



Office of the General Counsel

B-279165

February 9, 1998

The Honorable William V. Roth
Chairman
The Honorable Daniel Patrick Moynihan
Ranking Minority Member
Committee on Finance
United States Senate

The Honorable Thomas J. Bliley, Jr.
Chairman
The Honorable John D. Dingell
Ranking Minority Member
Committee on Commerce
House of Representatives

The Honorable Bill Archer
Chairman
The Honorable Charles B. Rangel
Ranking Minority Member
Committee on Ways and Means
House of Representatives

Subject: Department of Health and Human Services, Health Care Financing Administration: Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 1998

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, Health Care Financing Administration (HCFA), entitled "Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 1998" (RIN: 0938-AI39). We received the rule on February 2, 1998. It was published in the Federal Register as a Notice with Comment Period on January 26, 1998. 63 Fed. Reg. 3752.

The notice implements section 4732 of the Balanced Budget Act of 1997 (Pub. L. 105-33), which amended the Social Security Act to provide for two additional eligibility groups of low-income Medicare beneficiaries for whom Medicaid payment can be made for Medicare Part B premiums during the period beginning January 1998 and ending December 2002. The notice announces the federal fiscal year 1998 state allotments that are available to pay Medicare Part B premiums for these two new eligibility groups and describes the methodology used to determine each state's allotment.

Enclosed is our assessment of HCFA'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 HCFA complied with the applicable requirements.

If you have any questions about this report, please contact James Vickers, Assistant General Counsel, at (202) 512-8210. The official responsible for GAO evaluation work relating to the Department of Health and Human Services, Health Care Financing Administration, is William Scanlon, Director, Health Financing and Systems Issues. Mr. Scanlon can be reached at (202) 512-7114.

Robert P. Murphy
General Counsel

Enclosure

cc: The Honorable Donna E. Shalala
The Secretary of Health and
Human Services

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,
HEALTH CARE FINANCING ADMINISTRATION
ENTITLED
"MEDICAID PROGRAM; STATE ALLOTMENTS FOR PAYMENT OF
MEDICARE PART B PREMIUMS FOR QUALIFYING INDIVIDUALS:
FEDERAL FISCAL YEAR 1998"
(RIN: 0938-AI39)

(i) Cost-benefit analysis

For states that execute a state plan amendment conforming to the requirements of the Social Security Act, as amended by the Balanced Budget Act of 1997, a total of \$1.5 billion is allocated over 5 years as follows: \$200 million in fiscal year 1998, \$250 million in fiscal year 1999, \$300 million in fiscal year 2000, \$350 million in fiscal year 2001, and \$400 million in fiscal year 2002.

The benefits according to HCFA will include a positive effect on states and individuals. Federal funding at the 100-percent matching rate is available for Medicare cost-sharing for Medicare Part B premium payments for qualifying individuals and a greater number of low-income Medicare beneficiaries will be eligible to have their Medicare Part B premiums paid under Medicaid.

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

The Secretary of Health and Human Services has determined that the notice will not have a significant economic impact on a substantial number of small entities under the standards of the Regulatory Flexibility Act.

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

The notice does not impose a federal intergovernmental or private sector mandate, as defined in the Unfunded Mandates Act of 1995.

(iv) Other relevant information or requirements under acts and executive orders

Administrative Procedure Act, 5 U.S.C. §§ 551 et seq.

HCFA notes in the preamble to the notice that normally it would publish a proposed notice with a public comment period and would delay the effective date for 30 days. However, because of the statutorily mandated effective date of the change made by the Balanced Budget Act, the Secretary of Health and Human Services has found good cause to waive these two requirements. However, a 60-day comment period is being provided for receipt of comments and, if it is decided that it is necessary to change the notice as a result of the comments, an additional notice will be issued.

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

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

Statutory authorization for the rule

The notice was issued under the authority of sections 1902(a)(10) of the Social Security Act (42 U.S.C. § 1396a) and section 4732 of the Balanced Budget Act of 1997 (Pub. L. 105-33).

Executive Order No. 12866

The notice was found to be an "economically significant" regulatory action under Executive Order No. 12866 and was reviewed by the Office of Management and Budget.