



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

B-333773

November 30, 2021

The Honorable Ron Wyden
Chairman
The Honorable Mike Crapo
Ranking Member
Committee on Finance
United States Senate

The Honorable Frank Pallone, Jr.
Chairman
The Honorable Cathy McMorris Rodgers
Republican Leader
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; Medicare Part B Monthly Actuarial Rates, Premium Rates, and Annual Deductible Beginning January 1, 2022*

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; Medicare Part B Monthly Actuarial Rates, Premium Rates, and Annual Deductible Beginning January 1, 2022” (RIN: 0938-AU48). We received the rule on November 16, 2021. It was published in the *Federal Register* as a notice on November 17, 2021. 86 Fed. Reg. 64205. The effective date is January 1, 2022.

CMS stated this final rule 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, 2022. CMS further stated the rule announces the monthly premium for aged and disabled beneficiaries, the deductible for 2022, and the income-related monthly adjustment amounts to be paid by beneficiaries with modified adjusted gross income above certain threshold amounts.

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). Here, although CMS did not specifically mention CRA's 60-day delay in effective date requirement, CMS found good cause to waive notice and comment procedures and incorporated a brief statement of reasons. Specifically, CMS stated any potential delay in the effective date of the rule could cause unnecessary confusion for both the agency and 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". The signature is written in black ink and is positioned above the typed name and title.

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Vanessa Jones
Regulations Coordinator

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; MEDICARE PART B
MONTHLY ACTUARIAL RATES, PREMIUM RATES,
AND ANNUAL DEDUCTIBLE BEGINNING JANUARY 1, 2022”
(RIN: 0938-AU48)

(i) Cost-benefit analysis

In its submission to us, Department of Health and Human Services, Centers for Medicare & Medicaid Services (CMS) indicated it prepared an analysis of the costs and benefits of this final rule. However, other than stating the cost of the premium increase, we identified no such analysis in the rule. CMS stated it estimated that the total premium increase, for the approximately 60 million Part B enrollees in 2022, will be \$15.5 billion.

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

CMS 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

CMS stated this final rule does impose mandates that will require spending in any one year of \$100 million in 1995 dollars, updated annually for inflation, 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 it found the notice and comment procedures to be unnecessary for this final rule and it found good cause to waive such procedures under the Act, if such procedures may be construed to be required at all. Specifically, CMS stated any potential delay in the effective date of the rule could cause unnecessary confusion for both the agency and Medicare beneficiaries.

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

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

Statutory authorization for the rule

CMS promulgated this final rule pursuant to sections 1395l and 1395r of title 42, United States Code.

Executive Order No. 12866 (Regulatory Planning and Review)

CMS stated the Office of Management and Budget (OMB) determined this final rule is economically significant under the Order and that the rule was reviewed by OMB.

Executive Order No. 13132 (Federalism)

CMS determined that this final rule does not significantly affect the rights, roles, and responsibilities of states under the Order.