



441 G St. N.W.  
Washington, DC 20548

B-326534

January 22, 2015

The Honorable Johnny Isakson  
Chairman  
The Honorable Richard Blumenthal  
Ranking Member  
Committee on Veterans' Affairs  
United States Senate

The Honorable Jeff Miller  
Chairman  
The Honorable Corrine Brown  
Ranking Member  
Committee on Veterans' Affairs  
House of Representatives

Subject: *Department of Veterans Affairs: Caregivers Program*

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 "Caregivers Program" (RIN: 2900-AN94). We received the rule on January 5, 2015. It was published in the *Federal Register* as a final rule on January 9, 2015. 80 Fed. Reg. 1357.

This final rule amends the regulations governing VA's Program of Comprehensive Assistance for Family Caregivers. VA administers this program to provide certain medical, travel, training, and financial benefits to caregivers of certain veterans and servicemembers who were seriously injured during service on or after September 11, 2001. This rule also addresses the Program of General Caregiver Support Services that provides support services to caregivers of veterans from all eras who are enrolled in the VA health care system. Specifically, this final rule includes a requirement that veterans be notified in writing should a Family Caregiver request revocation of caregiver status (i.e., to no longer be a Family Caregiver), an extension of the application timeframe from 30 days to 45 days for a Family Caregiver, and a change in the stipend calculation to ensure that Primary Family Caregivers do not experience unexpected decreases in stipend amounts from year to year.

The Congressional Review Act (CRA) 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 final rule has a stated effective date of January 9, 2015. The rule was received on January 5, 2015, and was published in the *Federal Register* on January 9, 2015. Therefore, the final rule does not have the required 60-day delay in its effective date. The 60-day delay in effective date can be waived, however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and its reasons in the rule issued. 5 U.S.C. §§ 553(d)(3), 808(2). VA determined that there was good cause to publish this rule

with an immediate effective date because it was concerned that a delayed effective date could confuse current Caregivers or VA employees who could misperceive that Caregiver benefits existing under the current interim rule would be interrupted for the period between publication of this final rule and the effective date of this final rule. VA also stated that certain veterans, servicemembers, and their family members have an immediate and urgent need for caregiver assistance and benefits. Therefore, VA found good cause to publish this rule with an immediate effective date.

Enclosed is our assessment of 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 of the procedural steps taken indicates that VA 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: William F. Russo  
Acting Director, Regulation Policy and Management  
Department of Veterans Affairs

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
DEPARTMENT OF VETERANS AFFAIRS  
ENTITLED  
"CAREGIVERS PROGRAM"  
(RIN: 2900-AN94)

(i) Cost-benefit analysis

The Department of Veterans Affairs (VA) analyzed costs and benefits of this final rule. With regard to potential benefits, VA observed that hundreds of seriously injured servicemembers and veterans have caregivers or potential caregivers who may be eligible for assistance and support services provided by this final rule. The purpose of this assistance is to benefit eligible veterans whose personal service needs could be substantially satisfied with the provision of such services by a family member and to provide eligible veterans with additional options so that they can choose the setting for the receipt of personal care services that best suit their needs. VA estimates that the total costs associated with this final rule, including the stipend, will be \$477.0 million in fiscal year 2015 and \$1.67 billion over a 3-year period. VA's estimated costs and revised projections are based on actual caseloads, actual obligations, and historical trends and data from July 2011 through fiscal year 2014.

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

VA determined that this 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

VA determined that this final rule will not result in the expenditure by state, local, or tribal governments, in the aggregate, or by the private sector of \$100 million or more in any given year.

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

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

On May 5, 2011, VA published an interim final rule. 76 Fed. Reg. 26,148. VA received 12 comments on the interim final rule, to which it responded in the final rule. VA also found good cause to publish this final rule with an immediate effective date. Under the interim final rule, VA has provided caregiver benefits continuously since May 2011. VA was concerned that a delayed effective date for this final rule could confuse current Caregivers or its own employees, possibly leading to the misperception that existing Caregiver benefits will be interrupted during the 30-day period between publication of this final rule and the effective date. Therefore, VA found good cause to publish this rule with an immediate effective date.

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

VA determined that this final rule contains an information collection requirement under the Act. VA submitted this requirement to the Office of Management and Budget (OMB) for review and it was assigned OMB Control Number 2900-0768.

Statutory authorization for the rule

VA promulgated this final rule under the authority of sections 501 and 1720G of title 38, United States Code.

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

VA determined that this final rule is an economically significant rule under the Order and therefore has been reviewed by OMB.