medicare Program; Meeting of the Negotiated Rulemaking Committee on the Ambulance Fee Schedule

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

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces the date and location for the final meeting of the Negotiated Rulemaking Committee on the Ambulance Fee Schedule. This meeting is open to the public.

The purpose of this committee is to develop a proposed rule that would establish a fee schedule for the payment of ambulance services under the Medicare program through negotiated rulemaking, as mandated by section 4531(b) of the Balanced Budget Act of 1997 (BBA).

**DATES:** The final meeting is scheduled for Monday, February 14, 2000 from 8:30 a.m. until 6:00 p.m., e.s.t.

**ADDRESSES:** The meeting will be held at the Health Care Financing Administration, Grand Auditorium, 7500 Security Boulevard, Baltimore, Maryland 21244; (410) 786-1000.

**FOR FURTHER INFORMATION CONTACT:** In order to gain access to the building if you are interested in attending this final meeting, it is important that you notify the agency contact listed below by February 10, 2000. If you fail to notify the agency contact by February 10, 2000 of your intent to attend the meeting, you may be delayed in entering the building. The agency contact is Margot Blige ((410) 786-4642 or E-mail: MBlige@hcfa.gov).

Inquiries regarding this meeting should be addressed to Bob Niemann ((410) 786-4569) or Margot Blige ((410)

786-4642) for general issues related to ambulance services, or to Lynn Sylvester ((202) 606-9140) or Elayne Tempel ((207) 780-3408), facilitators.

**SUPPLEMENTARY INFORMATION:** Section 4531(b)(2) of the BBA added a new section 1834(l) to the Social Security Act (the Act) that mandates by January 1, 2000, that we implement a national fee schedule for payment of ambulance services furnished under Medicare Part B. The fee schedule is to be established through negotiated rulemaking. Section 4531(b)(2) of the BBA also provides that, in establishing the fee schedule, we will—

- Establish mechanisms to control increases in expenditures for ambulance services under Part B of the program;
- Establish definitions for ambulance services that link payments to the type of services furnished;
- Consider appropriate regional and operational differences;
- Consider adjustments to payment rates to account for inflation and other relevant factors; and
- Phase in the fee schedule in an efficient and fair manner.

The Negotiated Rulemaking Committee on the Ambulance Fee Schedule has been established to provide advice and make recommendations to us with respect to the text and content of a proposed rule that would establish a fee schedule for the payment of ambulance services under Medicare Part B.

The Committee's first and second meetings were for organizational purposes solely. No significant decisions were made in these two meetings.

The Committee's third meeting was held on May 24 and May 25, 1999. At that meeting, the Committee heard presentations from our staff, including a data presentation. The Committee requested another presentation by our Office of the Actuary (OACT) to obtain clarification about its calculation of the fee schedule payment cap. Additionally, a Medical Issues workgroup was formed.

The Committee's fourth meeting was held on June 28 and June 29, 1999. At that meeting, a staff member from OACT made a presentation clarifying that budget neutrality will be evaluated by using all ambulance claims for the most current year and comparing the results of the proposed models with those paid

claims. Our staff presented more historical Medicare hospital and supplier ambulance billing data. Consensus was reached on one possible basic structure for the fee schedule. We indicated that the fee schedule must be effective as soon as operationally possible after January 1, 2000. Subcommittees were formed to produce proposals by July 19, 1999 for—

- (1) a rural/urban adjustment; and
- (2) a fee schedule model based on the structure agreed to at the June meeting, combined with relative values. These proposals, along with the results of the medical issues workgroup, were to serve as the basis for the Committee's next meeting.

The Committee's fifth meeting was held on August 2 and August 3, 1999. At that meeting the Committee heard presentations from our staff on the Medicare Physician Fee Schedule's Geographic Practice Cost Index (GPCI) and the hospital wage index. The Committee is considering the GPCI and hospital wage index for possible use as a geographic cost adjuster for the ambulance fee schedule. The second presenter, a member of the our negotiated rulemaking team, presented additional historical Medicare hospital and ambulance supplier billing data. The Committee was advised in a letter signed by our Deputy Administrator, Michael M. Hash, that it has until February 15, 2000 to conclude its business. The Committee reached consensus on the definitions for Basic Life Support, Advanced Life Support (ALS) Level-1, ALS Level-2, and the criteria that the service must meet for the emergency response modifier amount to be paid.

During the October meeting, the Committee worked on defining the geographic and rural modifiers and establishing the relative values of the different levels of service.

The Committee's seventh meeting was held December 6 through December 8, 1999. The Committee reached consensus on the relative values to be used for the different levels of ambulance service to be modeled for evaluation purposes. The physicians' fee schedule GPCI (practice expense component) will be used as the ambulance fee schedule geographic adjuster. An additional payment will be made for ambulance services if the point of pickup is in a rural area. Rural is

defined as a location in a non-Metropolitan Statistical Area (with Goldsmith modification, if possible). An additional payment for an emergency response will be paid if the condition as presented was an emergency condition and the supplier responded "immediately."

The Committee's eighth meeting is scheduled for January 24 through January 26, 2000. It is expected that this meeting will focus on evaluating the results of the rural modifier and preparing the Committee's official report. The Committee is expected to conclude its work by February 14, 2000.

The purpose of this final meeting is to allow Committee members to officially conclude the business of the Committee by signing and finalizing the Committee's official report. No other agenda has been established.

In accordance with Federal Advisory Committee Act requirements, this meeting is open to the public with advanced registration preferred. Public attendance at the meeting may be limited to space available. Mail written statements to the following address: Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, Attention: Lynn Sylvester.

A summary of all proceedings will be available for public inspection 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), and can be accessed through the HCFA Internet site at <http://www.hcfa.gov/medicare/ambmain.htm>. Additional information related to the Committee will also be available on the web site.

**Authority:** Section 1834(l) of the Social Security Act (42 U.S.C. 1395m).

(Catalog of Federal Domestic Assistance Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: January 24, 2000.

**Nancy-Ann Min DeParle,**

*Administrator, Health Care Financing Administration.*

[FR Doc. 00-2042 Filed 1-27-00; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 648

[I.D. 092799B]

#### Fisheries of the Northeastern United States; Decision on Petition for Rulemaking for Seasonal Area Closures, Bycatch Quotas, and Related Measures to Reduce Scup Bycatch

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of finding on petition for rulemaking.

**SUMMARY:** NMFS announces its decision not to undertake the rulemaking requested in a petition submitted by the Natural Resources Defense Council, the Environmental Defense Fund, the Center for Marine Conservation, the National Audubon Society, and the American Oceans Campaign (Petitioners). The Petitioners had petitioned NMFS and the Mid-Atlantic Fishery Management Council (Council) to implement emergency or other interim measures to reduce scup bycatch through seasonal area closures and a bycatch quota; monitor the *Loligo* squid fishery through a vessel monitoring system (VMS) and observers; and develop new gear designs. The Petitioners requested that these measures be put in place, beginning November 1999, to reduce the amount of scup caught incidentally in the *Loligo* squid fishery. The decision to deny the petition is based on the inclusion of similar provisions in the proposed 2000 specifications for summer flounder, scup, and black sea bass, which are published elsewhere in this issue of the **Federal Register**.

**FOR FURTHER INFORMATION CONTACT:** Mark R. Millikin, Domestic Fisheries Division, NMFS, (301) 713-2341.

**SUPPLEMENTARY INFORMATION:** On October 14, 1999 (64 FR 55688), NMFS published a notice requesting public comments on an amended petition for rulemaking submitted by the Petitioners. The amended petition requested that NMFS implement, through emergency or other interim action, fishing restrictions in specified areas in 1999, with additional measures to be implemented in 2000 and beyond. The Petitioners requested measures to reduce the bycatch and associated mortality of juvenile scup caught in the small mesh *Loligo* squid fishery. For

1999, the Petitioners requested (1) a closure of the *Loligo* fishery in NMFS Northeast Statistical Area (area) 613 for the Winter II (November–December) season, (2) the imposition of a scup bycatch quota throughout the *Loligo* management unit for the Winter II season, or (3) both options (1) and (2). The Petitioners also requested the immediate implementation of the Council's Summer Flounder Monitoring Committee's recommendation to establish areas closed to the *Loligo* squid fishery in areas 537 and 539 during the Winter II season, and in areas 616 and 622 during the Winter I (January–April) season.

In addition, the Petitioners requested that NMFS establish adequate enforcement mechanisms and observer coverage for these bycatch-reduction measures. For instance, if area 613 were closed, the Petitioners suggested that NMFS require a VMS in the *Loligo* fleet. If a bycatch quota were implemented, the Petitioners suggested observer coverage be required at levels sufficient to ensure observations of a statistically significant percentage of *Loligo* catch. Finally, the Petitioners requested that, for 2001, NMFS and the Council oversee the development, testing, and implementation of appropriately modified gear as an effective and equitable means of reducing scup bycatch.

At about the same time the Petitioners were raising their concerns, the Council was developing annual specifications for the scup fishery. The Council's Monitoring Committee recommended extensive area restrictions similar to the areas recommended by the Petitioners. While the Council accepted the Committee's recommendation for restrictions beginning in the year 2000, they created a Scup Working Group comprised of some members of the Council, Atlantic States Marine Fisheries Commission, and industry to develop sub-areas within the larger restricted areas. The Council intended that these sub-areas would be restricted to reduce scup bycatch while minimizing the impacts on other fisheries. In addition to specifying an annual commercial quota, the sub-areas recommended by the Scup Working Group were submitted by the Council as part of the proposed 2000 specifications.

With the development of these restricted areas, the Council considered ways to reduce mortality on juvenile scup due to bycatch in small-mesh fisheries, including the *Loligo* fishery. In addition to restrictions in the *Loligo* squid fishery, the recommendation would restrict fishing in other fisheries utilizing small mesh, defined as less