



441 G St. N.W.
Washington, DC 20548

B-336372

June 13, 2024

The Honorable Gary C. Peters
Chairman
The Honorable Rand Paul, M.D.
Ranking Member
Committee on Homeland Security and Governmental Affairs
United States Senate

The Honorable James Comer
Chairman
The Honorable Jamie Raskin
Ranking Member
Committee on Oversight and Accountability
House of Representatives

Subject: *Office of Personnel Management: Postal Service Reform Act; Establishment of the Postal Service Health Benefits Program*

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 “Postal Service Reform Act; Establishment of the Postal Service Health Benefits Program” (RIN: 3206-AO43). We received the rule on May 14, 2024. It was published in the *Federal Register* as a final rule on May 6, 2024. 89 Fed. Reg. 37061. The effective date of the rule is July 5, 2024.

This final rule finalizes an interim final rule that established the Postal Service Health Benefits Program for Postal Service employees, Postal Service annuitants, and their eligible family members, pursuant to the Postal Service Reform Act of 2022. The program will include health benefits plans available to United States Postal Service employees, annuitants, and their eligible family members starting January 1, 2025.

The Congressional Review Act (CRA) requires a 60-day delay in the effective date of a major rule from the date of publication in the *Federal Register* or receipt of the rule by Congress, whichever is later. 5 U.S.C. § 801(a)(3)(A). The rule was published in the *Federal Register* on May 6, 2024. 89 Fed. Reg. 37061. The rule was received by the House on May 28, 2024. 170 Cong. Rec. H3580 (daily ed. June 3, 2024). The rule was received by the Senate on May 30, 2024. 170 Cong. Rec. S3953 (daily ed. June 4, 2024). The rule has a stated effective date of July 5, 2024. Therefore, the stated effective date is less than 60 days from the date of receipt by Congress.

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. If you have any questions about this report or wish to contact GAO officials responsible for the evaluation work relating to

the subject matter of the rule, please contact Charlie McKiver, Assistant General Counsel, at (202) 512-5992.

A handwritten signature in cursive script that reads "Shirley A. Jones".

Shirley A. Jones
Managing Associate General Counsel

Enclosure

cc: Robert H. Shriver, III
Acting Director
Healthcare and Insurance
Office of Personnel Management

REPORT UNDER 5 U.S.C. § 801(a)(2)(A) ON A MAJOR RULE
ISSUED BY THE
OFFICE OF PERSONNEL MANAGEMENT
ENTITLED
“POSTAL SERVICE REFORM ACT;
ESTABLISHMENT OF THE POSTAL SERVICE HEALTH BENEFITS PROGRAM”
(RIN: 3206-AO43)

(i) Cost-benefit analysis

The Office of Personnel Management (OPM) conducted an economic analysis of this final rule. OPM noted that the primary costs associated with the implementation of the Postal Service Health Benefits (PSHB) Program will be administrative and operational costs necessary to initiate and maintain the program, including development of information technology systems, education and outreach, and additional administrative staffing for the design, maintenance, and oversight of the increased quantity of health plans. According to OPM, the Postal Service Reform Act of 2022, Pub. L. No. 117-108, appropriated \$94 million in implementation funding for OPM and other federal agencies for these administrative and operational costs. OPM estimated that the rule is expected to result in estimated annualized costs of \$50.6 million at a 3 percent discount rate and \$50.2 million at a 7 percent discount rate over the 11-year period of 2022–2032. In addition, OPM estimated that the rule is expected to result in estimated average annualized net transfers from the Postal Service to Medicare of \$347 million at a 3 percent discount rate and \$343.3 million at a 7 percent discount rate over the 8-year period of 2025–2032.

OPM noted that the Postal Service will benefit from fewer costs because of the removal of past-due pre-funding payments and future pre-funding obligations related to the retiree health benefits costs and from having a retiree health benefits program in which more annuitants are enrolled in Medicare.

OPM noted that there are no feasible alternatives to the rule as establishment of the PSHB Program is mandated by law, but that it did consider alternatives to certain aspects of the regulation.

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

OPM certifies that this 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

OPM determined that this final rule will not have an effect on state, local, or tribal governments, in the aggregate, or on the private sector, of \$100 million or more, adjusted annually for inflation, in any one year.

(iv) Agency actions relevant to the Administrative Pay-As-You-Go-Act of 2023, Pub. L. No. 118-5, div. B, title III, 137 Stat 31 (June 3, 2023)

Section 270 of the Administrative Pay-As-You-Go-Act of 2023 amended 5 U.S.C. § 801(a)(2)(A) to require GAO to assess agency compliance with the Act, which establishes requirements for administrative actions that affect direct spending, in GAO's major rule reports. In guidance to Executive Branch agencies, issued on September 1, 2023, the Office of Management and Budget (OMB) instructed that agencies should include a statement explaining that either: "the Act does not apply to this rule because it does not increase direct spending; the Act does not apply to this rule because it meets one of the Act's exemptions (and specifying the relevant exemption); the OMB Director granted a waiver of the Act's requirements pursuant to section 265(a)(1) or (2) of the Act; or the agency has submitted a notice or written opinion to the OMB Director as required by section 263(a) or (b) of the Act" in their submissions of rules to GAO under the Congressional Review Act. OMB, *Memorandum for the Heads of Executive Departments and Agencies*, Subject: Guidance for Implementation of the Administrative Pay-As-You-Go Act of 2023, M-23-21 (Sept. 1, 2023), at 11–12. OMB also states that directives in the memorandum that supplement the requirements in the Act do not apply to proposed rules that have already been submitted to the Office of Information and Regulatory Affairs, however agencies must comply with any applicable requirements of the Act before finalizing such rules.

OPM did not discuss the Act in this final rule or in its submission to us.

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

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

On April 6, 2023, OPM issued an interim final rule. 88 Fed. Reg. 20383. OPM received 71 comments on the interim final rule, primarily from individual Postal Service employees, Postal Service annuitants, and their family members, as well as from stakeholders such as health insurers and employee organizations. OPM summarized and responded to comments in this final rule, though it noted that it plans to issue a proposed rule that further explains and expands on implementation of the PSHB Program to provide greater clarity in light of comments received.

Paperwork Reduction Act (PRA), 44 U.S.C. §§ 3501–3520

OPM determined that this final rule contains no new information collection requirements. However, OPM noted that it will update two existing forms to include PSHB enrollments: SF-2809 (OMB Control Number 3206-0160) and OPM 2809 (OMB Control Number 3206-0141). The information collection designated OMB Control Number 3206-0160 is currently approved with an estimated public burden of 9,000 hours. The information collection currently designated OMB Control Number 3206-0141 is currently approved with an estimated public burden of 11,667 hours.

Statutory authorization for the rule

OPM promulgated this final rule pursuant to the Postal Service Reform Act of 2022, Public Law 117-108.

Executive Order No. 12866 (Regulatory Planning and Review)

OPM determined that this final rule is significant under the Order and submitted it to OMB for review.

Executive Order No. 13132 (Federalism)

OPM determined that this final rule does not have any negative impact on the rights, roles, and responsibilities of state, local, or tribal governments.