



266 West 37th Street, 3rd Floor
New York, NY 10018
212.869.3850/Fax: 212.869.3532

VIA ELECTRONIC SUBMISSION

March 4, 2022

Re: Docket No. CMS-2022-0021; Comments on Advance Notice of Methodological Changes for Calendar Year (CY) 2023 for Medicare Advantage (MA) Capitation Rates and Part C and Part D Payment Policies

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

The Medicare Rights Center (Medicare Rights) appreciates this opportunity to comment on the Advance Notice of Methodological Changes for Calendar Year (CY) 2023 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 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 nearly three million people with Medicare, family caregivers, and professionals.

We continue to strongly encourage the Centers for Medicare & Medicaid Services (CMS) to do more to combat upcoding by MA plans, including by going beyond the statutory minimum coding intensity adjustment of 5.90%. We urge the agency to instead apply a coding adjustment that truly accounts for the coding differences between fee-for-service Medicare and MA.

We support efforts by CMS to increase equity within Medicare, uncover and address disparities, and ensure that plans have incentives to properly enroll and treat people with disabilities,

Washington, DC Office:
1444 I Street NW, Suite 1105
Washington, DC 20005
202.637.0961

www.medicarerights.org www.medicareinteractive.org

chronic conditions, limited financial resources, and other characteristics that can reduce their access to care and services.

In particular, we support CMS's effort to implement a health equity index and CMS's initiative to encourage plans to assess enrollees' health-related social needs.

However, we urge caution with the use of any standardized screening tools, including those driven by artificial intelligence or algorithm. While such tools may appear to be more objective than an individual doing an assessment, their design and hidden assumptions may perpetuate or even increase bias and inequity without a clear path to rectify any issues that arise.¹ We urge careful development of all screening tools with the input of diverse stakeholders.

We also urge that any staff completing assessments, screenings, or questionnaires have training to combat implicit bias and to enhance cultural competence.

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

Sincerely,



Fred Riccardi
President
Medicare Rights Center

¹ Trishan Panch, et al., "Artificial intelligence and algorithmic bias: implications for health systems," *Journal of Global Health* (November 24, 2019), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6875681/>.