

TABLE 5.—ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER THREE SETS OF ASSUMPTIONS FOR FINANCING PERIODS THROUGH DECEMBER 31, 2004—Continued

As of December 31,	2002	2003	2004
Ratio (in percent) <sup>1</sup> .....	21.8	15.6	27.6
High cost projection: Actuarial status (in millions):			
Assets .....	34,301	25,537	19,783
Liabilities .....	9,053	8,798	9,356
Assets less liabilities .....	25,248	16,739	10,426
Ratio (in percent) <sup>1</sup> .....	19.3	11.8	6.8

<sup>1</sup> Ratio of assets less liabilities at the end of the year to the total incurred expenditures during the following year, expressed as a percent.

#### IV. Regulatory Impact Analysis

We have examined the impact of this notice as required by Executive Order 12866 (September 1993, Regulatory Planning and Review) and the Regulatory Flexibility Act (RFA) September 19, 1980 (Pub. L. 96–354). Executive Order 12866 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).

The RFA requires agencies to analyze options for regulatory relief of small businesses. 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 to \$29 million in any 1 year (65 FR 69432). For purposes of the RFA, States and individuals are not considered to be small entities.

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. We have determined that this notice will not have a significant effect on a substantial number of small entities nor on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal

governments, in the aggregate, or by the private sector, of \$110 million. This notice has no consequential effect on State, local, or tribal governments. We believe the private sector costs of this notice fall below this threshold as well.

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 compliance costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have determined that this notice does not significantly affect the rights, roles, and responsibilities of States.

This notice announces that the monthly actuarial rates applicable for 2004 are \$133.20 for enrollees age 65 and over, and \$175.50 for disabled enrollees under age 65. It also announces that the monthly SMI premium for calendar year 2004 is \$66.60. The SMI premium of \$66.60 is 13.5 percent higher than the \$58.70 premium for 2003. We estimate that the cost of this increase from the current premium to the approximately 39 million SMI enrollees will be about \$3.7 billion for 2004. 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.

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

#### V. 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 formula used to calculate the SMI premium is statutorily directed, and we can exercise no discretion in applying that formula. Moreover, the statute establishes the time period for which the premium will apply, and delaying publication of the SMI premium 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.

(Section 1839 of the Social Security Act; 42 U.S.C. 1395r)

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

Dated: September 12, 2003.

**Thomas A. Scully,**  
Administrator, Centers for Medicare & Medicaid Services.

Dated: October 3, 2003.

**Tommy G. Thompson,**  
Secretary.

[FR Doc. 03–26456 Filed 10–16–03; 10:06 am]

BILLING CODE 4120–01–P

#### DEPARTMENT OF HEALTH AND HUMAN SERVICES

##### Centers for Medicare & Medicaid Services

[CMS–8018–N]

RIN 0938–AM33

#### Medicare Program; Part A Premium for 2004 for the Uninsured Aged and for Certain Disabled Individuals Who Have Exhausted Other Entitlement

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