March 1, 2024

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
7500 Security Blvd.
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

The undersigned organizations share a commitment to protecting and enhancing the traditional Medicare program. At the same time, we are concerned that Medicare Advantage (MA) plans are inappropriately paid more on average than traditional Medicare for a given beneficiary. Estimates of such overpayments range from $88 billion in 2024 (according to the Medicare Payment Advisory Commission, January 2024) to $140 billion annually (according to Physicians for a National Health Program, October 2023). These wasteful overpayments are causing significant challenges for Medicare's financial sustainability.

Last year, CMS took positive step towards reining in some of these overpayments through revisions to the MA payment formula in the CY 2024 Rate Announcement, as well as finalization of the MA Risk Adjustment Data Validation (RADV) rule aimed at recouping overpayments. We applaud CMS for taking these steps and, despite ongoing insurance industry pressure to protect their profits, urge the agency to – at the very least – hold firm with respect to these changes in the proposed 2025 Advance Notice, including the three-year phase-in period for the updated risk adjustment model.

However, there is more that the agency can and should do with respect to MA overpayments. By CMS' own estimates, the proposed 2025 rates would increase plan payment by 3.7%, or $16 billion next year. CMS has it within its direct authority to fix many of these causes of overpayment, including inflated benchmarks, favorable selection, and risk adjustment gaming. While we recognize that legislation will be required to address the County and Quality Bonus payments, we urge CMS to take the following additional actions:

- Revise the way it pays MA plans, including its benchmarking system, to eliminate documented sources of overpayments and create a new risk adjustment system not subject to gaming.
- Increase the minimum coding adjustment of 5.9% for the plans that most abuse the risk adjustment system, if not all of them (it should be noted that MedPAC states 2024 MA risk scores are about 20.1% higher than scores would be if MA enrollees were instead enrolled in traditional Medicare, MedPAC, Jan. 2024).
- Exclude information collected through in-home risk assessments or chart reviews for purposes of risk adjustment.
- Revise the way it pays MA plans to eliminate their disincentive to provide high quality care to enrollees with costly and complex conditions.
- Work with Congress to revise the Quality and County bonus systems so they are budget neutral, as are all other Medicare bonus payments. The bonus system should also

accurately reflect local MA plan info rather than aggregate findings. It should incorporate corrective action plans and sanctions for plans with 1, 2 or 3 star ratings.

We appreciate steps that CMS is taking to enhance oversight of the Medicare Advantage program, including addressing wasteful overpayments. Given that over half of all Medicare beneficiaries are now enrolled in MA plans, the urgency to do more is growing. We recognize that the insurers will claim that these fixes to the MA payment system will result in benefit cuts for their enrollees. We assert that, in fact, those cuts can be mitigated and, further, that the fixes that CMS can and should undertake will help level the playing field between traditional Medicare and Medicare Advantage, promote health equity and bring down Part B premiums for everyone with Medicare.

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Center for Health and Democracy
Center for Medicare Advocacy
Center for Popular Democracy
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Cross-union Retirees Organizing Committee (CROC-NYC)
Healthcare-NOW
Healthcare is a Human Right WA
Health Care for All Minnesota
Healthy California Now
Indivisible
Iowa Citizens for Community Improvement
Just Care USA
Labor Campaign for Single Payer
Michigan United
Midtown South Community Council
National Health Care for the Homeless Council
NYC Organization of Public Service Retirees
One Northside
People's Action
Physicians for a National Health Program (PNHP)
Progressive Maryland
Public Citizen
Puget Sound Advocates for Retirement Action (PSARA)
Rights & Democracy
Social Security Works WA
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