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United States General Accounting Office
Washington, DC 20548

B-289534

December 18, 2001

The Honorable Max Baucus
Chairman
The Honorable Chuck Grassley
Ranking Minority Member
Committee on Finance
United States Senate

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

Subject: Social Security Administration: Revised Medical Criteria for Determination of Disability, Musculoskeletal System and Related Criteria

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Social Security Administration (SSA), entitled "Revised Medical Criteria for Determination of Disability, Musculoskeletal System and Related Criteria" (RIN: 0960-AB01). We received the rule on December 13, 2001. It was published in the Federal Register as a final rule on November 19, 2001. 66 Fed. Reg. 58010.

The final rule revises the criteria in the listing of impairments that SSA uses to evaluate musculoskeletal impairments in adults and children who claim Social Security or Supplemental Security Income benefits based on disability under titles II and XVI of the Social Security Act. The revisions reflect advances in medical knowledge, treatment, and methods of evaluating musculoskeletal impairments.

Enclosed is our assessment of the SSA'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 SSA 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 Cynthia M. Fagnoni,

Managing Director, Education, Workforce, and Income Security. Ms. Fagnoni can be reached at (202) 512-7215.

signed

Kathleen E. Wannisky
Managing Associate General Counsel

Enclosure

cc: Georgia E. Myers
SSA Regulations Officer
Social Security Administration

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
SOCIAL SECURITY ADMINISTRATION
ENTITLED
"REVISED MEDICAL CRITERIA FOR DETERMINATION OF DISABILITY,
MUSCULOSKELETAL SYSTEM AND RELATED CRITERIA"
(RIN: 0960-AB01)

(i) Cost-benefit analysis

SSA performed a cost-benefit analysis of the final rule and projects savings in program expenditures and increases in administrative costs as a result of the rule. For fiscal years 2001 through 2005, SSA estimates that there will be reduced program outlays of \$305 million in the title II program, \$55 million in the title XVI program, \$60 million in the title XVIII program, and \$117 million in the title XIX program. The additional administrative costs are estimated to be \$1.5 million per year.

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

The Acting Commissioner has certified that the 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 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.

The final rule was issued using the notice and comment procedures contained in 5 U.S.C. 553. On December 21, 1993, SSA published a Notice of Proposed Rulemaking in the Federal Register. 58 Fed. Reg. 67574. Thirty-four comments were received in response to the notice and are discussed in the preamble to the final rule.

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

The final rule contains information collections that are subject to review and approval by the Office of Management and Budget (OMB). While the collections have been approved previously, SSA is assigning a 1-hour placeholder burden to the

specific reporting requirements contained in the rule and has submitted this additional burden to OMB for approval.

Statutory authorization for the rule

The final rule is promulgated under the authority contained in sections 202, 205(a), (b), and (d)-(h), 216(i), 221(a) and (i), 222(c), 223, 225, 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)-(h), 416(i), 421(a) and (i), 422(c), 423, 425, 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and 1383b).

Executive Order No. 12866

The final rule was reviewed by the Office of Management and Budget and found to be an “economically significant” regulatory action.