



Office of the General Counsel

B-282541

April 23, 1999

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

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

Subject: Social Security Administration: Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Substantial Gainful Activity Amounts

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by Social Security Administration (SSA), entitled "Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Substantial Gainful Activity Amounts" (RIN: 0960-AE98). We received the rule on April 15, 1999. It was published in the Federal Register as a final rule on April 15, 1999. 64 Fed. Reg. 18566.

The final rule revises the monthly earnings guidelines for determining when earnings demonstrate the ability to engage in substantial gainful activity (SGA). Specifically, the final rule raises from \$500 to \$700 the average monthly earnings guidelines used to determine whether work done by persons with impairments other than blindness is SGA. The rule applies to Social Security disability benefits provided under title II of the Social Security Act and Supplemental Security Income (SSI) benefits based on disability under title XVI of the Act.

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

Sincerely yours,

Robert P. Murphy
General Counsel

Enclosure

cc: Mr. Martin Sussman
Regulations Officer
Social Security Administration

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY
SOCIAL SECURITY ADMINISTRATION
ENTITLED
"OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE AND
SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND,
AND DISABLED; SUBSTANTIAL GAINFUL ACTIVITY AMOUNTS"
(RIN: 0960-AE98)

(i) Cost-benefit analysis

The SSA conducted a cost and benefit analysis of the impact of the final rule. The analysis estimated increases in Old-age, Survivors, and Disability Insurance payments; federal SSI payments; Medicare benefits; and the federal share of Medicaid benefits for fiscal years 1999-2004 to be \$1.22 billion. Also, the states' share of the Medicaid increase would be \$330 million for the same period.

The benefit would be to provide a greater incentive for many people with disabilities to attempt to work or, if already working, to continue to work or increase their work effort. Also, an additional 27,000 individuals will receive benefits because of the change made by the final rule.

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

The Commissioner of Social Security 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 create any unfunded mandates for state, local, or tribal governments or the private sector, as defined in title II of the Act.

(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 at 5 U.S.C. 553. On February 16, 1999, a Notice of Proposed Rulemaking was published in the Federal Register. 64 Fed. Reg. 7559. Over 3,000 comments were received which are summarized and discussed in the preamble to the final rule.

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

The final rule 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 final rule is issued 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 determined to be an “economically significant” regulatory action under the Order and was reviewed and approved by the Office of Management and Budget as complying with the requirements of the Order.