

announces the 2009 monthly Part B premium rates to be paid by beneficiaries who file an individual tax

return (including those who are single, head of household, qualifying widow(er) with a dependent child, or

married filing separately who lived apart from their spouse for the entire taxable year), or a joint tax return.

| Beneficiaries who file an individual tax return with income: | Beneficiaries who file a joint tax return with income:      | Income-related monthly adjustment amount | Total monthly premium amount |
|--------------------------------------------------------------|-------------------------------------------------------------|------------------------------------------|------------------------------|
| Less than or equal to \$85,000 .....                         | Less than or equal to \$170,000 .....                       | \$0.00                                   | \$96.40                      |
| Greater than \$85,000 and less than or equal to \$107,000.   | Greater than \$170,000 and less than or equal to \$214,000. | 38.50                                    | 134.90                       |
| Greater than \$107,000 and less than or equal to \$160,000.  | Greater than \$214,000 and less than or equal to \$320,000. | 96.30                                    | 192.70                       |
| Greater than \$160,000 and less than or equal to \$213,000.  | Greater than \$320,000 and less than or equal to \$426,000. | 154.10                                   | 250.50                       |
| Greater than \$213,000 .....                                 | Greater than \$426,000 .....                                | 211.90                                   | 308.30                       |

In addition, the monthly premium rates to be paid by beneficiaries who are

married and lived with their spouse at any time during the taxable year, but file

a separate tax return from their spouse, are also announced and listed below.

| Beneficiaries who are married and lived with their spouse at any time during the year, but file a separate tax return from their spouse: | Income-related monthly adjustment amount | Total monthly premium amount |
|------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|------------------------------|
| Less than or equal to \$85,000 .....                                                                                                     | \$0.00                                   | \$96.40                      |
| Greater than \$85,000 and less than or equal to \$128,000 .....                                                                          | 154.10                                   | 250.50                       |
| Greater than \$128,000 .....                                                                                                             | 211.90                                   | 308.30                       |

The Part B deductible for calendar year 2009 is \$135.00. The standard Part B premium rate of \$96.40 is the same as the premium rate for 2008, so there will be no additional costs to the approximately 42.3 million Part B enrollees for 2009. The monthly impact on the beneficiaries who are required to pay a higher premium for 2009 because their incomes exceed specified thresholds is \$38.50, \$96.30, \$154.10, or \$211.90, which is in addition to the standard monthly premium. These amounts are higher than the 2008 amounts of \$25.80, \$64.50, \$103.30, and \$142.00, respectively, which results in \$770 million in additional costs to the approximately 1.7 million Part B enrollees who are affected. Therefore, this notice is a major rule as defined in 5 U.S.C. 804(2) and is an economically significant rule under Executive Order 12866.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

#### IV. Waiver of Proposed Notice

The Medicare statute requires the publication of the monthly actuarial rates and the Part B premium amounts in September. We ordinarily use general notices, rather than notice and comment rulemaking procedures, to make such announcements. In doing so, we note that, under the Administrative Procedure Act, interpretive rules, general statements of policy, and rules

of agency organization, procedure, or practice are excepted from the requirements of notice and comment rulemaking.

We considered publishing a proposed notice to provide a period for public comment. However, we may waive that procedure if we find, for good cause, that prior notice and comment are impracticable, unnecessary, or contrary to the public interest. We find that the procedure for notice and comment is unnecessary because the formulas used to calculate the Part B premiums are statutorily directed, and we can exercise no discretion in applying those formulas. Moreover, the statute establishes the time period for which the premium rates will apply, and delaying publication of the Part B premium rate such that it would not be published before that time would be contrary to the public interest. Therefore, we find good cause to waive publication of a proposed notice and solicitation of public comments.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: September 12, 2008.

**Kerry Weems,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

**Michael O. Leavitt,**

*Secretary.*

[FR Doc. E8–22314 Filed 9–19–08; 9:00 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS–8035–N]

RIN 0938–AP04

### Medicare Program; Part A Premium for Calendar Year 2009 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice.

**SUMMARY:** This annual notice announces Medicare's Hospital Insurance (Part A) premium for uninsured enrollees in calendar year (CY) 2009. This premium is to be paid by enrollees age 65 and over who are not otherwise eligible for benefits under Medicare Part A (hereafter known as the "uninsured aged") and by certain disabled individuals who have exhausted other

entitlement. The monthly Part A premium for the 12 months beginning January 1, 2009 for these individuals will be \$443. The reduced premium for certain other individuals as described in this notice will be \$244.

**DATES:** *Effective Date:* This notice is effective on January 1, 2009.

**FOR FURTHER INFORMATION CONTACT:** Clare McFarland, (410) 786-6390.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

Section 1818 of the Social Security Act (the Act) provides for voluntary enrollment in the Medicare Hospital Insurance program (Medicare Part A), subject to payment of a monthly premium, of certain persons aged 65 and older who are uninsured under the Old-Age, Survivors and Disability Insurance (OASDI) program or the Railroad Retirement Act and do not otherwise meet the requirements for entitlement to Medicare Part A. (Persons insured under the OASDI program or the Railroad Retirement Act and certain others do not have to pay premiums for Medicare Part A.)

Section 1818A of the Act provides for voluntary enrollment in Medicare Part A, subject to payment of a monthly premium, of certain disabled individuals who have exhausted other entitlement. These are individuals who were entitled to coverage due to a disabling impairment under section 226(b) of the Act, but are no longer entitled to disability benefits and free Medicare Part A coverage because they have gone back to work and their earnings exceed the statutorily defined "substantial gainful activity" amount (section 223(d)(4) of the Act).

Section 1818A(d)(2) of the Act specifies that the provisions relating to premiums under section 1818(d) through section 1818(f) of the Act for the aged will also apply to certain disabled individuals as described above.

Section 1818(d) of the Act requires us to estimate, on an average per capita basis, the amount to be paid from the Federal Hospital Insurance Trust Fund for services incurred in the following calendar year (CY) (including the associated administrative costs) on behalf of individuals aged 65 and over who will be entitled to benefits under Medicare Part A. We must then determine, during September of each year, the monthly actuarial rate for the following year (the per capita amount estimated above divided by 12) and publish the dollar amount for the monthly premium in the succeeding CY. If the premium is not a multiple of \$1, the premium is rounded to the nearest

multiple of \$1 (or, if it is a multiple of 50 cents but not of \$1, it is rounded to the next highest \$1).

Section 13508 of the Omnibus Budget Reconciliation Act of 1993 (Pub. L. 103-66) amended section 1818(d) of the Act to provide for a reduction in the premium amount for certain voluntary enrollees (section 1818 and section 1818A of the Act). The reduction applies to an individual who is eligible to buy into the Medicare Part A program and who, as of the last day of the previous month—

- Had at least 30 quarters of coverage under title II of the Act;
- Was married, and had been married for the previous 1-year period, to a person who had at least 30 quarters of coverage;
- Had been married to a person for at least 1 year at the time of the person's death if, at the time of death, the person had at least 30 quarters of coverage; or
- Is divorced from a person and had been married to the person for at least 10 years at the time of the divorce if, at the time of the divorce, the person had at least 30 quarters of coverage.

Section 1818(d)(4)(A) of the Act specifies that the premium that these individuals will pay for CY 2009 will be equal to the premium for uninsured aged enrollees reduced by 45 percent.

**II. Monthly Premium Amount for CY 2009**

The monthly premium for the uninsured aged and certain disabled individuals who have exhausted other entitlement for the 12 months beginning January 1, 2009, is \$443.

The monthly premium for those individuals subject to the 45 percent reduction in the monthly premium is \$244.

**III. Monthly Premium Rate Calculation**

As discussed in section I of this notice, the monthly Medicare Part A premium is equal to the estimated monthly actuarial rate for CY 2009 rounded to the nearest multiple of \$1 and equals one-twelfth of the average per capita amount, which is determined by projecting the number of Part A enrollees aged 65 years and over as well as the benefits and administrative costs that will be incurred on their behalf.

The steps involved in projecting these future costs to the Federal Hospital Insurance Trust Fund are:

- Establishing the present cost of services furnished to beneficiaries, by type of service, to serve as a projection base;
- Projecting increases in payment amounts for each of the service types; and

- Projecting increases in administrative costs.

We base our projections for CY 2009 on: (1) Current historical data; and (2) projection assumptions derived from current law and the Mid-Session Review of the President's Fiscal Year 2009 Budget.

We estimate that in CY 2009, 37,402,000 people aged 65 years and over will be entitled to benefits (without premium payment) and that they will incur about \$198.827 billion in benefits and related administrative costs. Thus, the estimated monthly average per capita amount is \$443.00 and the monthly premium is \$443. The full monthly premium reduced by 45 percent is \$244.

**IV. Costs to Beneficiaries**

The CY 2009 premium of \$443 is approximately 5 percent higher than the CY 2008 premium of \$423.

We estimate that approximately 588,000 enrollees will voluntarily enroll in Medicare Part A by paying the full premium. We estimate an additional 10,000 enrollees will pay the reduced premium. We estimate that the aggregate cost to enrollees paying these premiums will be about \$142 million in CY 2009 over the amount that they paid in CY 2008.

**V. Waiver of Proposed Notice and Comment Period**

We are not using notice and comment rulemaking in this notification of Medicare Part A premiums for CY 2009, as that procedure is unnecessary because of the lack of discretion in the statutory formula that is used to calculate the premium and the solely ministerial function that this notice serves. The Administrative Procedure Act (APA) permits agencies to waive notice and comment rulemaking when notice and public comment thereon are unnecessary. On this basis, we waive publication of a proposed notice and a solicitation of public comments.

**VI. Regulatory Impact Statement**

We have examined the impact of this rule as required by Executive Order 12866 on regulatory planning and review (September 30 1993), as further amended, the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96-354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104-4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Order 12866 (as amended by Executive Orders 13258 and 13422)

directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). As stated in section IV of this notice, we estimate that the overall effect of these changes in the Part A premium will be a cost to voluntary enrollees (section 1818 and section 1818A of the Act) of about \$142 million. Therefore, this notice is a major rule as defined in Title 5, United States Code, section 804(2) and is an economically significant rule under Executive Order 12866.

The RFA requires agencies to analyze options for regulatory relief of small businesses, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of \$6.5 million to \$31.5 million in any 1 year. Individuals and States are not included in the definition of a small entity. We have determined that this notice will not have a significant economic impact on a substantial number of small entities. Therefore we are not preparing an analysis for the RFA.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds. Therefore, the Secretary has determined that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing an analysis for section 1102(b) of the Act.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of \$100 million in 1995 dollars, updated annually for inflation. In 2008, that threshold is approximately \$130 million. This notice has no

consequential effect on State, local, or tribal governments or on the private sector. However, States are required to pay the premiums for dually-eligible beneficiaries.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. This notice will not have a substantial effect on State or local governments.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance)

Dated: August 28, 2008.

**Kerry Weems,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Dated: September 5, 2008.

**Michael O. Leavitt,**

*Secretary.*

[FR Doc. E8–22312 Filed 9–19–08; 9:00 am]

**BILLING CODE 4120–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Notice of Public Comment on Section 635 [42 U.S.C. 9801]—The 2007 Head Start School Readiness Act, Sub-Section 649(k)(1)(A–D)—“Indian Head Start Study”

**AGENCY:** Office of Head Start (OHS), Administration for Children and Families (ACF), HHS.

**ACTION:** Notice of Public Comment on Section 635 [42 U.S.C. 9801]—The 2007 Head Start School Readiness Act, Sub-Section 649(k)(1)(A–D)—“Indian Head Start Study”.

**SUMMARY:** The following Notice of Public Comment is in response to section 649(k) Sub-Section (3) of the 2007 Head Start School Readiness Act that requires the Secretary no later than 9 months after the effective date of this Sub-Section, publish in the **Federal Register** a plan of how the Secretary will carry out section 649 Sub-Section (k) Sub-Paragraph (1) and shall provide a period for public comment.

**DATES:** To ensure consideration, written comments must be submitted on or before 60 days after this notice is published.

*To Comment on This Document, or for Further Information Contact:* Anne Bergan, Office of Planning, Research and Evaluation, Administration for Children and Families, 370 L'Enfant Promenade, SW., Washington, DC 20447, 202–546–4273, [abergan@acf.hhs.gov](mailto:abergan@acf.hhs.gov).

**SUPPLEMENTARY INFORMATION:** Pursuant to the Improving Head Start for School Readiness Act of 2007, Public Law 110–134, Section 635 [42 U.S.C. 9801]—Sub-Section 649(k)(1)(A–D), notice is hereby given of a plan to conduct a set of studies designed to focus on the American Indian and Alaska Native (AI/AN) Head Start-eligible population. There are two requirements addressed in this notice: (1) A plan for a set of studies that will focus on the American Indian and Alaska Native Head Start-eligible population related to the following areas: Curriculum development, availability and need for services, appropriate research methodologies and measures, and best practices for teaching and educating American Indian and Alaska Native Head Start Children, and (2) a plan to accurately determine the number of children nationwide who are eligible to participate in Indian Head Start programs each year and to document how many of these children are receiving Head Start services each year.

### Consultation and Collaboration

For the purposes of responding to the requirements in the legislation related to consultation and collaboration, ACF conferred with the National Indian Head Start Directors Association (NIHSDA), the AI/AN Head Start Collaboration Director, AI/AN Head Start Program Directors, staff from the U.S. Department of Education, the Bureau of Indian Affairs, the Indian Health Service, the U.S. Census Bureau, the Annie E. Casey Foundation, the American Indian and Alaska Native Head Start Research Center at the University of Colorado—Denver, Dr. C. Matthew Snipp of Stanford University, Dr. Angela Willetto of Northern Arizona University and participants at the Tribal consultation sessions held in Denver, Colorado; Kansas City, Kansas; Seattle, Washington; and Phoenix, Arizona.

#### *Section I. A Plan for Carrying Out Section 649 Subsection (k) Paragraph (1) Subparagraph (A)*

To address the first requirement, to undertake a study or set of studies, the Administration for Children and Families (ACF) intends to build upon previous and current efforts to develop a viable research and evaluation agenda