NATIONAL HEALTH COUNCIL

March 3, 2023

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Blvd
Baltimore, MD 21244

Re: Advance Notice of Methodological Changes for Calendar Year (CY) 2024 for Medicare Advantage (MA) Capitation Rates and Part C and Part D Payment Policies

Dear Administrator Brooks-LaSure:

On behalf of the National Health Council (NHC), I am pleased to provide comments on the advance notice on Medicare Advantage capitation rates and payment policies. We appreciate the opportunity to provide input on these important policies.

Created by and for patient organizations over 100 years ago, the NHC brings diverse organizations together to forge consensus and drive patient-centered health policy. We promote increased access to affordable, high-value, equitable, and sustainable health care. Made up of more than 150 national health-related organizations and businesses, the NHC's core membership includes the nation's leading patient organizations. Other members include health-related associations and nonprofit organizations including the provider, research, and family caregiver communities; and businesses and organizations representing biopharmaceuticals, devices, diagnostics, generics, and payers.

The NHC appreciates the time and attention the Biden-Harris Administration and Congress has recently spent focusing on Medicare Advantage (MA) and working to assure people with chronic diseases and disabilities benefit from the program as it is intended. Forty eight percent of Medicare beneficiaries are currently enrolled in Advantage plans, up from 31 percent in 2016, according to data from the Kaiser Family Foundation. For people with chronic diseases and disabilities, the decisions made when selecting between traditional Medicare and MA, then choosing specific MA plans, and ultimately when navigating their Medicare or MA plan to access care are particularly important.

CMS' proposed changes to the risk adjustment model in this notice are likely to have significant impacts on the program, with potentially disproportionate negative impacts on people with some chronic diseases and disabilities. Given the short timeframe for analysis, it is difficult for the patient community to fully analyze and comprehend the potential consequences. The NHC has historically supported risk adjustment changes that would incentivize health plans to enroll a higher proportion of chronically ill and disabled individuals. However, it is unclear to us whether this proposal would have this effect.

Specifically, CMS's proposed changes would result in the removal of over 2,269 unique ICD-10 codes from the CMS-HCC model in use in 2023. Top conditions affected would include major depressive disorder, diabetes with chronic conditions, vascular disease, rheumatoid arthritis, and inflammatory connective tissue disease. Most importantly, the NHC encourages sufficient access to diagnostic testing to ensure people with chronic conditions are accurately diagnosed and treated. Further, this proposal could result in lower payment for some MA plans based on

their enrollment mix which could result in reduction of important benefits or increased cost-sharing to people with these conditions and – worse – further incentivize cherry-picking of healthy enrollees. This is particularly important as many patients may acquire or experience dramatic worsening of a chronic condition after enrolling in MA and face significant barriers if they try to move back to fee-for-service, such as limits on access to Medigap plans.

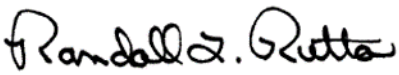
We understand CMS' desire to properly balance incentives to encourage accurate diagnosis without driving overutilization. However, we strongly urge CMS to withdraw and reevaluate the proposed approach and undertake a more thorough and deliberative process to ensure the right balance is struck to avoid unintended consequences. For example, when the U.S. Department of Health and Human Services' operated risk adjustment program was and is updated, it involves multiple levels of input from affected parties, including patient organizations, before a proposed rule is introduced. We urge you to take a similar approach to updating the MA risk adjustment model that better supports the needs of people with chronic conditions and disabilities.

Finally, it is particularly important that we do not set a precedent for making significant changes without careful input from all those affected given upcoming significant changes from the Inflation Reduction Act. These provisions will soon take effect and need to be considered in modifications to risk adjustment in coming plan years.

Conclusion

The NHC thanks CMS for the opportunity to provide input on this important issue. Please do not hesitate to contact Eric Gascho, Senior Vice President of Policy and Government Affairs, if you or your staff would like to discuss these comments in greater detail. He is reachable via e-mail at egascho@nhcouncil.org.

Sincerely,



Randall L. Rutta

Chief Executive Officer