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February 25, 2026

VIA ELECTRONIC SUBMISSION

Dr. Mehmet Oz
Centers for Medicare & Medicaid Services
Baltimore, MD 21244

Re: Docket number CMS-2026-0034: Advance Notice of Methodological Changes for Calendar Year (CY) 2027 for Medicare Advantage (MA) Capitation Rates and Part C and Part D Payment Policies

The Medicare Rights Center (Medicare Rights) appreciates this opportunity to comment on the **Advance Notice of Methodological Changes for Calendar Year (CY) 2027 for Medicare Advantage (MA) Capitation Rates and Part C and Part D Payment Policies**. Medicare Rights is a national, nonprofit organization that works to ensure access to affordable health care for older adults and people with disabilities through counseling and advocacy, educational programs, and public policy initiatives. Each year, Medicare Rights provides services and resources to over three million people with Medicare, family caregivers, and professionals.

General Comments

Affordability is a major concern for people with Medicare. Each year, among the most frequent calls to Medicare Rights' National Helpline are from people seeking help with Medicare costs, including premiums, cost-sharing, and prescription drugs.¹

MA overpayment² pushes up beneficiary and other taxpayer costs while undermining Medicare's sustainability.³ Overpayments to MA insurers compared to the cost of coverage for the same population under Original Medicare (OM) are significant and well documented, with the Medicare Payment Advisory Commission (MedPAC) projecting that MA plans will be paid 114% of fee-for-service Medicare

¹ Sarah Murdoch, *et al.*, "Medicare Trends and Recommendations: An Analysis of 2023 Call Data from the Medicare Rights Center's National Helpline" (January 2025), <https://www.medicarerights.org/pdf/2023-helpline-trends-report.pdf>.

² Medicare Rights Center, "The Overpayment Cycle: Payments to Medicare Advantage" (July 17, 2023), <https://www.medicarerights.org/policy-documents/the-overpayment-cycle-payments-to-medicare-advantage>.

³ Medicare Rights Center, "Medicare Financing: Shifting the Focus to Sustainability in Addition to Solvency" (May 21, 2025), <https://www.medicarerights.org/policy-documents/medicare-sustainability-financing>.

costs in 2026 in part due to plan actions to maximize profits, including efforts to reduce spending on care through favorable selection and increase payment through strategic coding.⁴

MedPAC notes higher payments to plans contribute to rising Part B premium rates for beneficiaries—driving costs up by an estimated 7.7% or \$15.60 per person per month in 2026, an astonishing \$13 billion per year.⁵ This increase is borne by all enrollees despite OM beneficiaries getting nothing in return, and it is in addition to what MA enrollees may pay their plan directly.

The promise of MA—that private investment and competition can increase efficiency and improve Medicare programs and services—remains unrealized.⁶ For example, MedPAC notes that “Our review of private-plan payments suggests that over a 40-year history, the many iterations of full-risk contracting with private plans have never yielded aggregate savings for the Medicare program.”⁷

Currently, carriers inundate the market and reap the reward of high profits,⁸ while beneficiaries struggle to differentiate between plans and to afford care.⁹ To the extent that CMS payment policies can promote a more reasonable system, the agency must do so. MA reimbursement should be in line with the value plans provide those who pay for coverage—beneficiaries and taxpayers—rather than those who profit from it—company shareholders.

Although this advance notice addresses some aspects of risk score gaming, it does not go far enough in addressing plan overpayment which comes at the expense of all Medicare beneficiaries. We urge CMS to engage in more robust oversight to ensure plan payments are accurate and appropriate and to further disincentivize gamesmanship that increases profits at the expense of patients and the program.¹⁰

Attachment II. Changes in the Part C Payment Methodology

Section J. Medicare Advantage Coding Pattern Difference Adjustment

For 2026, MedPAC expects MA coding to be 10% higher than OM, resulting in \$22 billion in inflated payment.¹¹ Yet, CMS proposes to continue to apply the statutory minimum MA coding pattern

⁴ Stuart Hammond, *et al.*, “The Medicare Advantage Program: Status Report” (January 16, 2026), https://www.medpac.gov/wp-content/uploads/2026/01/Tab-N-MA_Status-Jan-2026.pdf.

⁵ Medicare Payment Advisory Commission, “January 2026 Public Meeting Transcript” p. 54, (January 15, 2026), <https://www.medpac.gov/wp-content/uploads/2025/08/January-2026-public-meeting-transcript-SEC.pdf>.

⁶ Medicare Rights Center, “Medicare Advantage History: Legislative Milestones” (July 17, 2023), <https://www.medicarerights.org/policy-documents/medicare-advantage-history-legislative-milestones>.

⁷ Medicare Payment Advisory Commission, “The Medicare Advantage program: Status report,” p. 338 (March 2025), https://www.medpac.gov/wp-content/uploads/2025/03/Mar25_Ch11_MedPAC_Report_To_Congress_SEC.pdf.

⁸ Jared Ortaliza, *et al.*, “Health Insurer Financial Performance in 2024” (February 23, 2026), <https://www.kff.org/medicare/health-insurer-financial-performance/>.

⁹ Medicare Rights Center, “Medicare Advantage Proliferation: Too Much of a Complicated Thing” (July 23, 2025), <https://www.medicarerights.org/policy-documents/medicare-sustainability-ma-proliferation>; Meredith Freed, *et al.*, “Medicare Advantage 2026 Spotlight: A First Look at Plan Offerings” (December 9, 2025), <https://www.kff.org/medicare/medicare-advantage-2026-spotlight-a-first-look-at-plan-offerings/>.

¹⁰ Juan Siliezar, “New interactive tool explores billions in excess payments to Medicare Advantage plans” (June 9, 2025), <https://sph.brown.edu/news/2025-06-09/medicode>.

¹¹ Stuart Hammond, *et al.*, “The Medicare Advantage Program: Status Report” (January 16, 2026), https://www.medpac.gov/wp-content/uploads/2026/01/Tab-N-MA_Status-Jan-2026.pdf.

difference adjustment factor of 5.90%. As in past years, we are disappointed.¹² The statutory minimum adjustment is clearly insufficient to account for MA coding intensity and mitigate against the resulting excess payments to plans.

Section L. Sources of Diagnoses for Risk Score Calculation

Excluding Diagnoses from Audio-Only Services from Risk Score Calculation

CMS proposes to stop including diagnoses from audio-only services in risk score calculation. We are concerned about this proposal. Audio-only services are important for many people, especially those with behavioral health conditions¹³ and those with limited access to broadband.¹⁴ Eliminating these diagnoses from risk scores may jeopardize access to care.

While we support modifications to risk score calculation methodology, such changes must not target or imperil access to services. Because audio-only coverage is, as a basic benefit, limited to mental and behavioral health care, the risk of disruption and discrimination resulting from such a change seems to outweigh the benefit of such exclusion. Moreover, while other proposals (as discussed below) address the problem of artificially increased risk scores that are disconnected from higher costs associated with covered care for those diagnoses, this change relates to codes that arise out of the provision of needed services. We ask CMS to withdraw this proposal.

Excluding Diagnoses from Unlinked Chart Review Records from Risk Score Calculation

CMS proposes to exclude diagnoses based on unlinked chart reviews from the risk score calculation. We strongly support this proposal. Risk score calculations must reflect actual risk and expenditures, not paper diagnoses that drive up payments to plans without any attendant increase in care provided, costs, or real risk.¹⁵ To further improve payment accuracy, we urge CMS to exclude diagnoses from in-home health risk assessments that similarly divorce risk scores from the beneficiary experience.¹⁶

Conclusion

Thank you again for the opportunity to provide comments. For additional information, please contact Lindsey Copeland, Federal Policy Director at LCopeland@medicarerights.org or 202-637-0961 and Julie Carter, Counsel for Federal Policy at JCarter@medicarerights.org or 202-637-0962.

¹² Medicare Rights Center, “Comments on the 2026 Advance Notice” (February 10, 2025), <https://www.medicarerights.org/policy-documents/comments-on-the-2026-advance-notice>.

¹³ 86 Fed. Reg. 39104, 39148.

¹⁴ Robert A Kleinman & Marcos Sanches, “Impacts of Eliminating Audio-Only Care on Disparities in Telehealth Accessibility” (April 11, 2022), <https://pmc.ncbi.nlm.nih.gov/articles/PMC8999992/>.

¹⁵ Dept. of Health and Human Services Office of Inspector General, “Medicare Advantage: Questionable Use of Health Risk Assessments Continues To Drive Up Payments to Plans by Billions” (October 21, 2024), <https://oig.hhs.gov/reports/all/2024/medicare-advantage-questionable-use-of-health-risk-assessments-continues-to-drive-up-payments-to-plans-by-billions/>.

¹⁶ Paul D. Jacobs, “In-Home Health Risk Assessments And Chart Reviews Contribute To Coding Intensity In Medicare Advantage” (July 2024), <https://www.healthaffairs.org/doi/10.1377/hlthaff.2023.01530>.

Sincerely,

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