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United States Government Accountability Office  
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B-297805

January 13, 2006

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

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

The Honorable William M. Thomas  
Chairman  
The Honorable Charles B. Rangel  
Ranking Minority Member  
Committee on Ways and Means  
House of Representatives

Subject: *Social Security Administration: Medicare Part D Subsidies*

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 "Medicare Part D Subsidies" (RIN: 0960-AG03). We received the rule on December 28, 2005. It was published in the Federal Register as a final rule on December 30, 2005. 70 Fed. Reg. 77664.

The final rule announces how SSA will determine eligibility for premium and cost-sharing subsidies under the Medicare Part D program. The rule also includes, among other items, steps about how to apply for a subsidy and how to appeal a determination.

The final rule has an announced effective date of December 30, 2005. 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 received by

Congress on December 28, 2005, and was published in the Federal Register on December 30, 2005. 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 SSA 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.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: Gregory Zwitch  
SSA Regulations Officer  
Social Security Administration

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
SOCIAL SECURITY ADMINISTRATION  
ENTITLED  
"MEDICARE PART D SUBSIDIES"  
(RIN: 0960-AG03)

(i) Cost-benefit analysis

SSA did not perform a cost-benefit analysis of the final rule but directs the reader to the economic analysis in the final rule published on January 28, 2005, by the Centers for Medicare and Medicaid (70 Fed. Reg. 4454) regarding the Medicare Part D program.

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

The SSA certifies that the final rule will not have 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 private sector mandate, as defined in title II, of more than \$100 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.

The final rule was issued using the notice and comment procedures found at 5 U.S.C. 553. On March 4, 2005, SSA published a Notice of Proposed Rulemaking in the Federal Register. 70 Fed. Reg. 10558. In response, SSA received comments from 22 organizations and one individual, which are discussed in the preamble of the final rule.

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

The final rule contains an information collection that is subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The collection has been approved and assigned OMB Control No. 0960-0702, expiring May 31, 2008.

Statutory authorization for the rule

The final rule is promulgated pursuant to the authority found at sections 702(a)(5) and 1860D-1, 1860D-14 and -15 of the Social Security Act (42 U.S.C. 902(a)(5), 1395w-101, 1395w-114 and -115).

Executive Order No. 12866

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

Executive Order No. 13132 (Federalism)

The final rule does not have federalism implications or a substantial direct effect on the states.