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United States General Accounting Office  
Washington, DC 20548

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B-291866

January 28, 2003

The Honorable Arlen Specter  
Chairman  
The Honorable Bob Graham  
Ranking Minority Member  
Committee on Veterans' Affairs  
United States Senate

The Honorable Chris Smith  
Chairman  
The Honorable Lane Evans  
Ranking Minority Member  
Committee on Veterans' Affairs  
House of Representatives

Subject: *Department of Veterans Affairs: Enrollment--Provision of Hospital and Outpatient Care to Veterans Subpriorities of Priority Categories 7 and 8 and Annual Enrollment Level Decision*

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 Veterans Affairs (VA), entitled "Enrollment--Provision of Hospital and Outpatient Care to Veterans Subpriorities of Priority Categories 7 and 8 and Annual Enrollment Level Decision" (RIN: 2900-AL51). We received the rule on January 15, 2003. It was published in the Federal Register as an interim final rule on January 17, 2003. 68 Fed. Reg. 2670.

The interim final rule announces the Secretary's annual decision concerning enrollment in the VA's health-care system as required by the Veteran's Health Care Eligibility Reform Act of 1996 (Pub. L. 104-262). While the VA will continue to treat all veterans currently enrolled in any category and will treat new enrollees in categories 1 through 7, it is suspending the enrollment of additional veterans who are in the lowest statutory enrollment category (priority category 8).

Enclosed is our assessment of the VA'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 VA 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 William Scanlon, Managing Director, Health Care. Mr. Scanlon can be reached at (202) 512-7114.

signed

Kathleen E. Wannisky  
Managing Associate General Counsel

Enclosure

cc: John H. Thompson  
Deputy General Counsel  
Department of Veterans Affairs

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF VETERANS AFFAIRS  
ENTITLED  
"ENROLLMENT--PROVISION OF HOSPITAL AND OUTPATIENT CARE  
TO VETERANS SUBPRIORITIES OF PRIORITY CATEGORIES 7 AND 8  
AND ANNUAL ENROLLMENT LEVEL DECISION"  
(RIN: 2900-AL51)

(i) Cost-benefit analysis

VA notes that its total Fiscal Year 2003 medical care appropriation is estimated to be \$23.892 billion, which is supplemented by an additional \$1.881 billion from copayments, third-party reimbursements, other revenue and carry-over funds, for a total of \$25.773 billion. From this sum, \$4.224 billion is for services not included in the medical benefits package, including long-term care, dental care, emergency care, etc. Therefore, for FY 2003, VA states that it has available \$21.549 billion for the medical benefits package. The projected enrollment for FY 2003, including category 8, would lead to a projected cost of \$23.455 billion, or a shortage of \$1.906 billion.

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

The Secretary of Veterans Affairs has certified that the interim 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

The interim 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 VA states that it found "good cause" to dispense with the notice and comment and delayed effective date provisions of the Administrative Procedure Act (5 U.S.C. 553) because compliance would be impracticable and contrary to the public interest. Delaying issuance and implementation would exacerbate the problem of available funding.

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

The interim final rule 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 interim final rule is promulgated under the authority contained in the Veterans' Health Care Eligibility Reform Act of 1996 (Pub. L. 104-262), 38 U.S.C. 501 and 1721, and 38 C.F.R. 17.36(c).

Executive Order No. 12866

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