



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

B-332399

August 16, 2020

The Honorable Jerry Moran
Chairman
The Honorable Jon Tester
Ranking Member
Committee on Veterans' Affairs
United States Senate

The Honorable Mark Takano
Chairman
The Honorable Phil Roe
Ranking Member
Committee on Veterans' Affairs
House of Representatives

Subject: *Department of Veterans Affairs: Program of Comprehensive Assistance for Family Caregivers Improvements and Amendments Under the VA MISSION Act of 2018*

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 Veterans Affairs (VA) entitled "Program of Comprehensive Assistance for Family Caregivers Improvements and Amendments Under the VA MISSION Act of 2018" (RIN: 2900-AQ48). We received the rule on July 31, 2020. It was published in the *Federal Register* as a final rule on July 31, 2020. 85 Fed. Reg. 46226. The stated effective date of the rule is October 1, 2020. *Id.*

The final rule, according to VA, makes improvements to VA's Program of Comprehensive Assistance for Family Caregivers (PCAFC) and updates the regulations to comply with the recent enactment of the VA MISSION Act of 2018, Pub. L. No. 115-182, 132 Stat. 1393 (Jun. 6, 2018). According to VA, the Act made changes to the program's authorizing statute. VA stated that this final rule allows the PCAFC to better address the needs of veterans of all eras and standardize the program to focus on eligible veterans with moderate and severe needs.

Enclosed is our assessment of VA'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: Michael P. Shores
Director, Office of Regulation Policy and Mgt.
Department of Veterans Affairs

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF VETERANS AFFAIRS
ENTITLED
“PROGRAM OF COMPREHENSIVE ASSISTANCE FOR
FAMILY CAREGIVERS IMPROVEMENTS AND
AMENDMENTS UNDER THE VA MISSION ACT OF 2018”
(RIN: 2900-AQ48)

(i) Cost-benefit analysis

The Department of Veterans Affairs (VA) determined that the net costs of this final rule are \$483.4 million over a 5-year period. According to VA, the net costs are estimated to be \$70.5 million per year on an ongoing basis discounted at 7 percent relative to year 2016, over a perpetual time horizon.

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

According to VA, the Secretary certified that the final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act. VA stated that the final rule may directly affect small entities that it would contract with to provide financial planning services and legal services to Primary Family Caregivers. VA further stated that matters relating to contracts are exempt from RFA requirements. According to VA, any effects on small entities would be indirect. VA determined that pursuant to 5 U.S.C. § 605(b), the initial and final regulatory flexibility analysis requirements under 5 U.S.C. §§ 603-604 do not apply.

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

VA determined that this final rule would not have an effect on state, local, and tribal governments, or on the private sector of \$100 million (adjusted for inflation) or more.

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

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

According to VA, on March 6, 2020, it published a proposed rule to revise its regulations that govern VA's Program of Comprehensive Assistance for Family Caregivers (PCAFC) to make improvements to PCAFC and update the regulations to comply with section 161 of the VA MISSION Act of 2018, Pub. L. No. 115–182, 132 Stat. 1393 (Jun. 6, 2018). 85 Fed. Reg. 13356. In response to this proposed rule, VA stated that it received 271 comments. VA stated that more than 37 comments expressed general support for the proposed rule, in whole or in part. VA further stated that they appreciate the support of such comments and do not address them in the final rule. Other comments, according to VA, expressed support or disapproval, in whole or in part, with substantive provisions in the proposed rule. VA stated that it discusses those comments and applicable revisions from the proposed rule in this final rule. VA further stated that it only addresses the provisions of the proposed rule that received comments in this final

rule. Additionally, according to VA, it included a section on miscellaneous comments received. VA stated that numerous commenters raised individual matters (e.g., struggles they may currently be having). VA further stated that to the extent these individuals provided their personal information, the agency attempted to reach out to them to address their individual matters outside of this rulemaking.

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

VA determined that this final rule contains information collection requirements (ICRs) under the Act. According to VA, this final rule contains provisions that would constitute a revised ICR under 38 C.F.R. § 71.25, which is currently approved under Office of Management and Budget (OMB) Control Number 2900–0768. This rule also contains provisions that constitute a new ICR under 38 C.F.R. § 71.40, which will be added under OMB Control Number 2900–0768, according to VA. According to VA, as required by 44 U.S.C. § 3507(d), it will submit, under a separate document, the revised ICR associated with sections 71.25 and 71.40 to OMB for its review and approval. VA stated that notice of OMB approval for this revised collection of information will be published in a future *Federal Register* document.

Statutory authorization for the rule

VA promulgated this final rule pursuant to section 3711 of title 31, United States Code; and sections 111(e), 501, 1720B, 1720G, 1782, 5302, 5314 of title 38, United States Code.

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

VA stated that OMB determined that this final rule is economically significant under the Order.

Executive Order No. 13,132 (Federalism)

VA did not discuss the Order in this final rule.