



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

B-332732

November 24, 2020

The Honorable Chuck Grassley  
Chairman  
The Honorable Ron Wyden  
Ranking Member  
Committee on Finance  
United States Senate

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

The Honorable Richard Neal  
Chairman  
The Honorable Kevin Brady  
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 2021 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, Centers for Medicare & Medicaid Services (CMS) entitled "Medicare Program; CY 2021 Part A Premiums for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement" (RIN: 0938-AU15). We received the rule on November 13, 2020. It was published in the *Federal Register* as a notice on November 12, 2020. 85 Fed. Reg. 71913. The effective date of the rule is January 1, 2021.

The rule, according to CMS, announces Medicare's Hospital Insurance (Part A) premium for uninsured enrollees in calendar year 2021. This premium is paid by enrollees age 65 and over who are not otherwise eligible for benefits under Medicare Part A and by certain individuals with disabilities who have exhausted other entitlement, according to CMS. CMS stated that the monthly Part A premium for the 12 months beginning January 1, 2021, for these individuals will be \$471, and the premium for certain other individuals as described in this rule will be \$259.

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 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 its reasons in the rule issued. 5 U.S.C. 553(b)(3)(B), 808(2). Here, although CMS did not specifically mention CRA's 60-day delay in effective date requirement, the agency found good cause to waive notice and comment procedures under section 553(b)(3)(B) of the Administrative Procedure Act and incorporated a brief statement of reasons. Specifically, CMS found that publication of this rule is consistent with section 1818(d) of the Social Security Act, Pub. L. No. 74-271, 49 Stat. 620 (Aug. 14, 1935), and any potential delay in the effective date could cause unnecessary confusion both for CMS and for Medicare beneficiaries.

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 Shari Brewster, Assistant General Counsel, at (202) 512-6398.

A handwritten signature in cursive script that reads "Shirley A. Jones".

Shirley A. Jones  
Managing Associate General Counsel

Enclosure

cc: Vanessa Jones  
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  
ENTITLED  
“MEDICARE PROGRAM; CY 2021 PART A PREMIUMS FOR THE  
UNINSURED AGED AND FOR CERTAIN DISABLED INDIVIDUALS  
WHO HAVE EXHAUSTED OTHER ENTITLEMENT”  
(RIN: 0938-AU15)

(i) Cost-benefit analysis

The Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS), stated the calendar year 2021 premium of \$471 is approximately 2.8 percent higher than the calendar year 2020 premium of \$458. CMS estimated that approximately 706,000 enrollees will voluntarily enroll in Medicare Part A by paying the full premium. CMS estimated that over 90 percent of these individuals will have their Part A premium paid for by states, since they are enrolled in the Qualified Medicare Beneficiaries program. CMS also stated that the calendar year 2021 reduced premium of \$259 is approximately 2.8 percent higher than the calendar year 2020 premium of \$252. CMS estimated an additional 84,000 enrollees will pay the reduced premium. Based on these numbers, CMS estimated that the total aggregate cost to enrollees paying these premiums in calendar year 2021, compared to the amount that they paid in calendar year 2020, will be about \$117 million.

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

CMS determined that the rule will not have a significant economic impact on a substantial number of small entities. CMS also determined the rule will not have a significant impact on the operations of a substantial number of small rural hospitals.

(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 impose mandates that will have a consequential effect of \$156 million (\$100 million, adjusted for inflation) 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 stated that the annual Part A premium announcement set forth in the rule does not constitute a substantive rule which would be subject to the notice requirements of the Act. CMS also stated that to the extent that an opportunity for public notice and comment could be construed as required for the rule, CMS found good cause to waive this requirement under section 553(b) of the Act. According to CMS, publication of this rule is consistent with

section 1818(d) of the Social Security Act, and any potential delay in the effective date could cause unnecessary confusion both for CMS and for Medicare beneficiaries.

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

CMS determined that this rule contains no information collection requirements under PRA.

Statutory authorization for the rule

CMS stated that the rule is being published pursuant to section 1818(d) of the Social Security Act, Public Law 74-271.

Executive Order No. 12866 (Regulatory Planning and Review)

CMS determined that this rule is economically significant under the Order and stated that the Office of Management and Budget reviewed the rule.

Executive Order No. 13132 (Federalism)

CMS determined that this rule will not have a substantial direct effect on state or local governments, preempt state law, or otherwise have federalism implications.