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February 10, 2025

VIA ELECTRONIC SUBMISSION

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
7500 Security Boulevard  
Baltimore, MD 21244

**Re: Advance Notice of Methodological Changes for Calendar Year (CY) 2026 for Medicare Advantage (MA) Capitation Rates and Part C and Part D Payment Policies [CMS-2024-0360]**

The Medicare Rights Center (Medicare Rights) appreciates this opportunity to comment on the proposed Calendar Year (CY) 2025 Advance Notice of Methodological Changes for Medicare Advantage (MA) Capitation Rates and Part C and Part D Payment Policies (Advance Notice). Medicare Rights is a national, nonprofit organization that works to ensure access to affordable and equitable 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**

We strongly support the policies in the Advance Notice that would make MA payment methodology more accurate and rates more rational.

Overpayments to private plans are negatively impacting Medicare's finances and long-term sustainability, as well as driving up beneficiary premiums and taxpayer costs. The amounts inappropriately paid to plans are significant and well documented, with the Medicare Payment Advisory Commission (MedPAC) projecting that MA plans will be paid 120% of fee-for-service Medicare costs in 2025 through a combination of favorable selection and strategic coding.<sup>1</sup>

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<sup>1</sup> Stuart Hammond, *et al.*, "The Medicare Advantage program: Status report" (January 17, 2025), <https://www.medpac.gov/wp-content/uploads/2024/08/Tab-M-MA-status-report-January-2025-SEC.pdf>.

MedPAC also estimates that these higher payments to plans will increase Part B premiums by \$13 billion in 2025.<sup>2</sup> This means Original Medicare (OM) beneficiaries are unfairly required to fund MA overpayment while getting nothing in return.

Like last year, this Advance Notice addresses some of the key forces behind these problematic overpayments, including through the final phase-in of the updated MA risk adjustment model.<sup>3</sup> But the 2026 proposal still falls short by failing to apply a stronger coding intensity adjustment (see Section G below).

Other overpayment drivers—such as soaring rebates and a flawed quality bonus program—are in some ways beyond this notice’s scope but are no less urgent. We implore CMS to pursue the full range of necessary reforms, working with Congress to make any necessary legislative changes.

We also reiterate our call for CMS to provide more robust plan oversight to ensure they are meeting their statutory, contractual, and civic duties. CMS must hold plans accountable for compliance with existing rules and guidelines and ensure plan payments are accurate and appropriate. We recognize this may require additional CMS staff and resources, which we urge the agency to request, as necessary.

MA payment should provide value for beneficiaries, taxpayers, and Medicare. Currently, carriers inundate the market and reap the reward of high profits, while beneficiaries struggle to differentiate between plans and to afford care.<sup>4</sup> To the extent that CMS can promote a more reasonable system, the agency must do so.

## **Attachment II. Changes in the Part C Payment Methodology**

**Section G. CMS-HCC Risk Adjustment Model for CY 2024:** We strongly support CMS’s planned implementation of the 2024 CMS-HCC risk adjustment model such that 100 percent of the risk scores will be calculated using the 2024 CMS-HCC risk adjustment model.<sup>5</sup>

We urge CMS to continue modernizing risk adjustment by reducing the impact of factors that are not connected to MA plan costs, this includes disregarding health risk assessments (HRAs) from risk adjustment, as recommended by MedPAC<sup>6</sup> and limiting other codes that are disproportionately used by MA.

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<sup>2</sup> Stuart Hammond, *et al.*, “January 2025 Public Meeting Transcript,” (January 17, 2025), <https://www.medpac.gov/wp-content/uploads/2024/08/January-2025-public-meeting-transcript-SEC.pdf>.

<sup>3</sup> CMS, “Announcement of Calendar Year (CY) 2024 Medicare Advantage (MA) Capitation Rates and Part C and Part D Payment Policies” (March 31, 2023), <https://www.cms.gov/files/document/2024-announcement-pdf.pdf>.

<sup>4</sup> Meredith Freed, *et al.*, “Medicare Advantage 2024 Spotlight: First Look” (November 1, 2023), <https://www.kff.org/medicare/issue-brief/medicare-advantage-2024-spotlight-first-look/>.

<sup>5</sup> CMS, “Announcement of Calendar Year (CY) 2024 Medicare Advantage (MA) Capitation Rates and Part C and Part D Payment Policies” (March 31, 2023), <https://www.cms.gov/files/document/2024-announcement-pdf.pdf>.

<sup>6</sup> Stuart Hammond, *et al.*, “The Medicare Advantage program: Status report” (January 12, 2024), <https://www.medpac.gov/wp-content/uploads/2023/10/MedPAC-MA-status-report-Jan-2024.pdf>.

**Section J. Medicare Advantage Coding Pattern Difference Adjustment:** We are again disappointed that CMS proposes to apply the 5.9% statutory minimum coding pattern adjustment. By comparison, for 2025, MedPAC expects MA coding to be 16% higher than OM, resulting in \$40 billion in increased payment.<sup>7</sup> The statutory minimum adjustment is insufficient to account for MA coding intensity or the resulting excess plan payments.<sup>8</sup>

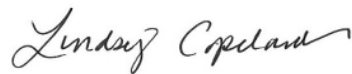
## Conclusion

We welcome CMS's efforts to modernize MA payment methodology and support further action to improve costs and the beneficiary experience, program wide.

Absent systemic reforms, including simplifying the MA choice landscape, enhancing consumer protections and affordability, and strengthening plan transparency, oversight, and accountability, taxpayers, beneficiaries, and Medicare will pay an ever-higher price.

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

Sincerely,



Lindsey Copeland  
Director of Federal Policy  
Medicare Rights Center

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<sup>7</sup> Stuart Hammond, *et al.*, "The Medicare Advantage program: Status report" (January 17, 2025), <https://www.medpac.gov/wp-content/uploads/2024/08/Tab-M-MA-status-report-January-2025-SEC.pdf>.

<sup>8</sup> *See, e.g.*, Section 1853 (a)(1)(C)(ii) of the Social Security Act [42 U.S.C. 1395w-23(a)(1)(C)(ii)] and Fred Schute, "Medicare Advantage's Cost to Taxpayers has Soared in Recent Years, Research Finds," NPR (November 11, 2021), <https://www.npr.org/sections/health-shots/2021/11/11/1054281885/medicare-advantage-overcharges-exploding>.