

## **Advocacy Suggests that the Centers for Medicare and Medicaid Services Take Small Home Health Care Businesses Into Consideration as it Finalizes the Home Health Prospective Payment System Update for 2011**

On September 14 and October 4, 2010, the Office of Advocacy (Advocacy) filed comments with the Centers for Medicare and Medicaid Services (CMS) providing the agency with its Regulatory Flexibility Act (RFA) suggestions and industry concerns about the potential economic impacts associated with finalizing the Home Health Prospective Payment System Update for 2011. A copy of Advocacy's letters may be accessed at <http://www.sba.gov/advo/laws/comments>.

On July 23, 2010, HHS published the Medicare Program: Home Health Prospective Payment System Rate Update for Calendar Year 2011; Changes in Certification Requirements for Home Health Agencies and Hospices (75 FR 43236) in the *Federal Register*. The proposed rule would update the Home Health Prospective Payment System (HHPPS) rates effective January 1, 2011; update the wage index and outlier used under the HHPPS, and institute changes to the home health agency (HHA) capitalization requirements, among other changes.

- Small home health agencies approached Advocacy and voiced concerns that the proposed rule would have unintended consequences if finalized that would negatively impact their businesses. They were primarily concerned with the "36-Month" provisions in the proposed rule that would restrict their ability to sell and acquire home health agencies, decrease their access capital, impose additional administrative burdens and cost, create a competitive advantage to a small number of businesses and negatively impact Medicare beneficiaries' access to care. Additional concerns included the physician face-to-face meeting requirements and the recalculation of the case mix weight formula used by CMS to determine payments to home health care agencies.
- Advocacy provided the small home health care agencies' concerns to CMS and also raised additional RFA analysis issues with the agency. Advocacy asked that CMS do a better job analyzing the costs and regulatory impacts of the regulation; and that the agency should take the affected entities' concerns into consideration as it continued to clarify, develop and finalize the rule.

For more information, visit Advocacy's web page at [www.sba.gov/advo](http://www.sba.gov/advo) or contact Linwood Rayford at (202) 205-6533.