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United States Government Accountability Office
Washington, DC 20548

B-309123

March 20, 2007

The Honorable Daniel K. Akaka
Chairman
The Honorable Larry Craig
Ranking Minority Member
Committee on Veterans' Affairs
United States Senate

The Honorable Bob Filner
Chairman
The Honorable Steve Buyer
Ranking Minority Member
Committee on Veterans' Affairs
House of Representatives

Subject: *Department of Veterans Affairs: Traumatic Injury Protection Rider to Servicemembers' Group Life Insurance*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Department of Veterans Affairs (VA), entitled "Traumatic Injury Protection Rider to Servicemembers' Group Life Insurance" (RIN: 2900-AM36). We received the rule on March 7, 2007. It was published in the *Federal Register* as a final rule on March 8, 2007. 72 Fed. Reg. 10362.

The final rule implements section 1032 of Public Law 109-13, which established an automatic traumatic injury protection rider to the Servicemembers' Group Life Insurance program for any insured servicemember who sustains certain serious traumatic injuries.

Enclosed is our assessment of the VA's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. Our review indicates that VA complied with the applicable requirements.

If you have any questions about this report, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236. The official responsible for GAO evaluation work relating to the subject matter of the rule is Marjorie Kanof, Managing Director, Health Care. Ms. Kanof can be reached at (202) 512-7101.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

cc: William F. Russo
Director of Regulations Management
Department of Veterans Affairs

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF VETERANS AFFAIRS
ENTITLED
"TRAUMATIC INJURY PROTECTION RIDER TO
SERVICEMEMBERS' GROUP LIFE INSURANCE"
(RIN: 2900-AM36)

(i) Cost-benefit analysis

VA included a cost benefit analysis with the publication of the interim final rule. VA estimated that the final rule will produce federal budgetary costs consisting of approximately \$400 million in retroactive insurance payments, \$68 million in start-up costs, and annual operating costs of approximately \$68 million. The final rule will also increase the premium for servicemembers by \$1 per month. The final rule will provide benefits between \$25,000 and \$100,000 to qualifying servicemembers who suffer a traumatic injury.

(ii) Agency actions relevant to the Regulatory Flexibility Act, 5 U.S.C. §§ 603-605, 607, and 609

VA has certified that the final rule will not have a significant economic impact on a substantial number of small entities.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

The final rule does not contain either an intergovernmental or a private sector mandate of more than \$100 million in any one year, as defined in title II of the Unfunded Mandates Reform Act.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 *et seq.*

VA issued an interim final rule in the *Federal Register* on December 22, 2005, that was immediately effective because the Secretary found "good cause" to forego public comment. 70 Fed. Reg. 75940. Our office issued a report on that rule in which we found that VA was in compliance with applicable requirements. GAO, *Department of Veterans Affairs: Traumatic Injury Protection Rider to Servicemembers' Group Life Insurance*, GAO-06-345R (Washington, D.C.: Jan. 18, 2006). VA also solicited comments on the interim final rule and received only one comment on the rule.

VA made additional changes to the interim final rule and found “good cause” to issue the final rule without notice and comment, because such a procedure would be impracticable, unnecessary, and contrary to the public interest. The purpose of the Traumatic Servicemembers’ Group Life Insurance program is to ensure that payment is made to severely injured servicemembers as quickly as possible, and the changes made to the interim final rule are either liberalizing, non-substantive, or interpretive in nature.

Paperwork Reduction Act, 44 U.S.C. §§ 3501-3520

The collections of information under the Paperwork Reduction Act referenced in the final rule have been approved by the Office of Management and Budget under control number 2900-0671.

Statutory authorization for the rule

The final rule is promulgated pursuant to the provisions of sections 501 and 1965-1980A of title 38 of the United States Code.

Executive Order No. 12866

The final rule was examined by the Department of Veterans Affairs and found to be an “economically significant” regulatory action under the order.