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United States Government Accountability Office
Washington, DC 20548

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September 21, 2004

The Honorable Judd Gregg
Chairman
The Honorable Edward M. Kennedy
Ranking Minority Member
Committee on Health, Education, Labor, and Pensions
United States Senate

The Honorable W.J. "Billy" Tauzin
Chairman
The Honorable John D. Dingell
Ranking Minority Member
House Committee on Energy and Commerce
House of Representatives

The Honorable William M. Thomas
Chairman
The Honorable Charles B. Rangel
Ranking Minority 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 Rate, and Annual Deductible Beginning January 1, 2005*

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 and Medicaid Services (CMS), entitled "Medicare Program; Medicare Program; Medicare Part B Monthly Actuarial Rates, Premium Rate, and Annual Deductible Beginning January 1, 2005" (RIN: 0938-AN18). We received the rule on September 9, 2004. It was published in the Federal Register as a notice on September 9, 2004. 69 Fed. Reg. 54674.

The notice announces the monthly actuarial rates for aged (age 65 and over) and disabled (under age 65) enrollees for the Part B account in the Medicare Supplementary Medical Insurance (SMI) trust fund for 2005. It also announces the monthly Part B premium to be paid by enrollees during 2005. The monthly actuarial

rates for 2005 are \$156.40 for aged enrollees and \$191.80 for disabled enrollees. Also, the Part B deductible for 2005 is \$110.00.

Enclosed is our assessment of the 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 indicates that the CMS complied with the applicable requirements.

If you have any questions about this report, please contact James W. Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the subject matter of the rule is Marjorie Kanof, Managing Director, Health Care. Ms. Kanof can be reached at (202) 512-7101.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Ann Stallion
Regulations Coordinator
Department of Health and
Human Services

ENCLOSURE

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF 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 RATE,
AND ANNUAL DEDUCTIBLE BEGINNING JANUARY 1, 2005"
(RIN: 0938-AN18)

(i) Cost-benefit analysis

While a cost-benefit analysis was not conducted because the increases were statutorily directed, the cost to the beneficiaries is discussed in the notice. It is estimated that the cost of the increase in the premium to the approximately 39 million SMI enrollees will be about \$5.5 billion for 2005.

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

CMS has reviewed the notice and has found that no analyses under the Act are required. Since states and individuals are not considered small entities, there will be no significant 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

The notice will not impose either an intergovernmental or private sector mandate, as defined in title II, of more than \$100 million 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.

In accordance with CMS's past practice regarding publication of the monthly actuarial rates and the Part B premium amount under Medicare where such amounts are determined according to statute, a general notice is used rather than notice and comment rulemaking procedures contained in section 553 of the Administrative Procedure Act.

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

The notice does not contain any information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Statutory authorization for the rule

The notice is issued pursuant to the authority contained in section 1839 of the Social Security Act (42 U.S.C. 1395r).

Executive Order No. 12866

The notice was reviewed by OMB and found to be an “economically significant” regulatory action under the order.

Executive Order No. 13132 (Federalism)

CMS has determined that the notice does not have federalism implications.