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United States Government Accountability Office
Washington, DC 20548

B-311018

January 31, 2008

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

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

Subject: *Social Security Administration: Suspension of New Claims to the Federal Reviewing Official Review Level*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Social Security Administration (SSA), entitled “Suspension of New Claims to the Federal Reviewing Official Review Level” (RIN: 0960-AG53). We received the rule on January 23, 2008. It was published in the *Federal Register* as a final rule on January 15, 2008. 73 Fed. Reg. 2411.

The final rule suspends the transfer of new disability claims to the Office of the Federal Reviewing Official (OFedRO). Claims transferred to OFedRO before the effective date of the final rule will be processed by OFedRO and a related component, the Office of Medical and Vocational Expertise (OMVE). SSA will evaluate OFedRO and OMVE through processing the claims already received. States where the OFedRO and OMVE are currently functioning will return to the reconsideration process they were following prior to the August 2006 rule that created OFedRO.

The final rule has an announced effective date of March 15, 2008. The Congressional Review Act requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The rule was published in the *Federal Register* on January 15, 2008, but was not received by this office until January 23, 2008. Therefore, the final rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of the SSA'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, with the exception of the delay in the rule's effective date, SSA 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.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

cc: Paul Kryglik
Social Security Regulations Officer
Social Security Administration

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
SOCIAL SECURITY ADMINISTRATION
ENTITLED
"SUSPENSION OF NEW CLAIMS TO THE
FEDERAL REVIEWING OFFICIAL REVIEW LEVEL"
(RIN: 0960-AG53)

(i) Cost-benefit analysis

The Social Security Administration (SSA) performed a cost-benefit analysis of the final rule. SSA estimates that the rule will result in program savings of approximately \$1 billion in Old-Age, Survivors, and Disability Insurance (OASDI) benefit payments and cost \$100 million in Federal Supplemental Security Income (SSI) payments over the next 10 years.

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

SSA certifies 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

SSA determined in its notice of proposed rulemaking (72 Fed. Reg. 45,701) that this rule does not impose a federal mandate on state, local, or tribal governments.

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

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

SSA published a notice of proposed rulemaking on August 15, 2007. 72 Fed. Reg. 45,701. SSA received 10 comments in response to the rule. SSA responds to those comments in the final rule. 73 Fed. Reg. 2411.

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

The final rule imposes no new reporting or recordkeeping requirements requiring Office of Management and Budget (OMB) clearance.

Statutory authorization for the rule

The final rule is authorized by multiple sections of the Social Security Act.

Executive Order No. 12,866

The final rule is economically significant under the Order and was reviewed by OMB.

Executive Order No. 13,132 (Federalism)

SSA stated in its notice of proposed rulemaking that this rule will not have substantial federalism implications.