



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

B-336868

November 26, 2024

The Honorable Ron Wyden
Chairman
The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate

The Honorable Cathy McMorris Rodgers
Chair
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

The Honorable Jason Smith
Chairman
The Honorable Richard Neal
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 2025 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 (HHS), Centers for Medicare & Medicaid Services (CMS) titled "Medicare Program; CY 2025 Part A Premiums for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement" (RIN: 0938-AV37). We received the rule on November 12, 2024. It was published in the *Federal Register* on November 14, 2024. 89 Fed. Reg. 90015. The effective date of the rule is January 1, 2025.

According to CMS, this rule announces Medicare's Hospital Insurance Program (Medicare Part A) premium for uninsured enrollees in calendar year (CY) 2025. CMS stated that this premium is paid by enrollees aged 65 and over who are not otherwise eligible for benefits under Medicare Part A and by certain individuals with disabilities who have exhausted other entitlements. CMS also stated that the monthly Medicare Part A premium for the 12 months beginning January 1, 2025, for these individuals will be \$518. CMS stated further that, the premium for certain other individuals as described in this notice will be \$285.

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 does not apply, however, if the agency finds for good cause that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the finding and a brief statement of its reasons in the rule. 5 U.S.C. §§ 553(b)(4)(B), 808(2). According to CMS, section 1818(d) of the Social Security Act requires the Secretary of HHS, during September of each year, to determine and publish the amount to be paid by individuals aged 65 and over who will be entitled to benefits under Medicare Part A. See 42 U.S.C. § 1395i-2(d). CMS stated that the statute requires it to determine the applicable premium amount for each CY in accordance with the statutory formula, and that it is simply notifying the public of the changes to the Medicare Part A premiums for CY 2025. CMS also stated that it does not have discretion in this matter. CMS stated further that it found notice and comment procedures to be unnecessary for this rule and it found good cause to waive such procedures under section 553(b)(4)(B) of the Administrative Procedure Act and section 1871(b)(2)(C) of the Social Security Act, if such procedures may be construed to be required at all. See 42 U.S.C. § 1395hh(b)(2)(C).

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 Charlie McKiver, Assistant General Counsel, at (202) 512-5992.



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
TITLED
“MEDICARE PROGRAM; CY 2025 PART A PREMIUMS FOR THE UNINSURED AGED AND
FOR CERTAIN DISABLED INDIVIDUALS WHO HAVE EXHAUSTED OTHER ENTITLEMENT”
(RIN: 0938-AV37)

(i) Cost-benefit analysis

The Department of Health and Human Services (HHS), Centers for Medicare & Medicaid Services (CMS) prepared an analysis of the costs and benefits of this rule. CMS estimates that the overall effect of the changes in Medicare’s Hospital Insurance Program (Medicare Part A) premium will be a cost to voluntary enrollees of about \$126 million. 89 Fed. Reg. 90015, 90017 (Nov. 14, 2024).

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

CMS stated that the Secretary of HHS has certified that this rule will not have a significant economic impact on a substantial number of small entities. 89 Fed. Reg. at 90017.

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

CMS determined that this rule will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million in 1995 dollars, updated annually for inflation, in any one year. 89 Fed. Reg. 90018.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO’s major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: “the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act’s exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act’s requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act” in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory

Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

In its submission to us, CMS indicated the Act is not applicable to this rule. 89 Fed. Reg. 90018.

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

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

According to CMS, section 1818(d) of the Social Security Act requires the Secretary of HHS, during September of each year, to determine and publish the amount to be paid by individuals aged 65 and over who will be entitled to benefits under Medicare Part A. See 42 U.S.C. § 1395i-2(d). CMS stated that the statute requires it to determine the applicable premium amount for each calendar year (CY) in accordance with the statutory formula, and that it is simply notifying the public of the changes to the Medicare Part A premiums for CY 2025. CMS also stated that it does not have discretion in this matter. CMS stated further that it found notice and comment procedures to be unnecessary for this rule and it found good cause to waive such procedures under section 553(b)(4)(B) of title 5, United States Code, and section 1871(b)(2)(C) of the Social Security Act, if such procedures may be construed to be required at all. 89 Fed. Reg. at 90016; see 42 U.S.C. § 1395hh(b)(2)(C).

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

CMS determined that this rule contains no information collection requirements under the Act. 89 Fed. Reg. 90016.

Statutory authorization for the rule

CMS promulgated this rule pursuant to sections 1395i-2 and 1395i-2a of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

CMS stated that this rule is not significant under the Order. 89 Fed. Reg. at 90017.

Executive Order No. 13132 (Federalism)

CMS determined that this rule does not have federalism implications. 89 Fed. Reg. 90018.