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United States Government Accountability Office
Washington, DC 20548

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September 21, 2004

The Honorable Judd Gregg
Chairman
The Honorable Edward M. Kennedy
Ranking Minority Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable William M. Thomas
Chairman
The Honorable Charles B. Rangel
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; Part A Premium for 2005 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement*

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; Part A Premium for 2005 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement" (RIN: 0938-AN15). We received the rule on September 9, 2004. It was published in the Federal Register as a notice on September 9, 2004. 69 Fed. Reg. 54673.

The notice announces the Hospital Insurance premium for calendar year 2005 under Medicare's Hospital Insurance program (Part A) for the uninsured, not otherwise eligible aged and for certain disabled individuals who have exhausted other entitlement.

The monthly Medicare Part A premium for the 12 months beginning January 1, 2005, for these individuals is \$375. The reduced premium for certain other individuals described in the notice is \$206.

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 the CMS complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. 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

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Ann Stallion
Regulations Coordinator
Department of Health and
Human Services

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
CENTERS FOR MEDICARE AND MEDICAID SERVICES
ENTITLED
"MEDICARE PROGRAM; PART A PREMIUM FOR 2005 FOR THE
UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS
WHO HAVE EXHAUSTED OTHER ENTITLEMENT"
(RIN: 0938-AN15)

(i) Cost-benefit analysis

CMS estimates that 433,000 enrollees will voluntarily enroll in Medicare Part A by paying the full premium, and an additional 1,000 enrollees will pay the reduced premium. CMS also estimates that the 2005 aggregate cost to enrollees will be \$166 million over the 2004 aggregate cost. In 2005, CMS estimates the total cost to enrollees paying these premiums will be about \$1.951 billion.

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

CMS has certified that the notice 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

As defined in title II, the notice does not contain either an intergovernmental or private sector mandate of more 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 states that since the premiums are calculated based on a statutory formula and CMS has no discretion, the waivers of proposed rulemaking and public comment are proper.

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 under the authority contained in sections 1818(d)(2) and 1818A(d)(2) of the Social Security Act (42 U.S.C. 1395i-2(d)(2) and 1395i-2a(d)(2)).

Executive Order No. 12866

The notice was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

CMS has determined that the notice does not have federalism implications.