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United States Government Accountability Office
Washington, DC 20548

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October 19, 2007

The Honorable Max Baucus
Chairman
The Honorable Charles E. Grassley
Ranking Minority Member
Committee on Finance
United States Senate

The Honorable John D. Dingell
Chairman
The Honorable Joe Barton
Ranking Minority Member
Committee on Energy and Commerce
House of Representatives

The Honorable Charles B. Rangel
Chairman
The Honorable Jim McCrery
Ranking Minority Member
Committee on Ways and Means
House of Representatives

Subject: *Department of Health and Human Services, Centers for Medicare and Medicaid Services: Medicare Program; Medicare Part B Monthly Actuarial Rates, Premium Rate, and Annual Deductible Beginning January 1, 2008*

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 Health and Human Services, Centers for Medicare and Medicaid Services (CMS), entitled “Medicare Program; Medicare Part B Monthly Actuarial Rates, Premium Rate, and Annual Deductible Beginning January 1, 2008” (RIN: 0938-AO68). We received the rule on October 5, 2007. It was published in the *Federal Register* as a notice on October 5, 2007. 72 Fed. Reg. 57,039.

The notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) enrollees for the Part B account in the Medicare Supplementary Medical Insurance (SMI) trust fund for January 1, 2008. It also announces the monthly Part B premium to be paid by aged and disabled

beneficiaries, as well as the income-related monthly adjustment amounts to be paid by beneficiaries with modified adjusted gross income above certain threshold amounts.

The monthly actuarial rates for 2008 are \$192.70 for aged enrollees and \$209.70 for disabled enrollees. The standard monthly premium rate for 2008 is \$96.40. Also, the Part B deductible for 2008 is \$135.

Enclosed is our assessment of the CMS'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 CMS 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) 512-7114.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

cc: Ann Stallion
Program Manager
Department of Health and
Human Services

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
CENTERS FOR MEDICARE AND MEDICAID SERVICES
ENTITLED
"MEDICARE PROGRAM; MEDICARE PART B MONTHLY
ACTUARIAL RATES, PREMIUM RATE, AND
ANNUAL DEDUCTIBLE BEGINNING JANUARY 1, 2008"
(RIN: 0938-AO68)

(i) Cost-benefit analysis

A cost-benefit analysis was not conducted because the increases were statutorily directed. CMS did estimate that the increase will cost approximately 41.5 million Part B enrollees about \$1.4 billion for 2008.

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

CMS has determined that this notice will not have a significant effect on a substantial number of small entities or on the operations of a substantial number of small rural hospitals. As a result, CMS did not prepare a regulatory flexibility analysis.

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

CMS has determined that this notice will have no consequential effects on state, local, or tribal governments. CMS states that the effects on the private sector will be less than \$110 million in any one year.

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

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

CMS found good cause to waive publication of a proposed notice and solicitation of public comments and instead used a general notice. This is due to the fact that the monthly actuarial rates and the Part B premium amounts are required to be published in September of each year and are calculated using statutorily directed formulas, without CMS discretion.

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

The notice does not contain any information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

The notice is issued pursuant to the authority contained in section 1839 of the Social Security Act (42 U.S.C. 1395r).

Executive Order No. 12,866

The notice was deemed to be economically significant under Executive Order 12866 and was reviewed by OMB.

Executive Order No. 13,132 (Federalism)

This notice does not have federalism implications.