



National Patient
Advocate Foundation

February 13, 2023

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

RE: Rule: Medicare Program; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage (MA) Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, Medicare Parts A, B, C, and D Overpayment Provisions of the Affordable Care Act and Programs of All-Inclusive Care for the Elderly; Health Information Technology Standards and Implementation Specifications

Dear Administrator Brooks-LaSure,

National Patient Advocate Foundation (NPAF) is pleased to submit comments on this proposed rule. We appreciate the Administration's on-going effort to strengthen Medicare Advantage and PACE programs and to ensure all Medicare beneficiaries can equitably access high quality, person-centered and family-focused care.

NPAF advocates for inclusive policies that elevate and integrate patient and caregiver perspectives as key pillars of equity-focused healthcare reform. Advancing equitable and affordable healthcare is the core of our person-centered agenda, in which financial and social stability are essential components of quality health care. Our direct patient services counterpart, Patient Advocate Foundation (PAF), has delivered skilled needs navigation services specifically supporting social and financial well-being for thousands of limited-resourced patients and families over its 26 years. Needs navigation, detailed in [this NPAF issue brief](#), is an effective intervention that responds to what patients and families report as their most pressing concerns that interfere with healthcare access and affordability. PAF's approach advances health equity by linking underserved individuals to community and national resources and support programs based on their unique needs and circumstances.

With this perspective, we appreciate the opportunity to make the following comments and recommendations:

Broaden the PACE Interdisciplinary team (IDT) assessment to capture financial concerns

A majority of over 2,800 patients surveyed by PAF in internal research done in 2019 (63 percent) reported financial distress as a top concern surpassing even the possibility of dying. Household material hardships such as food, energy and housing insecurity are frequent sources of concern contributing to dire circumstances and disparate health outcomes among people coping with complex chronic conditions. NPAF therefore advocates for "Needs navigation", which helps overcome health system shortfalls by identifying and striving to address, the constellation of patients' unmet social and financial needs. These are particularly prevalent in underserved populations and limited resourced communities. PAF's 2021 program evaluation data show that after

navigation was provided, 77 percent of patients reported reduced distress and 100 percent reported a better understanding about health care costs and awareness of community resources that can help them.

Therefore, we recommend that the comprehensive IDT assessment proposed for PACE programs also include assessment of financial needs and concerns and are available to discuss proven assessment tools and processes that could help in this area.

Protecting Beneficiaries: Marketing Requirements

We support that the proposed rule takes critical steps to protect MA and Part D enrollees and people shopping for Medicare coverage from confusing and potentially misleading marketing while also ensuring they have accurate and necessary information to make coverage choices that best meet their needs. We particularly support the bans on sales presentations that immediately follow an educational event, on agent distribution and collection of Scope of Appointment and Business Reply Cards at educational events, rules banning agents conducting a sales and/or enrollment meeting with a beneficiary within 48 hours after a beneficiary's consent, new prohibitions on use of Medicare language or logos in advertisements that mislead Medicare enrollees into believing these advertisements are from the government; and requiring plans to report to CMS agents who fail to adhere to CMS requirements, and work with state Departments of Insurance (DOI) to address any issues We have heard anecdotally from patients and caregivers that seniors in their community were visited at home unsolicited by sales representatives who encouraged MA enrollment. (These did not occur after educational events as the proposed rule would address so are a separate area to explore in future rulemaking.) As a result, some people with complex chronic conditions did sign up for an MA plan during open enrollment not realizing the difference or impact it would have on access to care and costs compared to traditional Medicare.

We are specifically concerned that agents and brokers for MA plans may not disclose important penalty information having substantial financial consequences for the beneficiary in the long term and urge CMS to ensure this is included in the final rule. This should be stressed along with the proposal to require agents to disclose to beneficiaries all the plans the agent sells, require agents to ask a standardized list of questions that address a beneficiary's health care needs, current providers, and prescriptions, prior to enrolling a beneficiary into a plan, and require agents to provide the pre-enrollment checklist to prospective enrollees, which would include the effect on current coverage if he or she changes plans.

While it is true that a beneficiary can switch back to fee-for-service Medicare, they should also be warned that if they want to purchase a Medigap supplemental plan to help cover out-of-pocket costs but are outside of their six-month window, they are subject to medical underwriting and may be denied or the plan may cost more. Even with an exception to the underwriting process when a consumer is misled, it is reasonable to assume that not every person has the persistence and know-how to pursue that process.

We therefore believe that, in addition to the marketing changes in this proposed rule, there will continue to be the need for needs navigation services to work with beneficiaries to help them become better aware of their options relative to MA plans and to get help to make more fully informed decisions.

Advancing Health Equity

CMS' commitment to advancing health equity for all, including those who have been historically underserved, marginalized, and adversely affected by persistent poverty and inequality aligns with that of the PAF. We support the proposed rule's further clarification of a current requirement for MA plans to provide culturally competent care by expanding the list of populations that MA organizations must provide services to in a culturally competent manner. Based on our work, of particular interest are the included populations with limited English proficiency or reading skills, those who live in rural areas and other areas with high levels of deprivation; and otherwise adversely affected by persistent poverty or inequality. These are groups for whom needs navigation and financial support services are of particular value.

Improving Drug Affordability and Access in Part D

Given people's financial concerns, we also support the proposed greater formulary flexibility for certain biological products and authorized generics. The people PAF serves will benefit from being able to access medications more quickly and cheaply via the proposal to permit Part D sponsors to immediately substitute: a new interchangeable biological product for its corresponding reference product; a new unbranded biological product for its corresponding brand name biological product; and a new authorized generic for its corresponding brand name equivalent.

Beyond these flexibilities, however, beneficiaries will need help learning about these changes and with navigating these new processes. Again, PAF sees that as another example of where needs navigators and navigation services could assist beneficiaries enrolled in MA plans and we offer our help to CMS for how to engage these services with these new Part D changes.

MA Financial Needs Assessment

Similar to the case we made earlier for adding financial needs assessment to the PACE IDT assessment, we are making the same case for adding financial needs assessment to the evolving medical and social needs assessment MA organizations are now required to do.

While social risk assessment may get at some of this information, our experience is that people do not necessarily volunteer their financial concerns without prompting yet are grateful when someone asks about them and then helps address them. Our PAF navigators and organization have over two decades of experience in this area and we are available to assist with supplying proven financial assessment tools and experience for this important area. CMS should think of financial needs assessment and navigation help on par with those of assessing social needs as our experience, and research, confirm they are among the most important considerations people have about their health care.

Conclusion

NPAF greatly appreciates CMS' intent to meaningfully engage beneficiaries throughout rulemaking processes to understand and address continuing challenges for patients with MA plans and PACE. Patient and caregiver insights can ensure CMS is evaluating quality by measuring outcomes that reflect what matters most to people. Providing needs navigation services directly to patients and caregivers is a hallmark of PAF's two and a half decades of organizational experience, expertise, and history. We are happy to share lessons learned and welcome the opportunity to meet directly with Administration staff to discuss these comments and opportunities to scale needs navigation as part of efforts to achieve equitable and affordable healthcare reform.

Please contact me at Rebecca.kirch@npaf.org if NPAF can provide further details.

Respectfully submitted,

A handwritten signature in black ink that reads "Rebecca A. Kirch". The signature is written in a cursive, flowing style.

Rebecca A. Kirch
Executive Vice President, Policy and Programs