



United States General Accounting Office
Washington, DC 20548

Office of the General Counsel

B-285916

August 7, 2000

The Honorable Fred Thompson
Chairman
The Honorable Joseph Lieberman
Ranking Minority Member
Committee on Governmental Affairs
United States Senate

The Honorable Dan Burton
Chairman
The Honorable Henry A. Waxman
Ranking Minority Member
Committee on Government Reform
House of Representatives

Subject: Office of Personnel Management: Health Insurance Premium Conversion

Pursuant to section 801(a)(2)(A) of title 5, United States Code, this is our report on a major rule promulgated by the Office of Personnel Management (OPM), entitled "Health Insurance Premium Conversion" (RIN: 3206-AJ17). We received the rule on July 24, 2000. It was published in the Federal Register as an interim rule with request for comments on July 19, 2000. 65 Fed. Reg. 44644.

The interim rule enables federal employees to pay Federal Employees Health Benefits premiums with pre-tax dollars, as provided by Section 125 of the Internal Revenue Code.

Enclosed is our assessment of OPM'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 OPM 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 Michael Brostek, Associate Director for Workforce Issues. Mr. Brostek can be reached at (202) 512-9039.

Robert P. Murphy
General Counsel

Enclosure

cc: The Honorable Janice R. Lachance
Director, Office of Personnel
Management

ANALYSIS UNDER 5 U.S.C. § 801(a)(1)(B)(i)-(iv) OF A MAJOR RULE
ISSUED BY THE
OFFICE OF PERSONNEL MANAGEMENT
ENTITLED
"HEALTH INSURANCE PREMIUM CONVERSION"
(RIN: 3206-AJ17)

(i) Cost-benefit analysis

OPM performed a cost-benefit analysis of the interim rule. The benefits are that the federal government will become a more competitive employer and the tax liability of federal employees will decrease.

The costs associated with the interim rule are start-up costs to implement the premium conversion program and a decrease in Medicare, Social Security and income taxes paid by federal employees. OPM estimates the start-up costs to be \$3 million in 2001. The tax benefit to federal employees is estimated to be about \$670 million. Also, the decrease in federal employer payments to the Medicare and Social Security Trust Funds is estimated to be \$85 million and \$35 million, respectively.

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

The Director of OPM has certified that the interim 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 rule does not contain a federal mandate, as defined in title II, on either state, local or tribal governments or the private sector 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 Director of OPM found good cause for waiving the general notice of proposed rulemaking and public comment under 5 U.S.C. 553(b)(3)(B) as unnecessary and contrary to the public interest. OPM consulted with affected stakeholders and followed the Internal Revenue Code in developing the rule, which parallels the practices of private sector employers. Also, it was necessary to have the interim rule

in effect so payroll offices could begin work on system changes to enable the benefit to begin at the start of Fiscal Year 2000.

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

The interim rule does not contain any information collections that are subject to review by the Office of Management and Budget (OMB).

Statutory authorization for the rule

The interim rule was issued under the authority of 5 U.S.C. 8913, 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c-1, section 599C of Pub. L. 101-513, 104 Stat. 2064, as amended, sections 11202(f), 11232(e), and 11246(b) and (c) of Pub. L. 105-33, 11 Stat. 251 and section 721 of Pub. L. 105-261, 112 Stat. 2061.

Executive Order No. 12866

The interim rule was reviewed by OMB and determined to be an “economically significant” regulatory action, which complies with the requirements of the order.

Executive Order No. 13132 (Federalism)

OPM has determined that the interim rule will not have a negative impact on the rights, roles, and responsibilities of state, local, or tribal governments.