



---

**Office of the General Counsel**

B-282635

May 12, 1999

The Honorable William V. Roth  
Chairman  
The Honorable Daniel Patrick Moynihan  
Ranking Minority Member  
Committee on Finance  
United States Senate

The Honorable Thomas J. Bliley, Jr.  
Chairman  
The Honorable John D. Dingell  
Ranking Minority Member  
Committee on Commerce  
House of Representatives

**Subject:** Department of Health and Human Services, Health Care Financing Administration: Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 1999

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by Department of Health and Human Services, Health Care Financing Administration (HCFA), entitled "Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 1999" (RIN: 0938-AJ28). We received the rule on April 27, 1999. It was published in the Federal Register as a notice on March 29, 1999. 64 Fed. Reg. 14931.

The Social Security Act provides for the Medicaid program to pay all or part of the Medicare Part B premiums for beneficiaries belonging to two specific eligibility groups of low-income Medicare beneficiaries, referred to as Qualifying Individuals. This notice announces the federal fiscal year 1999 allotments that are available for state agencies to pay Medicare Part B premiums for these two eligibility groups.

Enclosed is our assessment of HCFA'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 HCFA 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, Director, Health Financing and Public Health Issues. Mr. Scanlon can be reached at (202) 512-7114.

Sincerely yours,

Robert P. Murphy  
General Counsel

Enclosure

cc: Mr. Thomas A. Lavelle  
Health Insurance Specialist  
Health Care Financing  
Administration  
Department of Health and Human  
Services

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE  
ISSUED BY  
DEPARTMENT OF HEALTH AND HUMAN SERVICES,  
HEALTH CARE FINANCING ADMINISTRATION  
ENTITLED  
"MEDICAID PROGRAM; STATE ALLOTMENTS FOR PAYMENT OF  
MEDICARE PART B PREMIUMS FOR QUALIFYING INDIVIDUALS:  
FEDERAL FISCAL YEAR 1999"  
(RIN: 0938-AJ28)

(i) Cost-benefit analysis

For states that execute a state plan amendment conforming to the requirements of the Social Security Act, as amended by the Balanced Budget Act of 1997, a total of \$1.5 billion is allocated over 5 years. The breakdown is as follows:

- \$200 million in fiscal year 1998,
- \$250 million in fiscal year 1999,
- \$300 million in fiscal year 2000,
- \$350 million in fiscal year 2001, and
- \$400 million in fiscal year 2002.

The benefits, according to HCFA, will include a positive effect on states and individuals. Federal funding at the 100-percent matching rate is available for Medicare cost sharing for Medicare Part B premium payments for qualifying individuals and a greater number of low-income Medicare beneficiaries will be eligible to have their Medicare Part B premiums paid under Medicaid.

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

The Secretary of Health and Human Services has determined that the notice will not have a significant economic impact on a substantial number of small entities under the standards of 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

The notice does not impose a federal intergovernmental or private sector mandate as defined in the Unfunded Mandates Reform Act of 1995.

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

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

HCFA notes in the preamble to the notice that normally it would publish a proposed notice with a public comment period and would delay the effective date for 30 days. However, because the law sets out in detail the specific amounts available for each federal fiscal year and the formula that is used to determine individual state allotments, the Secretary has found good cause to waive these two requirements. Also, no comments were received in response to the notice announcing fiscal year 1998 allotments. Because no prior notice was used and comments were not solicited, HCFA has also properly invoked the exception to the 60-day delay in the effective date of a major rule required by 5 U.S.C. 801.

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

The notice does not contain any information collections which are subject to review by the Office of Management and Budget under the Paperwork Reduction Act.

Statutory authorization for the rule

The notice was issued under the authority of sections 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a) and section 4732 of the Balanced Budget Act of 1997 (Pub. L. 105-33).

Executive Order No. 12866

The notice was found to be an “economically significant” regulatory action under Executive Order No. 12866 and was reviewed and approved by the Office of Management and Budget.