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September 25, 2025

The Honorable Bill Cassidy
Chairman
The Honorable Bernard Sanders
Ranking Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable Brett Guthrie
Chairman
The Honorable Frank Pallone, Jr.
Ranking Member
Committee on Energy and Commerce
House of Representatives

Subject: *Department of Health and Human Services: Patient Protection and Affordable Care Act; Marketplace Integrity and Affordability*

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) entitled "Patient Protection and Affordable Care Act; Marketplace Integrity and Affordability" (RIN: 0938-AV61). We received the rule on September 4, 2025. It was published in the *Federal Register* on June 25, 2025. 90 Fed. Reg. 27074. The effective date of the rule is August 25, 2025.

This rule revises standards relating to denial of coverage for failure to pay past-due premium; excludes Deferred Action for Childhood Arrivals recipients from the definition of "lawfully present"; establishes the evidentiary standard HHS uses to assess an agent's, broker's, or web-broker's potential noncompliance; revises the Exchange automatic reenrollment hierarchy; revises standards related to the annual open enrollment periods; revises standards relating to failure to file and reconcile, income eligibility verifications for premium tax credits and cost-sharing reductions, annual eligibility redeterminations, de minimis thresholds for the actuarial value for plans subject to essential health benefits (EHB) requirements, and income-based and cost-sharing reduction plan variations. The rule also revises the premium adjustment percentage methodology and prohibits issuers of coverage subject to EHB requirements from providing coverage for specified sex-trait modification procedures as an EHB.

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 *Congressional Record* reflects that the House of Representatives received the rule on September 4, 2025, 171 Cong. Rec. H4409 (daily ed. Sept. 17, 2025), and that the Senate received the rule on September 10, 2025. 171 Cong. Rec.

S6598 (daily ed. Sept. 15, 2025). The rule has a stated effective date of August 25, 2025. Therefore, the rule does not have the required 60-day delay in its effective date.

Enclosed is our assessment of HHS'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.

A handwritten signature in black ink, reading "Shirley A. Jones". The signature is written in a cursive, flowing style.

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
ENTITLED
“PATIENT PROTECTION AND AFFORDABLE CARE ACT;
MARKETPLACE INTEGRITY AND AFFORDABILITY”
(RIN: 0938-AV61)

(i) Cost-benefit analysis

The Department of Health and Human Services (HHS) prepared an analysis of the costs and benefits for this rule. See 90 Fed. Reg. 27074, 27188. HHS estimated that there will be numerous effects of the rule, including supporting program integrity, reducing the impact of adverse selection, and stabilizing premiums in the individual and small group health insurance markets and in Exchanges. *Id.* HHS stated that it is unable to quantify and monetize all the benefits and costs of the rule, but estimated that the annualized monetized benefits of the rule in 2025 dollars over the period of 2025 to 2029 is \$0.2 million at both a seven percent discount rate and a three percent discount rate. *Id.* HHS also estimated that the annualized monetized costs of the rule in 2025 dollars over the period of 2025 to 2029 are \$132 million at a seven percent discount rate and \$125.6 million at a three percent discount rate. *Id.* at 27189. HHS also described non-quantified benefits and costs of the rule. *Id.* at 27188–27191.

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

HHS determined that this rule could have a significant economic impact on substantial numbers of small entities and prepared a Final Regulatory Flexibility Analysis. 90 Fed. Reg. 27218. HHS stated that the rule is not subject to section 1102 of RFA and therefore it is not required to conduct further analysis regarding the impact of the rule on small rural hospitals. *Id.* at 27219.

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

HHS 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. See 90 Fed. Reg. 27074, 27219.

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

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

On March 19, 2025, HHS published a proposed rule. 90 Fed. Reg. 12942. HHS stated that they received comments from various parties. 90 Fed. Reg. 27074, 27084. HHS responded to comments in the rule. *Id.* at 27084–27180.

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

HHS determined that this rule contains information collection requirements under the Act. 90 Fed. Reg. 27180–27187.

Statutory authorization for the rule

HHS promulgated this rule pursuant to sections 1302, 1311, 1312, 1401, 1402, 1411, 1412, 1413, and 1414 of the Patient Protection and Affordable Care Act, Pub. L. No. 111-148 (Mar. 23, 2010).

Executive Order No. 12866 (Regulatory Planning and Review)

HHS stated that this rule is significant under the Order. See 90 Fed. Reg. 27188. HHS stated that the rule was submitted to OMB for review. *Id.*

Executive Order No. 13132 (Federalism)

HHS determined that this rule does have federalism implications. 90 Fed. Reg. 27219.