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United States Government Accountability Office  
Washington, DC 20548

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B-318866

November 6, 2009

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 Dave Camp  
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 Calendar Year 2010 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 Calendar Year 2010 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement” (RIN: 0938-AP43). We received the rule on October 19, 2009. It was published in the *Federal Register* as a notice on October 22, 2009. 74 Fed. Reg. 54,581.

The notice announces Medicare Hospital Insurance (Part A) premium for uninsured enrollees in calendar year (CY) 2010. This premium is paid by enrollees age 65 and over who are not otherwise eligible for benefits under Medicare Part A and by certain disabled individuals who have exhausted other entitlement. The monthly Part A premium for the 12 months beginning January 1, 2010, for these individuals will be \$461. The reduced premium for certain other individuals who qualify for a reduction of 45 percent will be \$254.

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 of the procedural steps taken 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 Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer  
Managing Associate General Counsel

Enclosure

cc: Vivian Stallion  
Office Manager, Department of  
Health and Human Services

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; PART A PREMIUM FOR  
CALENDAR YEAR 2010 FOR THE UNINSURED AGED  
AND FOR CERTAIN DISABLED INDIVIDUALS  
WHO HAVE EXHAUSTED OTHER ENTITLEMENT"  
(RIN: 0938-AP43)

(i) Cost-benefit analysis

For calendar year (CY) 2010, CMS estimates that the aggregate cost to enrollees paying the premiums will be about \$125 million more than the amount they paid in CY 2009. The premium for CY 2010 of \$461 is an increase of approximately 4 percent over the CY 2009 premium of \$443. CMS estimates that approximately 558,000 enrollees will voluntarily enroll in Medicare Part A by paying the full premium and that an additional 40,000 enrollees will pay the reduced premium.

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

CMS has determined 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 entities. Therefore, CMS did not prepare an analysis under the Regulatory Flexibility Act.

(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 has no consequential effect on state, local, or tribal governments, or on the private sector. However, states are required to pay the premiums for dually-eligible beneficiaries.

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

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

CMS issued a general notice and waived notice and comment rulemaking because the premium is dictated by a statutory formula.

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

The notice does not address the Paperwork Reduction Act. However, in past annual notices announcing these rates, CMS has stated that the notice does not contain any information collection requirements subject to the Act.

Statutory authorization for the rule

The notice was issued pursuant to the authority contained in section 1818 of the Social Security Act (42 U.S.C. 1395i-2).

Executive Order No. 12,866 (Regulatory Planning and Review)

The notice was deemed economically significant under the Order because the total increase in costs to voluntary enrollees associated with the notice will be about \$125 million. The notice was reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

CMS determined that the notice does not have federalism implications.