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United States General Accounting Office
Washington, DC 20548

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April 30, 2002

The Honorable Carl Levin
Chairman
The Honorable John Warner
Ranking Minority Member
Committee on Armed Services
United States Senate

The Honorable Bob Stump
Chairman
The Honorable Ike Skelton
Ranking Minority Member
Committee on Armed Services
House of Representatives

Subject: Department of Defense, Office of the Secretary: Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)/TRICARE; Partial Implementation of Pharmacy Benefits Program; Implementation of National Defense Authorization Act for Fiscal Year 2001

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 Defense (DOD), Office of the Secretary, entitled "Civilian Health and Medical Program of the Uniformed Services (CHAMPUS)/TRICARE; Partial Implementation of Pharmacy Benefits Program; Implementation of National Defense Authorization Act for Fiscal Year 2001" (RIN: 0720-AA62). We received the rule on April 23, 2002. It was published in the Federal Register as a final rule on April 3, 2002. 67 Fed. Reg. 15721.

The final rule is being published as a follow-up to an interim final rule that DOD published on February 9, 2001, implementing various sections of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001. 66 Fed. Reg. 9651. Among other items, the rule allows coverage of physical examinations for beneficiaries ages 5 through 11 that are required in connection with school enrollment and partially implements the Pharmacy Benefits Program establishing revised copays and cost-shares for the prescription drug benefit.

Enclosed is our assessment of the DOD'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 DOD 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, Managing Director, Health Care. Mr. Scanlon can be reached at (202) 512-7114.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: L.M. Bynum
Alternate OSD Federal
Register Liaison Officer
Department of Defense

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF DEFENSE,
OFFICE OF THE SECRETARY
ENTITLED
"CIVILIAN HEALTH AND MEDICAL PROGRAM OF THE
UNIFORMED SERVICES (CHAMPUS)/TRICARE; PARTIAL IMPLEMENTATION
OF PHARMACY BENEFITS PROGRAM; IMPLEMENTATION OF NATIONAL
DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2001"
(RIN: 0720-AA62)

(i) Cost-benefit analysis

The final rule will add over \$200 million in annual health care benefit costs. The estimate is based on historical TRICARE costs and an assessment of potential users times the average benefit costs per person for each of the provisions.

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

DOD has determined 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 contain an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million in any one year.

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

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

In the publication of the interim rule in the Federal Register on February 9, 2001, DOD requested comments for consideration before the rule became final. DOD received comments from one commenter, and they are discussed 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 that 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 promulgated under the authority contained at 5 U.S.C. 301; 10 U.S.C. chapter 55; and sections 703, 704, 706, 711, 722, 752, and 759 of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106-398, Oct. 30, 2000).

Executive Order No. 12866

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