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December 4, 2000

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

The Honorable William F. Goodling
Chairman
The Honorable William Clay
Ranking Minority Member
Committee on Education and the Workforce
House of Representatives

Subject: Department of Labor, Pension and Welfare Benefits Administration:
Employee Retirement Income Security Act of 1974; Rules and Regulations
for Administration and Enforcement; Claims Procedure

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 Labor (Department), Pension and Welfare Benefits Administration, entitled "Employee Retirement Income Security Act of 1974; Rules and Regulations for Administration and Enforcement; Claims Procedure" (RIN: 1210-AA61). We received the rule on November 21, 2000. It was published in the Federal Register as a final rule on November 21, 2000. 65 Fed. Reg. 70246.

The final rule revises the minimum requirements for benefit claims procedures of employee benefit plans covered by Title I of the Employee Retirement Income Security Act of 1974. The final rule establishes new standards for the processing of claims under group health plans and plans providing disability benefits and further clarifies existing standards for all employee benefit plans. The new standards are intended to ensure more timely benefit determinations, to improve access to information on which a benefit determination is made, and to assure that participants and beneficiaries will be afforded a full and fair review of denied claims.

Enclosed is our assessment of the Department'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 Department 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 Cindy Fagnoni, Managing Director, Education, Workforce, and Income Security. Ms. Fagnoni can be reached at (202) 512-7215.

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: The Honorable Leslie B. Kramerich
Acting Assistant Secretary
Pension and Welfare Benefits Administration
Department of Labor

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF LABOR,
PENSION AND WELFARE BENEFITS ADMINISTRATION
ENTITLED
"EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974;
RULES AND REGULATIONS FOR ADMINISTRATION AND ENFORCEMENT;
CLAIMS PROCEDURE"
(RIN: 1210-AA61)

(i) Cost-benefit analysis

The Department conducted a cost-benefit analysis of the final rule including start-up costs and ongoing costs. The start-up costs in 2001 for health benefit claims is estimated to be \$103 million and \$16 million for disability benefit claims. The ongoing costs are estimated to be \$379 million for health benefit claims and \$21 million for disability benefit claims.

The benefits of the final rule are listed as prompt approval of claims that otherwise would have been wrongly denied and quicker and more accurate claims determination that will serve to encourage the delivery of more beneficial health care. While the Department states that these benefits are difficult to quantify, they will improve health outcomes, productivity, and quality of life and possibly avert the need for later health care and associated expense.

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

The Department conducted a Final Regulatory Flexibility Analysis and considered small entities, with the concurrence of the Small Business Administration, to be plans with fewer than 100 participants. The analysis complies with the requirements of the Act.

The Department finds that start-up costs for small plans will be modest because a large majority of such plans purchase claims administration services from a relatively small number of insurers, HMOs, and other service providers. These providers typically use a single claims processing system to service a large number of customers. Therefore, the cost of revising and implementing a small number of claims and appeals procedures is spread thinly over a far larger number of small plans. The final rule, therefore, is not expected to adversely affect small plans.

(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 impose an intergovernmental mandate, as defined in title II, of more than \$100 million in any one year but does impose such a mandate on the private sector. The Department's economic analysis prepared under Executive Order No. 12866 and the analysis prepared for the Regulatory Flexibility Act contain the information required by the Unfunded Mandates Reform Act of 1995 (UMRA). The preparation of the UMRA statement in conjunction with other analyses is permitted under 5 U.S.C. 1532(c).

(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 contained at 5 U.S.C. 553. On September 9, 1998, a Notice of Proposed Rulemaking was published in the Federal Register. 63 Fed. Reg. 48390. In the preamble to the final rule, the Department responds to the over 700 comments it received and discusses the changes made to the proposed rule as a result of their consideration.

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

The final rule contains an information collection that is subject to review and approval by the Office of Management and Budget (OMB). OMB has approved the collection and assigned OMB Number 1210-0053.

Statutory authorization for the rule

The final rule was issued under the authority contained in sections 503 and 505 of the Employee Retirement Income Security Act of 1974, 29 U.S.C. 1132 and 1135.

Executive Order No. 12866

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

Executive Order No. 13132 (Federalism)

While the Department found that the final rule had federalism implications under the order, it finds these implications to be limited. In the preamble, the Department discusses its consultations with state and local officials and the preemption by the final rule of state law, which the Department declares is the minimum required by section 514 of ERISA and the Supremacy Clause.