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United States Government Accountability Office
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October 3, 2008

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, 2009*

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, 2009” (RIN: 0938-AP00). We received the rule on September 19, 2008. It was published in the *Federal Register* as a notice on September 24, 2008. 73 Fed. Reg. 55,089.

The notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) beneficiaries enrolled in Part B of the Medicare Supplementary Medical Insurance (SMI) program beginning January 1, 2009. In addition, this notice announces the monthly premium for 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 2009 are \$192.70 for aged enrollees and \$224.20 for disabled enrollees. The standard monthly Part B premium rate for 2009 is \$96.40. The Part B deductible for 2009 is \$135.00 for all Part B beneficiaries.

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 or wish to contact GAO officials responsible for the evaluation work relating to the subject matter of the rule, please contact Michael R. Volpe, Assistant General Counsel, at (202) 512-8236.

signed

Robert J. Cramer
Associate General Counsel

Enclosure

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

ENCLOSURE

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, 2009"
(RIN: 0938-AP00)

(i) Cost-benefit analysis

CMS estimated that the increase will cost approximately 1.7 million Part B enrollees about \$770 million.

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

CMS has determined that the notice will not have a significant economic impact on a substantial number of small entities or on the operations of a substantial number of small rural hospitals.

(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 the notice will have no consequential effect on state, local or tribal governments. CMS has determined that the costs on the private sector fall below the \$130 million threshold.

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

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

In accordance with CMS's past practice regarding publication of deductible and coinsurance amounts under Medicare where such amounts are determined according to statute, a general notice is used rather than notice and comment rulemaking procedures contained in section 553 of the Administrative Procedure Act. In addition, CMS found good cause to waive the publication of a proposed notice and solicitation of public comments because delaying publication of the rates would be contrary to the public interest.

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 economically significant under Executive Order No. 12,866 and was reviewed by OMB.

Executive Order No. 13,132 (Federalism)

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