



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

B-331915

March 12, 2020

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: *Social Security Administration: Removing Inability To Communicate in English as an Education Category*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Social Security Administration (SSA) entitled “Removing Inability To Communicate in English as an Education Category” (RIN: 0960-AH86). We received the rule on February 28, 2020. It was published in the *Federal Register* as final rules on February 25, 2020. 85 Fed. Reg. 10586. The effective date of the rule is April 27, 2020.

The final rule eliminates the education category “inability to communicate in English” when SSA evaluates disability claims for adults under titles II and XVI of the Social Security Act. According to SSA, this education category is no longer a useful indicator of an individual’s educational attainment or of the vocational impact of an individual’s education because of changes in the national workforce since SSA adopted the current rule more than 40 years ago. SSA expects the revisions will help it better assess the vocational impact of education in the disability determination process.

Enclosed is our assessment of 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. 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: Faye Lipsky  
Director, Office of Regulations  
Office of Legislation and Congressional Affairs  
Social Security Administration

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE  
ISSUED BY THE  
SOCIAL SECURITY ADMINISTRATION  
ENTITLED  
“REMOVING INABILITY TO COMMUNICATE IN ENGLISH  
AS AN EDUCATION CATEGORY”  
(RIN: 0960-AH86)

(i) Cost-benefit analysis

The Social Security Administration (SSA) did not prepare a separate cost-benefit analysis for the final rule because the Office of Management and Budget (OMB) determined that the analysis from the proposed rule sufficed for that purpose. SSA estimated the proposed rule would result in a reduction of about 6,500 Old Age, Survivors, and Disability Insurance (OASDI) beneficiary awards and 4,000 Supplemental Security Income (SSI) recipient awards per year on average over the period between Fiscal Years 2019-2028 with a corresponding reduction of \$4.6 billion in OASDI benefit payments and \$800 million in federal SSI payments over the same period. SSA also estimated administrative costs of \$97 million for SSA and \$24 million for disability determination services over the same period.

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

SSA certified 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

In its submission to us, SSA indicated that it had not prepared a written statement under section 202 of the Act.

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

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

On February 1, 2019, SSA published a proposed rule. 84 Fed. Reg. 1006. SSA received 216 comments on the proposed rule, 212 of which were related to the regulation according to SSA. The comments came from individual citizens and claimant representatives, Members of Congress, national groups representing claimant representatives, and advocacy groups. SSA responded to comments in the final rule that SSA determined were within the scope of the proposed rule.

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

SSA determined the final rule contains information collection requests (ICRs) under the Act, and SSA submitted the ICRs to the Office of Management and Budget (OMB) for review. According

to SSA, the final rule contains five ICRs. Continuing Disability Review Report (OMB No. 0960-0072) has an estimated burden of 541,000 hours and a cost of \$5,529,020. Disability Report–Adult (OMB No. 0960-0579) has an estimated burden of 3,387,766 hours and a cost of \$34,622,968. Function Report–Adult (OMB No. 0960-0681) has an estimated burden of 1,763,546 hours and a cost of \$18,023,440. Function Report–Adult Third Party (OMB No. 0960-0635) has an estimated burden of 721,528 hours and a cost of \$16,234,380. Disability Report–Appeal (OMB No. 0960-0144) has an estimated burden of 520,346 hours and a cost of \$5,317,936.

#### Statutory authorization for the rule

SSA promulgated the final rule pursuant to sections 402, 405, 416, 421, 422, 423, 425, 902, 1382, 1382c, 1382h, 1383, and 1383b of title 42, United States Code and relevant sections of Public Laws 98-460, 104-193, and 108-203.

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

SSA stated it consulted with OMB and determined the final rule meets the criteria for an economically significant regulatory action under the Order.

#### Executive Order No. 13,132 (Federalism)

SSA determined the final rule will not have federalism implications and will not preempt any state law or state regulation or affect the states' abilities to discharge traditional state governmental functions.