



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

B-330070

May 29, 2018

The Honorable Johnny Isakson
Chairman
The Honorable Jon Tester
Ranking Member
Committee on Veterans' Affairs
United States Senate

The Honorable Phil Roe, M.D.
Chairman
The Honorable Tim Walz
Ranking Member
Committee on Veterans' Affairs
House of Representatives

Subject: *Department of Veterans Affairs: Expanded Access to Non-VA Care Through the Veterans Choice Program*

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 "Expanded Access to Non-VA Care Through the Veterans Choice Program" (RIN: 2900-AP60). We received the rule on May 11, 2018. It was published in the *Federal Register* as a final rule on May 11, 2018. 83 Fed. Reg. 21,893. The effective date is May 11, 2018.

The final rule revises VA's medical regulations that implement section 101 of the Veterans Access, Choice, and Accountability Act of 2014. It requires VA to establish a program referred to as the "Veterans Choice Program" to furnish hospital care and medical services through eligible non-VA health care providers to eligible veterans who either cannot be seen within the wait-time goals of the Veterans Health Administration or who qualify based on their place of residence or face an unusual or excessive burden in traveling to a VA medical facility.

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 May 11, 2018. 83 Fed. Reg. 21,893. We received it on May 11, 2018, and it has a stated effective date of May 11, 2018. 83 Fed. Reg. 21,893. Therefore, the final rule does not have a 60-day delay in its effective date.

The 60-day delay in effective date can be waived, however, if the agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates a statement of the findings and their reasons in the rule issued. 5 U.S.C. § 553(d)(3), 808(2). VA found good cause to make this final rule effective on the date of publication, consistent with the reasons stated in the publication of the interim final rule.

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. Our review of the agency's submissions to us indicates that VA 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: Consuela Benjamin
Regulations Development Coordinator
Office of Regulation Policy and Management
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
“EXPANDED ACCESS TO NON-VA CARE
THROUGH THE VETERANS CHOICE PROGRAM”
(RIN: 2900-AP60)

(i) Cost-benefit analysis

The Department of Veterans Affairs (VA) stated that this final rule results in no more than *de minimis* costs. VA also stated that it has listed its regulatory impact analysis on www.regulations.gov and on its website.

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

VA determined that this final rule will not have a significant economic impact on a substantial number of small entities.

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

VA stated that this final rule will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by 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 December 1, 2015, VA published an interim final rule. 80 Fed. Reg. 74,991. VA received seven comments on the interim final rule and responded to comments in the final rule.

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

VA found that no new proposed revised collections of information were associated with this final rule. VA stated that the information collection requirements under 31 C.F.R. § 17.1530(d) are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900-0823.

Statutory authorization for the rule

VA stated that the revisions in this final rule were required by amendments in the Choice Act made by the Construction Authorization and Choice Improvement Act of 2014, and by the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015.

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

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

Executive Order No. 13,132 (Federalism)

VA did not discuss the Order in the final rule.