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**United States General Accounting Office
Washington, DC 20548**

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December 6, 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:
Amendments to Summary Plan Description Regulations

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 "Amendments to Summary Plan Description Regulations" (RIN: 1210-AA69; RIN: 1210-AA55). 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. 70226.

The final rule amends the regulations governing the content of the Summary Plan Description (SPD) required to be furnished to employee benefit plans participants and beneficiaries under the Employee Retirement Income Security Act of 1974. The rule, among other items, clarifies benefits, medical provider, and other information required to be disclosed in, or as part of, the SPD of a group health plan. It repeals the limited exception with respect to SPDs of welfare plans providing benefits through qualified health maintenance organizations.

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

ENCLOSURE

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
"AMENDMENTS TO SUMMARY PLAN DESCRIPTION REGULATIONS"
(RIN: 1210-AA69; 1210-AA55)

(i) Cost-benefit analysis

The Department conducted a cost-benefit analysis of the final rule. It estimates that the cost of the final rule will be \$47 million in 2001, rising to \$208 million in 2002, and falling to \$24 million in 2003 and each year thereafter. The increase in 2002 is due to the fact that the rule will be effective for the majority of plans in 2002.

While according to the Department, the benefits are more qualitative in nature, the rule will give participants better access to more complete information which will, among other improvements, permit them to make more informed decisions regarding choices of participation and benefit package options.

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

The Department prepared a Final Regulatory Flexibility Analysis for the final rule that complies with the act by furnishing the required information. It includes the number and size of the small entities (plans) and an assessment of the costs to be incurred by small plans. The Department attempted to reduce the impact of the final rule by allowing the plans to incorporate the required revisions into the periodic SPD updates that the plans would otherwise be distributing.

(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 will impose a mandate, as defined in title II, of over \$100 million in any one year on the private sector. The preamble to the final rule contains the information required by the act, including the assessment of costs and benefits and a discussion of why the Department considers the method chosen to be the least burdensome manner of achieving the rule's objective.

(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 procedure 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. 48376. A discussion of the comments received is contained in the preamble to the final rule.

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 under the Paperwork Reduction Act. The collection has been approved and assigned OMB No. 1210-0039. The preamble to the final rule contains a discussion of how the burden estimates were changed based on comments received. The estimated burden hours are 710,134 for 2001 and 1,117,801 for 2002. The estimated annual costs are \$243,226,000 for 2001 and \$400,056,000 for 2002.

Statutory authorization for the rule

The final rule was issued pursuant to the authority contained in sections 101, 103, 104, 109, 110, 111, 504, and 505 of the Employee Retirement Income Security Act of 1974 and under the Secretary of Labor's Order No. 1-87, 52 Fed. Reg. 13139, April 21, 1987.

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget and found to be an "economically significant" regulatory action.

Executive Order No. 13132 (Federalism)

The final rule does not contain federalism implications under the order; and, therefore, no federalism assessment was prepared.