

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:03 a.m. on Tuesday, December 23, 2008, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate and resolution activities.

In calling the meeting, the Board determined, on motion of Director Thomas J. Curry (Appointive), seconded by Vice Chairman Martin J. Gruenberg, concurred in by Director John M. Reich (Director, Office of Thrift Supervision) and Chairman Sheila C. Bair, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: December 23, 2008.

Federal Deposit Insurance Corporation

**Robert E. Feldman,**

*Executive Secretary.*

[FR Doc. E8-30949 Filed 12-29-08; 8:45 am]

BILLING CODE 6714-01-P

## FEDERAL RESERVE SYSTEM

### Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless

otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 12, 2009.

**A. Federal Reserve Bank of Chicago** (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. *Freeport Bancshares, Inc.*, to acquire 100 percent of the voting shares of Community Redevelopment, LLC, both of Freeport, Illinois, and thereby engage in extending credit and servicing loans, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, December 23, 2008.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

[FR Doc. E8-30947 Filed 12-29-08; 8:45 am]

BILLING CODE 6210-01-S

## FEDERAL TRADE COMMISSION

### Agency Information Collection Activities; Proposed Collection; Comment Request

**AGENCY:** Federal Trade Commission ("FTC" or "Commission").

**ACTION:** Notice.

**SUMMARY:** The information collection requirements described below will be submitted to the Office of Management and Budget ("OMB") for review, as required by the Paperwork Reduction Act ("PRA"). The FTC is seeking public comments on its proposal to extend through April 30, 2012 the current PRA clearance for information collection requirements contained in the Pay-Per-Call Rule ("Rule"). That clearance expires on April 30, 2009.

**DATES:** Comments must be submitted on or before **March 2, 2009**.

**ADDRESSES:** Interested parties are invited to submit written comments electronically or in paper form. Comments should refer to "Pay-Per-Call Rule: FTC File No. R611016" to facilitate the organization of comments.

Please note that comments will be placed on the public record of this proceeding—including on the publicly accessible FTC website, at (<http://www.ftc.gov/os/publiccomments.shtml>)—and therefore should not include any sensitive or confidential information. In particular, comments should not include any sensitive personal information, such as an individual's Social Security Number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. Comments also should not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, comments should not include any "[t]rade secrets and commercial or financial information obtained from a person and privileged or confidential. . . ." as provided in Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2). Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled "Confidential," and must comply with FTC Rule 4.9(c).<sup>1</sup>

Because paper mail addressed to the FTC is subject to delay due to heightened security screening, please consider submitting your comments in electronic form. Comments filed in electronic form should be submitted by using the following weblink: <https://secure.commentworks.com/ftc-PPCRulePRA> (and following the instructions on the web-based form). To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the weblink (<https://secure.commentworks.com/ftc-PPCRulePRA>). If this Notice appears at (<http://www.regulations.gov/search/index.jsp>), you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it.

A comment filed in paper form should include the "Pay-Per-Call Rule: FTC File No. R611016" reference both in the text and on the envelope, and should be mailed or delivered to the following address: Federal Trade Commission, Office of the Secretary,

<sup>1</sup> FTC Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. See FTC Rule 4.9(c), 16 CFR 4.9(c).

Room H-135 (Annex J), 600 Pennsylvania Avenue, NW, Washington, DC 20580. The FTC is requesting that any comment filed in paper form be sent by courier or overnight service, if possible, because U.S. postal mail in the Washington area and at the Commission is subject to delay due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. The Commission will consider all timely and responsive public comments that it receives, whether filed in paper or electronic form. Comments received will be available to the public on the FTC website, to the extent practicable, at (<http://www.ftc.gov/os/publiccomments.shtml>). As a matter of discretion, the Commission makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy, at (<http://www.ftc.gov/ftc/privacy.shtml>).

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the proposed information requirements should be sent to Ruth Yodaiken, Attorney, Division of Marketing Practices, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580, (202) 326-2127.

**SUPPLEMENTARY INFORMATION:** On October 30, 1998, the Commission published a Notice of Proposed Rulemaking ("NPRM"), 63 FR 58524, to amend its Pay-Per-Call Rule, 16 CFR Part 308.<sup>2</sup> The Rule, which implements Titles II and III of the Telephone Disclosure and Dispute Resolution Act ("TDDRA"), 15 U.S.C. 5711-14, 5721-24, requires the disclosure of cost and other information regarding pay-per-call services and establishes dispute resolution procedures for telephone-billed purchases (*i.e.*, charges for pay-per-call services or other charges appearing on a telephone bill other than telecommunications charges). As was explained in the NPRM, the Rule

contains certain reporting and disclosure requirements that are subject to OMB review under the PRA, 44 U.S.C. 3501-3521.<sup>3</sup> Accordingly, the FTC submitted the Rule, with proposed amendments, to OMB (*see* 64 FR 70031, Dec. 15, 1999) for its approval, which was granted until December 31, 2002 (OMB control number 3084-0102). Thereafter, the FTC obtained renewed clearance from OMB covering both the existing Rule and the proposed changes, with the most recent clearance set to expire April 30, 2009. The FTC is again seeking renewed 3-year clearance for the Rule, but now only regarding the existing Rule.

As required by the PRA, the FTC is providing this opportunity for public comment before requesting that OMB extend the existing paperwork clearance for the regulations noted herein. 44 U.S.C. 3506(c)(2)(A). All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before **March 2, 2009**.

*Brief description of the need for and proposed use of the information:* The existing reporting and disclosure requirements are mandated by the TDDRA to help prevent unfair and deceptive acts and practices in the advertising and operation of pay-per-call services and in the collection of charges for telephone-billed purchases. The information obtained by the Commission pursuant to the reporting requirement is used for law enforcement purposes. The disclosure requirements ensure that consumers are adequately informed of the costs they can expect to incur in using a pay-per-call service, that they will not be liable for unauthorized non-toll charges on their telephone bills, and that they have certain dispute resolution rights and obligations with respect to such telephone-billed purchases.

*Likely respondents and their estimated number:* Respondents are telecommunications common carriers (subject to the reporting requirement only, unless acting as a billing entity), information providers (vendors) offering one or more pay-per-call services or programs, and billing entities. Staff estimates that there are 13 common carriers,<sup>4</sup> approximately 13,350

vendors,<sup>5</sup> and approximately 1,250 possible billing entities.<sup>6</sup> The FTC seeks public comment or data on these estimates as well as those additionally stated below.

*Estimated annual reporting and disclosure burden:* 2,468,412 hours; \$133,705,222 in associated labor costs<sup>7</sup>

The burden hour estimate for each reporting and disclosure requirement has been multiplied by a "blended" wage rate (expressed in dollars per hour), based on the particular skill mix needed to carry out that requirement, to determine its total annual cost. The blended rate calculations are based on the following skill categories and average wage rates and/or labor costs: \$250/hour for professional (attorney) services; \$15/hour for skilled clerical workers; \$35/hour for computer programmers; and \$50/hour for management time. These figures are averages, based on the most currently available Bureau of Labor Statistics ("BLS") cost figures posted online.<sup>8</sup> FTC

"Section 63.71 Application of Sprint Communications Company L.P. for Authority to Discontinue Domestic Telecommunications Services." Order, WC Docket No. 08-116, DA 08-2557 (Wireline Competition Bureau Nov. 24, 2008) ("FCC Sprint Order").

<sup>5</sup> This number or an estimate thereof is difficult to derive as there is no ready source of such statistics. For instant purposes, FTC staff has reduced its most recent prior (2006) PRA-related estimate of the number of vendors (approximately 15,000) by 11 percent, reflecting a corresponding decrease in the allocation of 900 numbers. It is noteworthy that one carrier which recently withdrew from carrying 900-number services stated that between 2004 and 2007 claimed that it saw a 41.5 percent decrease in vendor use of such numbers. *See* FCC Sprint Order. However, erring conservatively, FTC staff instead is applying an 11 percent reduction in the number of vendors, tied to a comparison of the number of 900-NXX codes allocated per vendor, as reported annually by the North American Numbering Plan Administration (NANPA). In 2004, it was 133; in 2007, it fell to 118.

<sup>6</sup> The Federal Communications Commission report on telephone statistics indicated that at the end of 2007 there were approximately 1,250 local telephone companies (local exchange carriers). *See* Local Telephone Competition: Status as of December 31, 2007 (released 9/08) (tables 3 and 4), available at (<http://www.fcc.gov/wcb/iatd/comp.html>).

<sup>7</sup> Non-labor (*e.g.*, capital/other start-up) costs are generally subsumed in activities otherwise undertaken in the ordinary course of business (*e.g.*, business records from which only existing information must be reported to the Commission, pay-per-call advertisements or audiotext to which cost or other disclosures are added, etc.). To the extent that entities incur operating or maintenance expenses, or purchase outside services to satisfy the Rule's requirements, staff believe those expenses are also included in (or, if contracted out, would be comparable to) the annual burden hour and cost estimates provided below (where such costs are labor-related), or are otherwise included in the ordinary cost of doing business (regarding non-labor costs).

<sup>8</sup> (<http://www.bls.gov/ncs/ncswage2007.htm>) (National Compensation Survey: Occupational

<sup>2</sup> The Rule was originally promulgated as the "Trade Regulation Rule Pursuant to the Telephone Disclosure and Dispute Resolution Act of 1992," and was known as the "900-Number Rule." In its NPRM, the Commission refers to the Rule as the "Trade Regulation Rule Concerning Pay-Per-Call Services and Other Telephone-Billed Purchases." In this document it will be referred to as the "Pay-Per-Call Rule."

<sup>3</sup> The Rule contains no recordkeeping requirements that would be subject to the PRA.

<sup>4</sup> This estimate is based on the North American Numbering Plan Association Report, "900-NXX Codes," (<http://www.nanpa.com/nas/public/form900MasterReport.do?method=display900MasterReport>) (updated as of November 2008), and excluding Canadian entities and one carrier that recently withdrew from carrying 900 number service. *See* Federal Communications Commission,

staff calculated labor costs by applying appropriate hourly cost figures to the burden hours discussed further below.

(1) *Reporting burden:*

The Rule provides that common carriers must make available to the Commission, upon written request, any records and financial information maintained by such carrier relating to the arrangements between the carrier and any vendor or service bureau. See 16 CFR 308.6. Staff believes that the resulting burden on this segment of the industry will be minimal, since OMB's definition of "burden" for PRA purposes excludes any business effort that would be expended regardless of a regulatory requirement. 5 CFR 1320.3(b)(2). Because this reporting requirement permits staff to seek information limited to that which is already maintained by the carriers, the only burden would be the time an entity expends to compile and provide the information to the Commission. Because of continued industry changes and the infrequency with which the Commission has relied on this requirement, staff is reducing by 40 percent (from 5 hours to 3 hours per entity) the estimated annual time burden per entity for this reporting requirement.

In obtaining OMB clearance for this reporting requirement in 2006, staff estimated a total reporting burden of 70 hours, with an annual cost of \$5,145. For the pending submission to OMB, staff has decreased its burden hour estimate to 39 hours, based on an average estimate of 3 hours (rather than 5) expended by 13 common carriers. Using a \$75 blended wage rate (assuming for all labor calculations herein, \$35/hour for computer programmers, \$250/hour for attorneys, \$15/hour for skilled clerical workers, and \$50/hour for managers),<sup>9</sup> the FTC now estimates an annual cost of \$2,925.

(2) *Disclosure burden:*

(a) *Advertising.* FTC staff estimates that the annual burden on the industry for the Rule's advertising disclosure requirements is 48,060 hours. The estimate reflects the burden on

approximately 13,350 vendors who must make cost disclosures for all pay-per-call services and additional disclosures if the advertisement is (a) directed to individuals under 18 or (b) for certain pay-per-call services.<sup>10</sup> Because of continued industry changes and the infrequency with which the Commission has relied on this requirement, staff is reducing the estimated percentage of advertising both directed to individuals under 18 and relating to certain other pay-per-call services to 20 percent of overall pay-per-call services. FTC staff estimated that each disclosure mandated by the Rule requires approximately one hour of compliance time.

The total estimated annual cost of these burden hours is \$3,316,140 applying a blended wage rate of \$69/hour.<sup>11</sup>

(b) *The Rule's preamble disclosure.* To comply with the Act, the Pay-Per-Call Rule also requires that every pay-per-call service be preceded by a free preamble and that four different disclosures be made in each preamble. Additionally, preambles to sweepstakes pay-per-call services and services that offer information on federal programs must provide additional disclosures. Each preamble need only be prepared one time, unless the cost or other information is changed. There is no additional burden on the vendor to make the disclosures for each telephone call, because the preambles are taped and play automatically when a caller dials the pay-per-call number.

In its 2006 submission for renewed OMB clearance under the PRA, FTC staff estimated that there were approximately 45,864 pay-per-call services required to make disclosures in the preamble to the pay-per-call service, at an average burden of 10 hours for each preamble, resulting in a total burden estimate of 458,640 hours. As noted above, staff now believes that the industry has had at least an 11 percent reduction in size since the FTC's immediately prior pursuit of renewed clearance. Accordingly, staff now estimates that there are no more than 40,819 advertised pay-per-call services.

As with advertising disclosures, preambles for certain pay-per-call services require additional preamble disclosures. Consistent with the estimates of advertised pay-per-call services discussed above, staff estimates that an additional 20 percent of all such pay-per-call services (8,164) relating to certain types of pay-per-call services would require such additional disclosures.<sup>12</sup> On further reflection, staff now estimates that it would require no more than one hour to draft each type of disclosure because the disclosures applicable to the preamble closely approximate in content and volume the advertising disclosures discussed above. Accordingly, staff estimates a total of 48,983 burden hours (40,819 + 8,164) to comply with these requirements. At one hour each, cumulative labor cost associated with these disclosures is \$3,379,827, using a blended wage rate of \$69/hour (*i.e.*, similar to the blended rate used for advertising disclosures).

(c) *Telephone-billed charges in billing statements.* Section 308.5(j) of the Rule, 16 CFR 308.5(j), requires that vendors ensure that certain disclosures appear on each billing statement that contains a charge for a call to a pay-per-call service. Because these disclosures appear on telephone bills already generated by the local telephone companies, and because the carriers are already subject to nearly identical requirements pursuant to the FCC's rules, FTC staff estimated that the burden to comply would be minimal. At most, the burden on the vendor would be limited to spot checking telephone bills to ensure that the charges are displayed in the manner required by the Rule.

As it had in the 2006 PRA submission, FTC staff estimates that only 10 percent of vendors (1,350) would monitor billing statements in this manner and that it would take 12 hours per year to conduct such checks. Using the total estimated number of vendors noted above, this results in a total of 16,020 burden hours. The total annual cost would be at most \$997,245, using a blended rate of \$62.25/hour.<sup>13</sup>

(d) *Dispute resolution procedures in billing statements.* This disclosure requirement is set forth in 16 CFR 308.7(c). The blended rate being used for these disclosures is \$53.5/hour.<sup>14</sup>

Earnings in the United States 2007, US Department of Labor, BLS, released August 2008, Bulletin 2704, Table 3 ("Full-time civilian workers," mean and median hourly wages). Notwithstanding the referenced BLS data, estimated attorney costs are based on what staff believes may more closely reflect hourly attorney costs associated with Commission information collection activities.

<sup>9</sup> This blended wage rate is based upon an estimate of 30 percent for computer programming, 20 percent for attorney services, 30 percent for skilled clerical workers, and 20 percent for managerial time.

<sup>10</sup> Based on an assumed three advertisements per vendor, or a total of 40,050 ads (for 13,350 vendors, as explained in note 5), plus an estimated total 20 percent of which would require such additional disclosures, or 8,010 advertisements. Staff estimates that it would require no more than one hour to draft each type of disclosure. Accordingly, at an estimated one hour each, vendors would require cumulatively 48,060 burden hours to comply with these requirements.

<sup>11</sup> The blended rate is based upon 20 percent for attorney services, 60 percent for skilled clerical workers, and 20 percent for management time.

<sup>12</sup> See note 10.

<sup>13</sup> The blended rate is 15 percent for attorney services, 40 percent for skilled clerical workers, 25 percent for computer programming, and 20 percent for management time.

<sup>14</sup> The blended rate is 40 percent for computer programming, 10 percent for attorney services, 30

FTC staff previously estimated that the billing entities would spend approximately 5 hours each to review, revise, and provide the disclosures on an annual basis. The estimated hour burden for the annual notice component of this requirement is 6,250 burden hours (based on 1,250 possible billing entities each requiring 5 hours each), or a total cost of \$334,375.

(e) *Further disclosures related to consumers reporting a billing error.* As in the 2006 PRA submission for this Rule, FTC staff estimates that the incremental disclosure obligations related to consumers reporting a billing error under section 308.7(d) requires, on average, about one hour per each billing error. Previously, staff projected that approximately 5 percent of an estimated 49,980,000 calls made to pay-per-call services each year involves such a billing error. The staff is now reducing its prior estimate of the number of those calls by 6 percent<sup>15</sup> (46,981,200 calls) to reflect recent changes in the amount of pay-per-call services and their billing. Assuming the same apportionment (5 percent) of overall calls to pay-per-call services, this amounts to 2,349,060 hours, cumulatively. Applying the \$53.5/hour blended wage rate, the estimated annual cost is \$125,674,710 annually.

**David C. Shonka**

*Acting General Counsel*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### Notice of Hearing: Reconsideration of Disapproval of Washington State Plan Amendment (SPA) 08-002

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice of Hearing.

**SUMMARY:** This notice announces an administrative hearing to be held on February 5, 2009, at the CMS Seattle Regional Office, 2201 Sixth Avenue, MS/RX-43, Seattle, Washington 98121

percent for skilled clerical workers, and 20 percent for management time.

<sup>15</sup> Six percent is determined by an approximate halving of the above-noted 11% reduction staff has applied to its prior estimate of the number of vendors (see note 5). As in past clearance requests for this Rule, it is halved on the assumption that pay-per-call services do not account for any more than half of all telephone-billed purchases.

to reconsider CMS' decision to disapprove Washington SPA 08-002.

**Closing Date:** Requests to participate in the hearing as a party must be received by the presiding officer by January 14, 2009.

**FOR FURTHER INFORMATION CONTACT:** Benjamin Cohen, Presiding Officer, CMS, 2520 Lord Baltimore Drive, Suite L, Baltimore, Maryland 21244, Telephone: (410) 786-3169.

**SUPPLEMENTARY INFORMATION:** This notice announces an administrative hearing to reconsider CMS' decision to disapprove Washington SPA 08-002 which was submitted on January 7, 2007, and disapproved on September 26, 2008. The SPA proposed to add a methodology to the State plan that would be used in the event that a contract with Regional Support Network to provide mental health services under a managed care delivery system to the State of Washington was not continued.

Federal regulations at 42 CFR 430.20 and 447.205, are issued under the authority of general statutory requirements concerning methods of administration at section 1902(a)(4)(A) of the Social Security Act (the Act) and specific requirements at section 1902(a)(30)(A) concerning methods and procedures relating to payments to providers. These regulations require that public notice of changes in statewide methods and standards for setting payment rates be published in either a State register or the newspaper of widest circulation in the State (if there is not a city with a population of at least 50,000). In addition, they specify that the notice must be published before the effective date of the State plan.

Washington did not provide public notice which complied with Federal regulations at 42 CFR 447.205. Although, beginning in December of 2007, the State held meetings with providers to inform them of what would be proposed via SPA 08-002, it did not provide the notice required by Federal regulations at 42 CFR 447.205 until February 20, 2008. As a result, the State was informed the effective date of this plan could be no earlier than February 21, 2008. However, Washington failed to make this required change.

Pursuant to Federal regulations at 42 CFR 430.10, which is authorized by section 1902(a)(4) of the Act and implements the general requirements of section 1902(a) of the Act for a State plan, a State plan must provide sufficient information to describe the nature and scope of the State program and to provide a basis for Federal financial participation. And, Federal regulations at 42 CFR 441.252(b), which

implement in part provider payment provisions under section 1902(a)(30)(A) of the Act, require that the State plan include a comprehensive description of the methods and standards used to set payment rates. The proposed SPA did not meet these requirements because the payment methodologies were not understandable and auditable. CMS requested further information about the factors Washington used to set its rates, and how the payment methodologies would be administered, but the State failed to provide sufficient responsive information to assure us that providers and auditors could determine whether correct payments had been made. Absent this information, CMS cannot determine that the requirements under section 1902(a) of the Act have been met.

Based on the above, and after consultation with the Secretary of the Department of Health and Human Services as required under Federal regulations at 42 CFR 430.15(c)(2), CMS disapproved Washington SPA 08-002.

The hearing will involve the following issues:

- Whether the proposed effective date for the SPA was consistent with the limitations authorized under the requirements of sections 1902(a)(4)(A) and 1902(a)(30)(A) of the Act relating to methods of administration generally and methods and procedures for payment rates specifically, and the implementing regulations at 42 CFR 430.20 and 42 CFR 447.205, which require advance public notice of changes in payment rates before a State plan amendment can become effective. The State's proposed effective date for the SPA was earlier than the date of the publication of the public notice that the State submitted in support of the SPA.

- Whether Washington provided adequate documentation to document the proposed payment rates and to demonstrate that the proposed rates were consistent with efficiency and economy as required by section 1902(a)(30)(A) of the Act. Specifically, the State proposed the use of actuarially developed rates that included a range of rates as opposed to a single dollar amount. The State indicated that the single dollar amount was developed from the above mentioned rate range, however, they were not able to provide either the dollar amount or the documentation regarding the construction of the single rate.

Section 1116 of the Act and Federal regulations at 42 CFR Part 430, establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. CMS is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing, and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered