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B-331121

June 19, 2019

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

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

Subject: *Department of Veterans Affairs: Urgent Care*

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 "Urgent Care" (RIN: 2900-AQ47). We received the rule on June 6, 2019. It was published in the *Federal Register* as a final rule on June 5, 2019. 84 Fed. Reg. 25998. The effective date of the rule is June 6, 2019.

The final rule grants eligible veterans access to urgent care from qualifying non-VA entities or providers without prior approval from VA. The rule is intended to implement a provision of the VA MISSION Act of 2018, Public Law 115-182, as amended. 38 U.S.C. § 1725A. VA intends this benefit to offer eligible veterans convenient care for certain, limited, non-emergent health care needs. Eligible veterans include any enrolled veteran who has received VA Care within the 24-month period preceding the furnishing of care under this section. For this purpose, VA Care includes any of the following: care provided in a VA facility, care authorized by VA performed by a community provider, emergency room care authorized by VA performed by a community provider, care furnished by a state veterans home, or urgent care under this rule. Qualifying non-VA entities or providers would include any non-VA entity or provider that has entered into a contract, agreement, or other arrangement with VA to provide services under this section. This benefit will include care provided at both urgent care facilities and walk-in retail health clinics.

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 final rule was published in the *Federal Register* on June 5, 2019, and received on June 6, 2019. The rule has a stated effective date of June 6, 2019. Therefore the final rule does not have the required 60-day delay in its effective date. However, the 60-day delay in effective date can be waived if an agency finds for good cause that delay is impracticable, unnecessary, or contrary to the public interest, and the agency incorporates the findings and a brief statement thereof in the rule issued. 5 U.S.C. § 808(2).

VA found that there is good cause to make the rule effective on June 6, 2019. Specifically, VA found that it would be contrary to the public interest to delay the effective date of this rule because any delay in implementing the rule would have a severe detrimental impact on veterans' health care.

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 Janet Temko-Blinder, Assistant General Counsel, at (202) 512-7104.

signed

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Luvenia Potts
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
“URGENT CARE”
(RIN: 2900-AQ47)

(i) Cost-benefit analysis

The Department of Veterans Affairs (VA) determined that the net costs of this final rule will be \$34.3 million over a 5-year period (fiscal years 2019 to 2023) and \$6.8 million per year on an ongoing basis discounted at 7 percent relative to year 2016, over a perpetual time horizon.

(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 does not have a significant economic impact on a substantial number of small entities as they are defined in the Act.

(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 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 January 31, 2019, VA published a proposed rule. 84 Fed. Reg. 627. VA received 3,285 comments on the proposed rule and responded to comments in the final rule. In addition, VA found good cause under the Act to publish this rule with an effective date that is less than 30 days from the date of publication. Specifically, VA found that it would be contrary to the public interest to delay the effective date of this rule because any delay in implementing the rule would have a severe detrimental impact on veterans' health care.

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

VA determined that this final rule does not contain any provisions constituting collections of information under the Act.

Statutory authorization for the rule

VA promulgated this final rule under the authority of sections 501, 1710, 1721, 1722A, 1724, 1725A, and 1730A of title 38, United States Code, and section 101 of Public Law 113-146.

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

VA examined the economic, interagency, budgetary, legal, and policy implications of this final rule and determined that it is economically significant under the Order.