



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-4207-NC]

RIN 0938-ZB84

Medicare Program; Request for Information on Medicare Advantage Data

AGENCY: Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services (HHS).

ACTION: Request for information.

SUMMARY: This request for information (RFI) seeks input from the public regarding various aspects of Medicare Advantage (MA) data. Responses to this RFI may be used to inform general efforts to strengthen Centers for Medicare & Medicaid Services' (CMS') MA data capabilities and guide policymaking.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, by [Insert date 120 days after date of publication in the **Federal Register**].

ADDRESSES: In commenting, refer to file code CMS-4207-NC.

Comments, including mass comment submissions, must be submitted in **one** of the following three ways (please choose only **one** of the ways listed):

1. Electronically. You may submit electronic comments on this document to <http://www.regulations.gov>. Follow the "Submit a comment" instructions.
2. By regular mail. You may mail written comments to the following address **ONLY**:
Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
Attention: CMS-4207-NC,
P.O. Box 8013,
Baltimore, MD 21244-8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. By express or overnight mail. You may send written comments to the following address ONLY:

Centers for Medicare & Medicaid Services,
Department of Health and Human Services,
Attention: CMS-4207-NC,
Mail Stop C4-26-05,
7500 Security Boulevard,
Baltimore, MD 21244-1850.

For information on viewing public comments, see the beginning of the “SUPPLEMENTARY INFORMATION” section.

FOR FURTHER INFORMATION CONTACT:

Ilina Chaudhuri, (410) 786-8628.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: <http://www.regulations.gov>. Follow the search instructions on that Web site to view public comments. CMS will not post on Regulations.gov public comments that make threats to individuals or institutions or suggest that the individual will take actions to harm the individual. CMS continues to encourage individuals not to submit duplicative comments. We will post acceptable comments from multiple unique commenters even if the content is identical or nearly identical to other comments.

I. Background

In a request for information that appeared in the **Federal Register** on August 1, 2022 (87 FR 46918) (hereinafter referred to as 2022 General MA RFI), CMS sought feedback on ways to strengthen Medicare Advantage (MA) to align with the Vision for Medicare (<https://www.cms.gov/blog/building-cms-strategic-vision-working-together-stronger-medicare>) and the CMS Strategic Pillars (<https://www.cms.gov/about-cms/what-we-do/cms-strategic-plan>). The 2022 General MA RFI set out to create more opportunities for stakeholders to engage with CMS, and in alignment with the agency’s Strategic Pillars, prioritize increased engagement throughout the policy process with our partners and the communities we serve. As a result of this commitment, we received more than 4,000 responses from a wide variety of voices. One key theme that emerged was an interest in greater beneficiary protections, such as strengthened MA marketing regulations and prior authorization protections. Respondents also focused on issues related to payment, including accurate risk adjustment and value-based payment arrangements between providers and insurers, as well as competition in the market, such as topics related to insurer consolidation and vertical integration. Additionally, we received strong feedback from respondents who stated that CMS should have comprehensive high-quality MA programmatic data and promote more program transparency through increased public releases of MA data. Respondents underscored the urgency for more complete MA data and data transparency as enrollment in MA has for the first time reached half of all people enrolled in Medicare.¹

Recommendations regarding MA data included calls for CMS to collect and release more MA data on key areas of concern, such as supplemental benefit costs and utilization, value-based payment arrangements between providers and plans, utilization management and prior authorization including denials and appeals and access to inpatient services and post-acute care, network adequacy and provider directory accuracy, competitive forces in the market such as the effects of market shifts and vertical integration and consolidation on consumers, care outcomes,

¹ From “Medicare Advantage and Medicare Prescription Drug Programs to Remain Stable in 2024”, available at <https://www.cms.gov/newsroom/press-releases/medicare-advantage-and-medicare-prescription-drug-programs-remain-stable-2024>.

and Medicare Loss Ratios (MLRs). Commenters also raised data considerations on topics such as MA marketing activity, especially predatory behavior, care outcomes and data available in MA compared to Traditional Medicare (Medicare Parts A and B), and geographic impacts including on rural areas, among other important topic areas. Respondents emphasized that CMS should improve its data capabilities to measure impacts of MA on underserved communities. HHS' Office of Inspector General (OIG), the Government Accountability Office (GAO), and the Medicare Payment Advisory Commission (MedPAC) have pointed out program areas that would benefit from better or more MA data as well.²

During the Biden-Harris Administration, we have finalized policies for 2024³ and proposed policies⁴ that will improve MA data capabilities, among other important MA policy changes. We have also issued requirements for collecting more data related to supplemental benefits in the updated Part C reporting requirements,⁵ required MA organizations to improve prior authorization processes⁶ and final interoperability requirements,⁷ and begun collecting race and ethnicity data on a voluntary basis on MA and Part D enrollment forms.⁸

² Examples of such studies and reports include: "Priority Open Recommendations: Department of Health and Human Services." May 2023. <https://www.gao.gov/assets/gao-23-106467.pdf>; "The Inability To Identify Denied Claims in Medicare Advantage Hinders Fraud Oversight." OEI-03-21-00380. March 2023. <https://oig.hhs.gov/oei/reports/OEI-03-21-00380.asp>; "Medicare Advantage: Plans Generally Offered Some Supplemental Benefits, but CMS Has Limited Data on Utilization." Jan 2023. <https://www.gao.gov/products/gao-23-105527>; "OIG's Top Unimplemented Recommendations: Solutions to Reduce Fraud, Waste, and Abuse in HHS Programs." 2022. <https://oig.hhs.gov/reports-and-publications/compendium/files/compendium2022.pdf>; "CMS Generally Ensured That Medicare Part C and Part D Sponsors Did Not Pay Ineligible Providers for Services to Medicare Beneficiaries." A-02-20-01027. Oct 2022. <https://oig.hhs.gov/oas/reports/region2/22001027.pdf>; "Some Medicare Advantage Organization Denials of Prior Authorization Requests Raise Concerns About Beneficiary Access to Medically Necessary Care." OEI-09-18-00260. Apr 2022. <https://oig.hhs.gov/oei/reports/oei-09-18-00260.asp>; "Medicare Advantage Organizations Are Missing Opportunities To Use Ordering Provider Identifiers to Protect Integrity." OEI Report OEI-03-19-00432. Apr 2021. <https://oig.hhs.gov/oei/reports/OEI-03-19-00432.asp>; https://www.medpac.gov/wp-content/uploads/import_data/scrape_files/docs/default-source/reports/jun19_ch7_medpac_reporttocongress_sec.pdf; "The Inability To Identify Denied Claims in Medicare Advantage Hinders Fraud Oversight." (OEI-03-21-00380) March 2023. <https://oig.hhs.gov/oei/reports/OEI-03-21-00380.asp>.

³ <https://www.cms.gov/newsroom/fact-sheets/2024-medicare-advantage-and-part-d-final-rule-cms-4201-f>

⁴ <https://www.cms.gov/newsroom/fact-sheets/contract-year-2025-policy-and-technical-changes-medicare-advantage-plan-program-medicare>; <https://www.cms.gov/newsroom/fact-sheets/contract-year-2024-policy-and-technical-changes-medicare-advantage-and-medicare-prescription-drug>

⁵ <https://www.cms.gov/medicare/enrollment-renewal/health-plans/part-c>

⁶ <https://www.cms.gov/newsroom/fact-sheets/contract-year-2024-policy-and-technical-changes-medicare-advantage-and-medicare-prescription-drug>; <https://www.cms.gov/newsroom/fact-sheets/contract-year-2025-policy-and-technical-changes-medicare-advantage-plan-program-medicare>

⁷ <https://www.cms.gov/newsroom/fact-sheets/cms-interoperability-and-prior-authorization-final-rule-cms-0057-f>

⁸ <https://www.cms.gov/regulations-and-guidance/legislation/paperworkreductionactof1995pra-listing/cms-10718>

This RFI is an extension of our ongoing work on MA data as we solicit feedback from the public on how best to meet the shared goals of enhancing data capabilities to have better insight into our programs, consider areas to increase MA data transparency, and propose future rulemaking. Our eventual goal is to have, and make publicly available, MA data commensurate with data available for Traditional Medicare to advance transparency across the Medicare program, and to allow for analysis in the context of other health programs like accountable care organizations, the Marketplace, Medicaid managed care, integrated delivery systems, among others.

II. Solicitation of Public Comments

We encourage feedback from a wide array of interested parties, including beneficiaries and beneficiary advocates, plans, providers, community-based organizations, researchers, employers and unions, and all other interested parties, including the public at large. Our interest in this RFI is to solicit comments on all aspects of data related to the MA program. Intimate knowledge of CMS' current data availability or capability is not needed to provide input on the aspects of MA for which commenters think policymakers and the public should have more data.

In this RFI, CMS requests comments on all aspects of data related to the MA program – both data not currently collected as well as data currently collected. We are especially interested in: data-related recommendations related to beneficiary access to care including provider directories and networks; prior authorization and utilization management, including denials of care and beneficiary experience with appeals processes as well as use and reliance on algorithms; cost and utilization of different supplemental benefits; all aspects of MA marketing and consumer decision-making; care quality and outcomes, including value-based care arrangements and health equity; healthy competition in the market, including the impact of mergers and acquisitions, high levels of enrollment concentration, and the effects of vertical integration, data topics related to Medicare Advantage prescription drug plans (MAPDs); and special populations such as individuals dually eligible for Medicare and Medicaid, individuals with end stage renal

disease (ESRD), and other enrollees with complex conditions. We ask that academic researchers and other data analysts provide precise detail and definitions on the data format, fields, and content that would facilitate comprehensive analyses of any publicly released MA data, including comparisons with existing data sets, for example, between Traditional Medicare and MA. Additionally, we seek detail regarding the rationale, goals, and questions that you could address with newly released data and suggestions for how such data could support new action or regulation by CMS. We are also interested to hear if you have insight in ways in which CMS could leverage existing private sector data.

It would also be helpful for plans, providers, data vendors, and other stakeholders with a deep understanding of MA data to provide recommendations related to operational considerations as part of this effort. Comments are welcome on ways that we could improve our current MA data collection and release methods, including recommendations on the preferred cadence of data releases. Finally, we seek detailed information from beneficiary advocates, health care providers, and other stakeholders on common challenges and experiences in the MA program for which limited data are currently available.

III. Collection of Information Requirements

This is a request for information (RFI) only. In accordance with the implementing regulations of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.), specifically 5 CFR 1320.3(h)(4), this general solicitation is exempt from the PRA. Facts or opinions submitted in response to general solicitations of comments from the public, published in the **Federal Register** or other publications, regardless of the form or format thereof, provided that no person is required to supply specific information pertaining to the commenter, other than that necessary for self-identification, as a condition of the agency's full consideration, are not generally considered information collections and therefore not subject to the PRA.

This RFI is issued solely for information and planning purposes; it does not constitute a Request for Proposal (RFP), applications, proposal abstracts, or quotations. This RFI does not

commit the U.S. Government to contract for any supplies or services or make a grant award. Further, we are not seeking proposals through this RFI and will not accept unsolicited proposals. Responders are advised that the U.S. Government will not pay for any information or administrative costs incurred in response to this RFI; all costs associated with responding to this RFI will be solely at the interested party's expense. In addition, this RFI does not commit the Government to any policy decision and CMS will follow established methods for proposing future policy changes, including the MA Advance Notice and Rate Announcement process. We note that not responding to this RFI does not preclude participation in any future procurement or rulemaking, if conducted. It is the responsibility of the potential responders to monitor this RFI announcement for additional information pertaining to this request. In addition, we note that CMS will not respond to questions about the policy issues raised in this RFI.

Chiquita Brooks-LaSure, Administrator of the Centers for Medicare & Medicaid Services, approved this document on January 22, 2024.

Dated: January 25, 2024.

Xavier Becerra,

Secretary,

Department of Health and Human Services.

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