

March 3, 2023

Honorable Xavier Becerra  
Secretary of Health and Human Services  
Washington, DC

Honorable Chiquita Brooks-LaSure  
Administrator, Centers for Medicare and Medicaid Services  
Washington, DC

Dear Secretary Becerra and Administrator Brooks-LaSure:

The policy changes for Medicare Advantage payment proposed by CMS in the “Calendar Year 2024 Advance Notice with Proposed Payment Updates for the Medicare Advantage and Part D Prescription Drug Program” constitute important advances. These improvements are long overdue and badly needed to assure appropriate financial payments and stewardship for MA funds, fair payments to enable excellent care for sicker patients, sustainability of the overall Medicare program, and security for all beneficiaries. We support CMS’s finalizing these proposed MA payment changes.

MedPAC has estimated that in 2023 there will be \$27 billion in excessive and unwarranted payments to MA Plans. Others have projected these overpayments will cost taxpayers \$600 billion over the next 8 years. Beneficiaries will ultimately directly shoulder approximately 14% of this, almost \$90 billion in increased Part B premiums.

The primary mechanism by which MA plans harvest these profits is by increasing the number of diagnoses recorded for their beneficiaries. Problems with the current CMS Hierarchical Conditions Category (HCC) system have been well documented for years. Under the coding rules, CMS pays plans more for beneficiaries with many diagnostic codes that have little or no real connection to patients’ health conditions and needs, costs of their proper care, or true illness severity. Some of the codes overused by MA plans identify asymptomatic disease that may represent future risk but are not contributors to current year expenses. Because the financial value of each HCC is based on Traditional Fee-for-Service Medicare, in which fewer codes are submitted, every additional code drives excess payments.

The hunt for more codes is distorting the actual delivery of care. It is not primarily a case of bad actors or fraud. It is a broken system that rewards questionable behavior like house calls to do lots of screening exams looking for asymptomatic diseases. While it is possible that these exams may occasionally pick up an unknown problem that needs treatment, the motivating factor is disease coding not preventive care. Furthermore, if an MA Plan does not participate in the game of adding more codes, they suffer in the marketplace as their products become uncompetitive because they have less revenue to support more generous benefits.

CMS now proposes to decrease the coding revenue opportunities by eliminating some HCC's that have been abused and standardizing the prices associated with categories of codes to avoid upcoding for some conditions. The net result is projected to be a 1% increase in payments in 2024. In practice, the changes will be concentrated among MA plans and providers that are using the eliminated codes or adding more codes per patient. The proposed changes will leave the MA Plans, in aggregate, in a strong financial position while penalizing those who game the risk adjustment system. Efficient, ethical, and cost-effective providers will continue to be adequately reimbursed to deliver high quality care.

Continued overpayment to MA Plans represents a fiscally unsustainable long-term policy. Stakeholders should support CMS in these proposed reforms. The best answer is for MA plans, themselves, to become constructive partners in major coding and payment reforms.

Sincerely,

Scott Armstrong  
Former President & CEO  
Group Health Cooperative  
Former Commissioner, Medicare Payment Advisory Commission (MedPAC)

Richard J. Baron, MD  
CEO and President, American Board of Internal Medicine  
Former Director, Seamless Care Division  
Center for Medicare and Medicaid Innovation, CMS

Elaine Batchlor, MD  
CEO MLK Community Healthcare

Robert Berenson, MD  
Institute Fellow, Urban Institute  
Former Acting Deputy Administrator, CMS  
Former Vice-chair, Medicare Payment Advisory Commission (MedPAC)

Donald Berwick, MD  
President Emeritus and Senior Fellow, Institute for Healthcare Improvement  
Former Administrator,  
Center for Medicare and Medicaid Services

Lawrence Casalino, M.D., Ph.D.  
Professor Emeritus of Population Health  
Livingston Farrand Professor of Public Health (2008-2022)  
Chief, Division of Health Policy and Economics (2008-2021)  
Weill Cornell Medical College

Tina Castanares, MD  
Principal, Castanares Consulting

Rima Cohen  
Founder & Principal, Rima Cohen Strategies  
Former Counselor for Health Policy, HHS  
Secretary

Zack Cooper  
Associate Professor of Public Health and  
Economics, Yale University

Joseph Damore, LFACHE  
President and CEO  
Damore Health Advisors

Michael Eliastam, MD, MPP, FACP

Ezekiel J. Emanuel, M.D., Ph.D.  
Levy University Professor  
Vice Provost for Global Initiatives  
Co-Director, Healthcare Transformation  
Institute  
Perelman School of Medicine and The Wharton  
School  
University of Pennsylvania

Alain Enthoven  
Marriner S. Eccles Professor of Public and  
Private Management (Emeritus)  
Graduate School of Business  
Stanford University

Elliott Fisher, MD, MPH  
Professor of Medicine and Health Policy  
The Dartmouth Institute  
Senior Fellow  
Institute for Healthcare Improvement

Lisa K. Fitzpatrick, M.D., MPR, MPA  
CEO, Grapevine Health  
Former Chief Medical Officer,  
DC Medicaid

Victor Fuchs, PhD  
Henry J. Kaiser, Jr. Professor Emeritus  
Stanford University

Emily R. Gee, PhD  
Senior Vice President for Inclusive Growth  
Center for American Progress

Richard J. Gilfillan, MD  
Independent Consultant  
Former Deputy Administrator,  
Center for Medicare and Medicaid Services  
Former CEO, Trinity Health

Paul Ginsburg, PhD  
Senior Fellow, USC Schaeffer Center  
Professor, Practice of Health Policy and  
Management  
USC Price School of Public Policy  
Nonresident Senior Fellow, Brookings  
Institution  
Former Vice-Chair, Medicare Payment  
Advisory Commission

Sherry Glied, PhD  
Dean and Professor  
Robert F. Wagner Graduate School of Public  
Service, New York University  
Former Assistant Secretary for Planning and  
Evaluation, U.S. Department of Health and  
Human Services

Merrill Goozner  
Editor & Publisher of  
GoozNews.substack.com  
Former Editor, Modern Healthcare

Glenn M. Hackbarth, JD, MA  
Former Chair, Medicare Payment Advisory  
Commission (MedPAC)

George Isham, MD, MS

Frederick Isasi JD, MPH  
Executive Director  
Families USA

Gary S. Kaplan MD, FACP, FACPE  
CEO Emeritus  
Virginia Mason Health System  
Virginia Mason Franciscan Health

Rick Kronick, PhD  
Herbert Wertheim School of Public Health  
Former Deputy Assistant Secretary for  
Health Policy  
& Director, Agency for Healthcare Research  
and Policy, U.S. Health and Human Services

Timothy Layton, PhD  
30<sup>th</sup> Anniversary  
Associate Professor of Health Policy,  
Department of Health Policy, Harvard  
Medical School

Peter Lee  
Senior Scholar, Stanford University, CERC  
Former Executive Director  
Covered California  
Former Deputy Director,  
Center for Medicare and Medicaid  
Innovation, CMS

John C. (Jack) Lewin, MD  
Principal and Founder  
Lewin and Associates LLC  
Health Science Innovation and Policy

Michael R. McGarvey, MD  
Chair, Board of Directors  
New York County Health Services Review  
Organization.

Michael McWilliams, MD PhD  
Warren Alpert Foundation Professor of  
Health Care Policy  
Department of Health Care Policy  
Harvard Medical School,  
Professor of Medicine and Practicing  
General Internist  
Brigham and Women's Hospital

\*All affiliations are for identification  
purposes only and do not reflect the views  
of the affiliated institutions

Mark E. Miller, PhD  
Executive Vice President of Health Care  
Arnold Ventures  
Former Executive Director, Medicare  
Payment Advisory Commission

Arnie Milstein, MD  
Medical Director,  
Purchasers Business Group on Health  
Clinical Excellence Research Center Director  
Stanford University  
Former Commissioner, MedPAC

Tia Goss Sawhney, DrPH, FSA, MAAA  
Adjunct Clinical Associate Professor, New York  
University School of Global Public Health  
Owner and Managing Director, Teus Health, LLC

Roy Schutzengel, MD, MBA  
Former Medical Director  
California Department of Health Care  
Services  
Integrated Systems of Care Division

Cary Sennett, MD, PhD  
Principal  
The Sennett Consulting Group  
Former Executive Vice President, National  
Committee on Quality Assurance

Robert Reischauer  
President Emeritus and Distinguished  
Institute Fellow, Urban Institute

Bruce Vladeck, PhD  
Former Administrator,  
Healthcare Financing Administration  
U.S. Department of Health and Human  
Services

Judy Zerzan-Thul, MD, MPH  
Chief Medical Officer  
Washington State Health Care Authority  
Former Chief Medical Officer  
Colorado Dept of Health Care Policy and  
Financing

