



United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

B-283494

August 27, 1999

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

The Honorable Bill Archer
Chairman
The Honorable Charles B. Rangel
Ranking Minority Member
Committee on Ways and Means
House of Representatives

Subject: Social Security Administration: Revised Medical Criteria for Determination of Disability, Endocrine System and Related Criteria

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by Social Security Administration (SSA), entitled "Revised Medical Criteria for Determination of Disability, Endocrine System and Related Criteria" (RIN: 0960-AE65). We received the rule on August 18, 1999. It was published in the Federal Register as a final rule on August 24, 1999. 64 Fed. Reg. 46122.

The final rule revises part 404, subpart P, Chapter II of Title 20 of the Code of Federal Regulations by deleting listing 9.09, "Obesity," from the Listing of Impairments. It adds guidance about evaluating claims for benefits involving obesity to the prefaces of the musculoskeletal, respiratory, and cardiovascular body system listings.

Enclosed is our assessment of the SSA'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 SSA 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, Director,

Education, Workforce, and Income Security Issues. Ms. Fagnoni can be reached at (202) 512-7215.

Sincerely yours,

Robert P. Murphy
General Counsel

Enclosure

cc: Ms. Georgia E. Myers
Acting Regulations Officer
Social Security Administration

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
SOCIAL SECURITY ADMINISTRATION
ENTITLED
"REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY,
ENDOCRINE SYSTEM AND RELATED CRITERIA"
(RIN: 0960-AE65)

(i) Cost-benefit analysis

The Social Security Administration conducted a cost-benefit analysis of the final rule. The analysis concludes that, over 5 years, the final rule will result in reduced program outlays of \$250 million in the title II program, \$125 million in the Supplemental Security Income program, \$140 million in the Medicare program, and \$160 million in the Medicaid program.

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

The Commissioner of the Social Security Administration has certified that the 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

The final rule does not impose either an intergovernmental or private sector mandate of over \$100 million per year, as defined in the Unfunded Mandates Act of 1995.

(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 March 11, 1998, a Notice of Proposed Rulemaking was published (63 Fed. Reg. 11854) and over 200 comments were received in response to the Notice. The comments are responded to in the preamble to the final rule.

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

The final rule 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 final rule is issued pursuant to the authority found in Sections 202; 205(a), (b), and (d)-(h); 216(i); 221(a) and (i); 222(c); 223; 225; and 702(a)(5) of the Social Security Act (42 U.S.C. 402; 405(a), (b), and (d)-(h); 416(i); 421(a) and (i); 422(c); 423; 425; and 902(a)(5)) and Section 211(b) of Public Law 104-193, 110 Stat. 2105, 2189.

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget as an “economically significant” regulatory action and was approved by OMB on July 9, 1999, as meeting the requirements of Executive Order No. 12866.