



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

B-331658

December 19, 2019

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

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; CY 2020 Part A Premiums for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement*

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; CY 2020 Part A Premiums for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement” (RIN: 0938-AT77). We received the rule on December 4, 2019. It was published in the *Federal Register* as a notice on November 13, 2019. 84 Fed. Reg. 61622. The effective date of the rule is January 1, 2020.

The notice announces Medicare’s Hospital Insurance (Part A) premium for uninsured enrollees in calendar year 2020. This premium is paid by enrollees age 65 and over who are not otherwise eligible for benefits under Medicare Part A and by certain disabled individuals who have exhausted other entitlement. The monthly Part A premium for the 12 months beginning January 1, 2020, for these individuals will be \$458. The premium for certain other individuals as described in the notice will be \$252.

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 finding 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 and incorporated a brief statement of reasons. Specifically, CMS found that delay is unnecessary as CMS has calculated the premium

amounts as directed by the Social Security Act, which establishes both when the premium amounts must be published and the information that the Secretary of Health and Human Services must factor into the premium amounts.

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 Janet Temko-Blinder, Assistant General Counsel, at (202) 512-7104.

signed

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Calvin E. Dukes II
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; CY 2020 PART A PREMIUMS FOR THE
UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS
WHO HAVE EXHAUSTED OTHER ENTITLEMENT”
(RIN: 0938-AT77)

(i) Cost-benefit analysis

The Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), stated the calendar year 2020 premium of \$458 is approximately 4.8 percent higher than the 2019 premium of \$437. CMS estimated that approximately 691,000 enrollees will voluntarily enroll in Medicare Part A by paying the full premium. CMS further estimated that over 90 percent of these individuals will have their Part A premium paid for by states, since they are enrolled in the Qualified Medicare Beneficiaries program. CMS also stated the reduced premium of \$252 is approximately 5.0 percent higher than the 2019 premium of \$240. CMS estimated an additional 80,000 enrollees will pay the reduced premium. Based on these numbers, CMS estimated the aggregate cost to enrollees paying the premiums in 2020, compared to the amount that they paid in 2019, will be about \$186 million.

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

CMS determined that the notice will not have a significant economic impact on a substantial number of small entities. CMS also determined the notice will not have a significant impact on a substantial number of small 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 stated the notice does not impose mandates that will have a consequential effect of \$154 million 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 (APA), 5 U.S.C. §§ 551 *et seq.*

CMS stated that the premium announcement set forth in this notice does not constitute a substantive rule which would be subject to the notice requirements in section 553(b) of APA. To the extent that an opportunity for public notice and comment could be construed as required for this notice, CMS stated that it found good cause to waive this requirement because CMS calculated the premiums as directed by the Social Security Act, which establishes both when the premium amounts must be published and the information that the Secretary must factor into the premium amounts.

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

CMS stated the notice does not impose information collection requirements under PRA.

Statutory authorization for the rule

CMS stated it promulgated the notice under sections 1818 and 1818A of the Social Security Act.

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

CMS stated the notice was economically significant and was reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

CMS stated the notice will not have a substantial direct effect on state or local governments, preempt state law, or otherwise have federalism implications.