



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

B-329681

April 26, 2018

The Honorable Orrin G. Hatch
Chairman
The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate

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

The Honorable Kevin Brady
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 and Medicaid Services: Medicare Program; Medicare Part B Monthly Actuarial Rates, Premium Rates, and Annual Deductible Beginning January 1, 2018*

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our amended report¹ on a major rule promulgated by the Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) entitled "Medicare Program; Medicare Part B Monthly Actuarial Rates, Premium Rates, and Annual Deductible Beginning January 1, 2018" (RIN: 0938-AS72). We received the rule on December 20, 2017. It was published in the *Federal Register* as a notice on November 21, 2017, with an effective date of January 1, 2018. 82 Fed. Reg. 55,370.

The notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) beneficiaries enrolled in Part B of the Medicare Supplementary Medical Insurance (SMI) program beginning January 1, 2018. In addition, this notice announces the monthly premium for aged and disabled beneficiaries, the deductible for 2018, and the income-related monthly adjustment amounts to be paid by beneficiaries with modified adjusted gross income above certain threshold amounts.

¹ We are issuing this amended report to correct a statement in the original report dated January 3, 2018, that CMS did not comply with the 60-day delay in effective date requirement of 5 U.S.C. § 801(a)(3)(A).

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 November 21, 2017. 82 Fed. Reg. 55,370. We received it on December 20, 2017, and it has a stated effective date of January 1, 2018. 82 Fed. Reg. 55,370. Therefore, the final rule does not have a 60-day delay in its effective date.

However, any rule which an agency for good cause finds “that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest, may take effect at such time as the agency determines.” 5 U.S.C. § 808(2). As set forth in the enclosed report, CMS found good cause to waive publication of a proposed rule and solicitation of public comment and thus the 60-day delay requirement does not apply.

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. Our review of the agency’s submissions to us indicates that CMS complied with the applicable requirements.

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 Shirley A. Jones, Assistant General Counsel, at (202) 512-8156.

signed

Robert J. Cramer
Managing Associate General Counsel

Enclosure

cc: Agnes Thomas
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 AND MEDICAID SERVICES
ENTITLED
“MEDICARE PROGRAM; MEDICARE PART B MONTHLY
ACTUARIAL RATES, PREMIUM RATES,
AND ANNUAL DEDUCTIBLE BEGINNING JANUARY 1, 2018”
(RIN: 0938-AS72)

(i) Cost-benefit analysis

The Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) described the costs and rates for beneficiaries enrolled in Part B of the Medicare Supplementary Medical Insurance (SMI) program. The monthly actuarial rates for 2018 are \$261.90 for aged enrollees and \$295.00 for disabled enrollees. The standard monthly Part B premium rate for all enrollees for 2018 is \$134.00, which is equal to 50 percent of the monthly actuarial rate for aged enrollees (or approximately 25 percent of the expected average total cost of Part B coverage for aged enrollees) plus \$3.00. (The 2017 standard premium rate was \$134.00, which included the \$3.00 repayment amount.) The Part B deductible for 2018 is \$183.00 for all Part B beneficiaries. If a beneficiary has to pay an income-related monthly adjustment, he or she will have to pay a total monthly premium of about 35, 50, 65, or 80 percent of the total cost of Part B coverage plus \$4.20, \$6.00, \$7.80, or \$9.60.

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

CMS determined that this notice will not have a significant economic impact on a substantial number of small entities or small rural hospitals. For this reason CMS did not prepare an RFA analysis.

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

CMS stated that this notice does not impose mandates that will have a consequential effect of the threshold amount or more on state, local, or tribal governments or on the private sector.

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

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

CMS found good cause to waive publication of a proposed notice and solicitation of public comments. CMS stated that it found good cause because section 1839 of the Social Security Act requires the publication of the monthly actuarial rates and the Part B premium amounts in September, and delaying publication of the Part B premium rate such that it would not be published before that time would be contrary to the public interest.

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

CMS found that this notice does not impose information collection requirements.

Statutory authorization for the rule

CMS stated that it promulgated this notice pursuant to section 1839 of the Social Security Act.

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

CMS found that this notice is economically significant under the Order and stated that this notice was reviewed by the Office of Management and Budget.

Executive Order No. 13,132 (Federalism)

CMS determined that this notice does not significantly affect the rights, roles, and responsibilities of states and that the requirements of the Order do not apply.