



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

B-334637

October 5, 2022

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

The Honorable Mark Takano
Chairman
The Honorable Mike Bost
Ranking Member
Committee on Veterans' Affairs
House of Representatives

Subject: *Department of Veterans Affairs: Civilian Health and Medical Program of the Department of Veterans Affairs*

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 "Civilian Health and Medical Program of the Department of Veterans Affairs" (RIN: 2900-AP02). We received the rule on September 21, 2022. It was published in the *Federal Register* as a final rule on July 13, 2022. 87 Fed. Reg. 41594. The effective date is August 12, 2022.

According to VA, this final rule amends the agency's medical regulations concerning the Civilian Health and Medical Program of the Department of Veterans Affairs (CHAMPVA). According to VA, the rule clarifies and updates these regulations to conform to changes in law and policy that control the administration of CHAMPVA and include details concerning the administration of CHAMPVA that were previously not reflected in regulation. VA stated that the rule improves the agency's ability to effectively administer CHAMPVA and make technical revisions to make the agency's regulations more understandable. In addition, VA expressed that the rule expands covered services and supplies to include certain preventive services, and eliminates cost-share amounts and deductibles for certain covered services.

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). This final rule was published in the *Federal Register* on July 13, 2022. 87 Fed. Reg. 41594. The *Congressional Record* shows that the rule was received by the Senate on September 14, 2022. 168 Cong. Rec. S4912 (daily ed. Sept. 21, 2022). The *Congressional Record* does not reflect the date of receipt by the House of Representatives. The rule has a stated effective date of August 12, 2022. Therefore the final rule does not have the required 60-day delay in its effective date.

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.

A handwritten signature in black ink that reads "Shirley A. Jones". The signature is written in a cursive style with a large initial 'S' and 'J'.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Luvenia Potts
Office of Regulation Policy & Management
Office of General Counsel (00REG)
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
“CIVILIAN HEALTH AND MEDICAL PROGRAM
OF THE DEPARTMENT OF VETERANS AFFAIRS”
(RIN: 2900-AP02)

(i) Cost-benefit analysis

The Department of Veterans Affairs (VA) conducted an economic analysis of this final rule. In regards to the benefits of the rule, VA recognized that the rule would clarify that health care claims submitted to VA for certain services will be reimbursed through either the Outpatient Prospective Payment System, Home Health Prospective Payment System, or the Cost-to-Charge Ratio. VA also identified that the agency’s total net budget impact in fiscal year (FY) 2022 is a savings of \$89.6 million and \$474.7 million in savings over the 5-year period from FY 2022 to FY 2026. VA stated that the net transfer savings associated with the rule are estimated to be \$89.7 million in FY 2022 and \$475.3 million over the 5-year period from FY 2022 to FY 2026. VA also stated it will also experience IT costs for software of \$116,097 in FY 2022 and \$641,510 over the 5-year period from FY 2022 to FY 2026.

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

VA certified that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the RFA.

(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 will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million or more (adjusted annually for inflation) 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.*

On January 17, 2018, VA published a proposed rule. 83 Fed. Reg. 2396. VA received six comments from the public on the proposed rule. VA responded to those comments in the final rule.

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

VA determined that this final rule contains no information collection requirements under the Act.

Statutory authorization for the rule

VA promulgated this final rule pursuant to section 552 and 552a of title 5; sections 501, 1720G, 1781, 5701, and 7332 of title 38; and section 2651 of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

VA stated that the Office of Information and Regulatory Affairs determined that this final rule is a significant regulatory action under the Order.

Executive Order No. 13132 (Federalism)

In its submission to us, VA indicated that it did not discuss the Order in this final rule.