



**DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**Office of Inspector General**

**42 CFR Part 1001**

RIN 0991-AB16

Withdrawal of Proposed Rule "Medicare and State Health Care Programs: Fraud and Abuse; Safe Harbor Under the Anti-Kickback Statute For Waiver of Beneficiary Coinsurance and Deductible Amounts"

**AGENCY:** Department of Health and Human Services (HHS)  
Office of Inspector General (OIG)

**ACTION:** Withdrawal of Proposed Rule

**SUMMARY:** This document informs the public that OIG has determined not to pursue a proposed rule published in the Federal Register and, as a result, is withdrawing it. OIG is taking this action to avoid any confusion that could be caused by having this proposal in the public domain.

**DATES:** The Proposed Rule described under Supplementary Information is withdrawn as of August 1, 2019.

**ADDRESSES:** Office of Counsel to the Inspector General, Cohen Building, 330 Independence Ave., S.W., Washington, DC 20201,

**FOR FURTHER INFORMATION CONTACT:** Aaron Zajic, Supervisory Project Manager, Office of Counsel to the Inspector General, Cohen Building, 330 Independence Ave., S.W., Washington, DC 20201, 202-619-0335.

**SUPPLEMENTARY INFORMATION:**

I. Background

A. OIG's Review of Proposed Rules

Executive Order 13777, entitled "Enforcing the Regulatory Reform Agenda" (82 FR 12285), instructs agencies to review regulations which should be repealed, replaced, or modified. As a result of a review undertaken after the issuance of Executive Order 13777, OIG identified a Proposed Rule (described below), which we do not intend to finalize. Accordingly, OIG is withdrawing the Proposed Rule from the Federal Register.

B. OIG's Withdrawal of the Proposed Rule

The Proposed Rule that OIG is withdrawing was published in 2002. OIG neither applied nor enforced the position stated therein, nor does it now intend to do so. If OIG were to finalize this proposal, we would require updated comments from the public, as reimbursement methods and other aspects of the healthcare industry have changed in the interim. As a result, OIG is withdrawing the following Proposed Rule to eliminate any confusion that could result from its presence in the public domain:

The Proposed Rule, Medicare and State Health Care Programs: Fraud and Abuse; Safe Harbor Under the Anti-Kickback Statute for Waiver of Beneficiary Coinsurance and Deductible Amounts (67 FR 60202, September 25, 2002), would have expanded an existing safe harbor at 42 CFR 1001.952(k) to include waivers of cost sharing

amounts for Part A and B services for holders of Medicare SELECT policies (a type of Medicare supplement (Medigap) plan).

## II. Regulatory Impact

We expect minimal regulatory impact and reaction because of the passage of time since the Proposed Rule was published and because, to our knowledge, the public is not currently relying on, and may be unaware of, it.

Joanne M. Chiedi  
Acting Inspector General

Dated: July 25, 2019.

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Alex M. Azar II  
Secretary

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