

May 26, 2021

The Honorable Xavier Becerra  
Secretary, Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

The Honorable Chiquita Brooks-LaSure  
Administrator, Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

Dear Secretary Becerra and Administrator Brooks-LaSure:

We, the undersigned organizations, represent patients, providers, payers, employers, health systems, and others, in all 50 states and the District of Columbia. We look forward to working with you to continue to slow the spread of COVID-19 and provide high-quality coverage and care to millions of seniors, low-income families and many others during this late stage of the pandemic. Today, we write on behalf of the more than 26 million seniors enrolled in Medicare Advantage (MA) to express concern over the lack of recognition of diagnoses obtained via audio-only telehealth encounters for risk-adjustment purposes. We urge the Centers for Medicare and Medicaid Services (CMS) to take immediate action to rectify this current inequity across federal programs.

Every American deserves access to high quality, affordable health care. Medicare has a unique role in protecting access to health care for the oldest and most vulnerable members of our society. During the pandemic, Medicare beneficiaries have relied on telehealth to safely receive care. Access to telehealth services has been essential for seniors living with chronic conditions at greater risk from complications from COVID-19 and has slowed the spread of disease in health care facilities and other high-risk settings.

For both 2020 and 2021, CMS allowed MA plans to use video-enabled telehealth visits to document health acuties of seniors but has not extended this flexibility to audio-only telehealth encounters, creating an unnecessary inequity in communities across the country. Allowing MA plans to submit diagnoses from all telehealth services for risk-adjustment is imperative to ensure that health costs are adequately captured, premiums are stable and robust benefits are preserved. Including all encounters in risk-adjustment also provides clinical care teams the information necessary to comprehensively manage their patients' care. Without the complete and accurate documentation of diagnoses, MA plans are experiencing reductions in payments, leaving health plans and providers with fewer resources and potentially exposing patients to reduced benefits, higher premiums, and increased out-of-pocket costs in the future.

CMS's current risk-adjustment policy disallowing audio only encounters disadvantages communities already experiencing health disparities: rural, minority, socioeconomically disadvantaged, elderly, medically fragile, and otherwise vulnerable populations are all less likely to have access to video-capable technology or the infrastructure or ability to make use of it. Forty percent of MA enrollees earn less than \$25,000 annually, and of those, thirty-five percent do not

have access to broadband internet in their homes.<sup>1</sup> For millions of seniors, audio-only telehealth is the only safe and available option to receive care. In fact, among Medicare beneficiaries who used telehealth during the pandemic, 56% report using audio-only modes to receive care – rates were even higher among those ages 75 and older (65%), Hispanic-Americans (61%), rural beneficiaries (65%), and dually-eligible beneficiaries (67%).<sup>2</sup> Not allowing the health status of seniors who have utilized audio-only services for risk-adjustment provides an incomplete picture of the health of the Medicare population and unintentionally makes seniors appear healthier than they are.

The inability to include audio-only encounters by MA plans is even more glaring given separate guidance issued by CMS in the Federal Marketplace. Specifically, CMS allows the Affordable Care Act Marketplaces (which cover a younger and healthier population than Medicare) to include both video-enabled **and** audio-only telehealth encounters for risk-adjustment. It is fundamentally unfair to seniors to apply different standards from one federal program to another, unreasonably limiting the ability to fully and properly document risk to select programs.

**In order to protect Medicare beneficiaries who rely on their MA plans for comprehensive health care coverage, we request CMS allow diagnoses from Medicare Advantage audio-only telehealth encounters to be included in risk adjustment calculations, consistent with CMS' treatment of risk adjustment in the ACA Marketplaces.**

In the event MA organizations are unable to risk adjust from audio-only telehealth encounters, we request MA organizations be able to use a 24-month look-back period to supplement 2020 data for the calculation of 2021 risk scores. Allowing health plans to supplement 2020 encounter data with data from 2019 would mitigate the negative impact of under-risk-adjusting as a result of care delivered through unallowable encounters during the pandemic. The lookback period would not inflate risk scores because using 2019 data would not capture new membership or any risk scores not previously documented.

We appreciate you taking immediate action to protect the stability of the MA program and the vulnerable seniors it serves. Please do not hesitate to contact us to discuss this matter in more detail. We appreciate your attention to this important issue and look forward to working with you and your staff to protect access to care during this public health emergency.

Sincerely,

Alliance of Community Health Plans

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<sup>1</sup> <https://www.cms.gov/files/document/medicare-current-beneficiary-survey-summer-2020-covid-19-data-snapshot.pdf>

<sup>2</sup> Koma, Wyatt et al., *Medicare and Telehealth: Coverage and Use During the COVID-19 Pandemic and Options for the Future*. Kaiser Family Foundation, May 19, 2021