



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

B-332734

November 24, 2020

The Honorable Chuck Grassley
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

The Honorable Frank Pallone, Jr.
Chairman
The Honorable Greg Walden
Ranking Member
Committee on Energy and Commerce
House of Representatives

The Honorable Richard Neal
Chairman
The Honorable Kevin Brady
Ranking Member
Committee on Ways and Means
House of Representatives

Subject: *Department of Health and Human Services, Centers for Medicare & Medicaid Services: Medicare Program; Medicare Part B Monthly Actuarial Rates, Premium Rates, and Annual Deductible Beginning January 1, 2021*

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 Health and Human Services, Centers for Medicare & Medicaid Services (CMS) entitled "Medicare Program; Medicare Part B Monthly Actuarial Rates, Premium Rates, and Annual Deductible Beginning January 1, 2021" (RIN: 0938-AU16). We received the rule on November 13, 2020. It was published in the *Federal Register* as a notice on November 12, 2020. 85 Fed. Reg. 71904. The effective date of the rule is January 1, 2021

According to CMS, the final rule announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) beneficiaries enrolled in Part B of the Medicare Supplementary Medical Insurance (SMI) program beginning January 1, 2021. In addition, CMS further states this rule announces the monthly premium for aged and disabled beneficiaries, the deductible for 2021, and the income-related monthly adjustment amounts to be paid by beneficiaries with modified adjusted gross income above certain threshold amounts. According to CMS, the monthly actuarial rates for 2021 are \$291.00 for aged enrollees and \$349.90 for disabled enrollees. CMS also stated the standard monthly Part B premium rate for all enrollees for 2021 is \$148.50, which is equal to 50 percent of the monthly actuarial rate for aged enrollees (or approximately 25 percent of the expected average total cost of Part B coverage for aged

enrollees) plus the \$3.00 repayment amount required under current law. CMS further stated the Part B deductible for 2021 is \$203.00 for all Part B beneficiaries. According to CMS, if a beneficiary has to pay an income-related monthly adjustment, he or she will have to pay a total monthly premium of about 35, 50, 65, 80 or 85 percent of the total cost of Part B coverage plus a repayment amount of \$4.20, \$6.00, \$7.80, \$9.60, or \$10.20, respectively.

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 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(b)(3)(B), 808(2). Here, although CMS did not specifically mention CRA's 60-day delay in effective date requirement, the agency found good cause to waive notice and comment procedures under section 553(b)(3)(B) of the Administrative Procedure Act and incorporated a brief statement of reasons. Specifically, CMS stated it calculated the monthly actuarial rates for aged and disabled beneficiaries, the Part B deductible, and the monthly Part B premium as directed by the Social Security Act, 42 U.S.C. § 1395r; since the statute establishes both when the monthly actuarial rates for aged and disabled beneficiaries and the monthly Part B premium must be published and the information that the Secretary must factor into those amounts, CMS stated it does not have any discretion in that regard.

Enclosed is our assessment of CMS's compliance with the procedural steps required by section 801(a)(1)(B)(i) through (iv) of title 5 with respect to the rule. 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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.



Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Vanessa Jones
Regulations Coordinator
Department of Health and Human Services

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES,
CENTERS FOR MEDICARE & MEDICAID SERVICES
ENTITLED
“MEDICARE PROGRAM; MEDICARE PART B MONTHLY ACTUARIAL RATES,
PREMIUM RATES, AND ANNUAL DEDUCTIBLE BEGINNING JANUARY 1, 2021”
(RIN: 0938-AU16)

(i) Cost-benefit analysis

In its submission to us, the Centers for Medicare & Medicaid Services did not include an analysis in the final rule.

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

CMS determined the final rule would not have a significant economic impact on a substantial number of small entities. CMS also determined the final rule would not have a significant economic impact on a substantial number of rural hospitals.

(iii) Agency actions relevant to sections 202-205 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. §§ 1532-1535

CMS determined the final rule does not impose mandates that will have a consequential effect of the threshold amount of \$156 million (\$100 million, adjusted for inflation) or more on state, local, or tribal governments or on the private sector.

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

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

CMS determined it had good cause to waive notice and comment procedures. CMS stated it had good cause because it calculated the monthly actuarial rates for aged and disabled beneficiaries, the Part B deductible, and the monthly Part B premium as directed by the Social Security Act, 42 U.S.C. § 1395r; since the statute establishes both when the monthly actuarial rates for aged and disabled beneficiaries and the monthly Part B premium must be published and the information that the Secretary must factor into those amounts, CMS stated it does not have any discretion in that regard.

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

CMS determined the final rule does not contain any information collection requirements subject to the Act.

Statutory authorization for the rule

CMS promulgated the final rule pursuant to sections 1395l, 1395r, and 1396u-3 of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

CMS stated the final rule was economically significant and had been reviewed by the Office of Management and Budget.

Executive Order No. 13132 (Federalism)

CMS determined that the final rule does not significantly affect the rights, roles, and responsibilities of states.