

Jim
MAR 13 1980

Mr. Leonard Schaeffer
Administrator
Health Care Financing Administration
Department of Health, Education, and
Welfare
Washington, D. C. 20201

Dear Mr. Schaeffer:

Final regulations issued by HCFA on May 18, 1979, include under Section 441.90, requirements that States maintain a variety of specific records. Under the Federal Reports Act (44 U.S.C. Chapter 35) and OMB Circular A-40, such record-keeping requirements may not be imposed without the approval of the Director of the Office of Management and Budget.

I am certain that this violation of the law was inadvertent and may have been due in part to an absence of awareness or lack of understanding of Federal Reports Act requirements. However, it is imperative that you immediately seek OMB approval of the specific recordkeeping requirements in Section 441.90 and take necessary action to ensure that such violations do not occur in the future.

On January 11, 1980, OMB published a Notice of Proposed Rulemaking, designed, among other things, to revise OMB Circular A-40. Section 1320.22(a) of that regulation contains the following statement:

"Note that provisions of regulations that involve information collections may not be issued as final or otherwise implemented until they comply with the provisions of this paragraph."

Subpart C of this regulation defines "information collection" to include recordkeeping requirements. We hope that this regulation, when issued in final form, will clarify agency responsibilities under the Federal Reports Act.

Sincerely,

/s/ Jim J. Tozzi

Jim J. Tozzi
Assistant Director for
Regulatory and Information Policy

cc:Official File:HRD/RIP
HRD Chron
RIP Chron ✓
Dick Eisinger
Joseph Strnad, HEW

HRD:RAEisinger:eb:3/10/80