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United States General Accounting Office
Washington, DC 20548

B-288347

July 24, 2001

The Honorable John D. Rockefeller
Chairman
The Honorable Arlen Specter
Ranking Minority Member
Committee on Veterans' Affairs
United States Senate

The Honorable Christopher H. Smith
Chairman
The Honorable Lane Evans
Ranking Minority Member
Committee on Veterans' Affairs
House of Representatives

Subject: Department of Veterans Affairs: Payment or Reimbursement for Emergency Treatment Furnished at Non-VA Facilities

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 "Payment or Reimbursement for Emergency Treatment Furnished at Non-VA Facilities" (RIN: 2900-AK08). We received the rule on July 9, 2001. It was published in the Federal Register as an interim final rule on July 12, 2001. 66 Fed. Reg. 36467.

The interim final rule implements provisions of the Veterans Millennium Health Care and Benefits Act (Pub. L. 106-117). The Act authorizes VA to establish provisions regarding payment of or reimbursement for the reasonable value of non-VA emergency services provided for nonservice-connected conditions of certain veterans who have no medical insurance and no other recourse for payment.

Enclosed is our assessment of the 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. Our review indicates that the VA 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 William J. Scanlon, Managing Director, Health Care. Mr. Scanlon can be reached at (202) 512-7114.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Mr. Thomas O. Gessel
Director, Office of Regulations
Management
Department of Veterans Affairs

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
DEPARTMENT OF VETERANS AFFAIRS
ENTITLED
"PAYMENT OR REIMBURSEMENT FOR EMERGENCY TREATMENT
FURNISHED AT NON-VA FACILITIES"
(RIN: 2900-AK08)

(i) Cost-benefit analysis

The VA has estimated that the 5-year cost of the interim rule from appropriated funds will be \$2.1 billion in benefit costs and \$21 million in government operating expenses.

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

The Secretary of Veterans Affairs has certified that the interim 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

The interim final rule does not contain 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.

Because section 111 of Public Law 106-117 mandated that these regulations be effective by May 29, 2000, the VA found that it has "good cause" under 5 U.S.C. 553 to forgo the normal notice and comment procedures and delay of the effective date. However, the VA is accepting comments on the interim final rule, which will be considered before the issuance of a final rule.

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

The interim rule contains information collections that are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

The VA has requested emergency approval of the collections. The preamble to the interim rule contains the required information regarding the collections, including

the annual burden and reason for the collection. VA is also requesting normal approval of the collection following the receipt of comments.

Statutory authorization for the rule

The interim final rule is promulgated pursuant to the authority contained in section 111 of the Veterans Millennium Health Care and Benefits Act (Pub. L. 106-117), codified at 38 U.S.C. 1725.

Executive Order No. 12866

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