

Congress of the United States
Washington, DC 20515

April 20, 2022

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

Dear Administrator Brooks-LaSure:

In light of the Medicare Payment Advisory Commission’s (MedPAC) recent report demonstrating significant overpayments to Medicare Advantage plans,¹ we write to express concerns with the Centers for Medicare & Medicaid Services’ (CMS) decision to finalize policies that will award Medicare Advantage plans an 8.5 percent increase in payments.² We acknowledge that many older adults and individuals with disabilities depend on Medicare Advantage coverage, and we support your agency’s actions to improve coverage and transparency for those who are insured by the program.³ However, as Health and Human Services Secretary Xavier Becerra recently noted, there is “evidence that in certain areas there seems to be [Medicare Advantage] charges that go beyond what would be necessary,” and CMS must do more to increase cost efficiency in Medicare Advantage.⁴ To preserve Medicare and its Hospital Insurance (HI) Trust Fund, we urge CMS to mitigate the announced payment increases for Medicare Advantage plans so they are on par with payments to fee-for-service Traditional Medicare and take additional steps to address overpayments and increase transparency in the Medicare Advantage program.

Medicare Advantage Sponsors’ Record Profit Margins Raise Concerns

¹ MedPAC, *The Medicare Advantage Program: Status Report and Mandated Report on Dual-Eligible Special Needs Plans*, (Mar. 2022) (online at https://www.medpac.gov/wp-content/uploads/2022/03/Mar22_MedPAC_ReportToCongress_Ch12_SEC.pdf).

² Centers for Medicare and Medicaid Services, *2023 Medicare Advantage and Part D Rate Announcement* (Apr. 4, 2022) (online at <https://www.cms.gov/newsroom/fact-sheets/2023-medicare-advantage-and-part-d-rate-announcement>).

³ “Biden Admin Proposes Stricter Network Adequacy, Marketing Standards for MA Plans,” *Healthcare Dive* (Jan. 7, 2022) (online at <https://www.healthcarediver.com/news/biden-admin-stricter-network-adequacy-MA-marketing/616822/>).

⁴ “Becerra: HHS wants to get 'money's worth' on Medicare Advantage, will look into coding practices,” *Fierce Healthcare* (Mar. 18, 2022) (online at <https://www.fiercehealthcare.com/payers/becerra-hhs-wants-get-moneys-worth-medicare-advantage-will-look-coding-practices>).

The record profit margins of health insurers participating in the Medicare Advantage program in 2021 indicate that insurance companies are generating significant revenue from excess Medicare Advantage payments. In 2021, Anthem reported profits of \$6.1 billion—more than double its profits from a decade ago.⁵ Anthem’s explosive profit growth was driven by taxpayer dollars, which accounted for 61 percent of Anthem’s \$137 billion in revenues.⁶ UnitedHealth Group generated \$288 billion in revenues last year, including \$167 billion from taxpayers.⁷ Nearly all of UnitedHealth’s customer growth over the past decade has come from Medicare and Medicaid patients,⁸ helping the company amass \$24 billion in profits last year.⁹ Unless CMS addresses overpayments, public funds will continue to finance private profits at the expense of taxpayers, as well as older adults and disabled individuals on Medicare.

Excess Payments Threaten the Medicare Hospital Insurance Trust Fund

Absent efforts to address overspending in the Medicare program, the HI Trust Fund is projected to become insolvent by 2026, leading the Medicare Trustees to propose an 18 percent cut in Part A spending to extend Medicare’s life by 25 years.¹⁰ Overpayments to Medicare Advantage plans, which exceeded \$106 billion between 2010 and 2019,¹¹ will contribute to the HI Trust Fund’s risk of insolvency. In 2020, CMS made \$12 billion in excess payments to Medicare Advantage plans that would not have occurred if beneficiaries were enrolled in traditional Medicare.¹² Instead of failing to curb overpayments to Medicare Advantage plans for 2023, we encourage CMS to recoup these overpayments and reduce them over time to extend the life of the HI Trust Fund, ensure parity in payment between Medicare Advantage and fee-for-service Medicare, and improve and equalize benefits for all Medicare beneficiaries.

⁵ Anthem, *Press Release: Anthem Reports Fourth Quarter and Full Year 2021 Results*, (Jan. 26, 2022) (online at <https://ir.antheminc.com/news-releases/news-release-details/anthem-reports-fourth-quarter-and-full-year-2021->

[results?field_nir_news_date_value%5bmin%5d=#:~:text=Operating%20Revenue%3A%20Operating%20revenue%20was,health%20insurance%20tax%20in%202021](https://ir.antheminc.com/news-releases/news-release-details/anthem-reports-fourth-quarter-and-full-year-2021-results?field_nir_news_date_value%5bmin%5d=#:~:text=Operating%20Revenue%3A%20Operating%20revenue%20was,health%20insurance%20tax%20in%202021)); Anthem, *Annual Reports* (online at <https://ir.antheminc.com/financial-information/annual-reports>) (accessed Apr. 1, 2022).

⁶ “Socialism for Them: 60% of Anthem’s 2021 Revenue was Subsidized by American Taxpayers,” *Wendell Potter NOW* (Feb. 1, 2022) (online at <https://wendellpotter.substack.com/p/socialism-for-them-60-of-anthems?s=r>).

⁷ “In 2021, 72% of UnitedHealth’s \$222.9 Billion Health Plan Revenue Came from Taxpayers,” *Wendell Potter NOW* (Jan. 27, 2022) (online at https://wendellpotter.substack.com/p/in-2021-72-of-unitedhealths-2229?r=bzsvd&utm_campaign=post&utm_medium=web&s=r).

⁸ *Id.*

⁹ UnitedHealth Group, *Press Release: UnitedHealth Group Reports 2021 Results* (Jan. 19, 2022) (online at <https://www.unitedhealthgroup.com/content/dam/UHG/PDF/investors/2021/UNH-Q4-2021-Release.pdf>).

¹⁰ Boards of Trustees, *Federal Hospital Insurance and Federal Supplementary Medical Insurance Trust Funds, 2021 Annual Report* (Aug. 31, 2021) (online at <https://www.cms.gov/files/document/2021-medicare-trustees-report.pdf>).

¹¹ “Medicare Advantage, Direct Contracting, and the Medicare ‘Money Machine,’ Part 1: The Risk-Score Game,” *Health Affairs* (Sept. 29, 2021) (online at <https://www.healthaffairs.org/doi/10.1377/forefront.20210927.6239/full/>).

¹² MedPAC, *The Medicare Advantage Program: Status Report and Mandated Report on Dual-Eligible Special Needs Plans*, (Mar. 2022) (online at https://www.medpac.gov/wp-content/uploads/2022/03/Mar22_MedPAC_ReportToCongress_Ch12_SEC.pdf).

Medicare Advantage Plans Spend Less on Care While Taxpayers Pay More

Even though Medicare Advantage plans claim to provide full Medicare benefits for less money than what it costs the government to provide those benefits through Traditional Medicare,¹³ Traditional Medicare remains more cost-effective. Medicare Advantage coverage was originally designed to achieve savings by paying insurers rates set at 95 percent of those used by Traditional Medicare.¹⁴ But Medicare Advantage has failed to achieve savings in any year since its inception.¹⁵ Last year, CMS paid Medicare Advantage plans 4 percent more per enrollee than Traditional Medicare,¹⁶ despite the fact that Medicare Advantage plans spend up to 25 percent less on health care per enrollee.¹⁷ According to MedPAC, the combination of low bids and high payments creates a margin for benefits that “are shared exclusively by the companies sponsoring MA [Medicare Advantage] plans and MA enrollees.”¹⁸ Taxpayers and Traditional Medicare beneficiaries are subsidizing the surplus profits of Medicare Advantage plans. To protect the Medicare program and ensure that its benefits go to all beneficiaries, CMS should seek to bring Medicare Advantage payments in line with payments to Traditional Medicare.

Overinvestment in Medicare Advantage Contributes to Racial Inequities in Health Care

Traditional Medicare provides critical coverage for people with serious conditions, who often require a choice of high-quality providers.¹⁹ But Medicare Advantage plans frequently deny costly treatment options and require burdensome pre-authorization requirements that prevent beneficiaries from getting the care they need.²⁰ Impediments to timely, high-quality care lead

¹³ MedPAC, *The Medicare Advantage Program: Status Report and Mandated Report on Dual-Eligible Special Needs Plans*, (Mar. 2022) (online at https://www.medpac.gov/wp-content/uploads/2022/03/Mar22_MedPAC_ReportToCongress_Ch12_SEC.pdf).

¹⁴ Thomas G. McGuire, Joseph P. Newhouse, and Anna D. Sinaiko, “An Economic History of Medicare Part C,” *Milbank Quarterly* 89(2): 289-332 (June 2011) (online at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3117270/>).

¹⁵ MedPAC, *The Medicare Advantage Program: Status Report and Mandated Report on Dual-Eligible Special Needs Plans*, (Mar. 2022) (online at https://www.medpac.gov/wp-content/uploads/2022/03/Mar22_MedPAC_ReportToCongress_Ch12_SEC.pdf) (“The MA program has been expected to reduce Medicare spending since its inception ... but private plans in the aggregate have never produced savings for Medicare, due to policies governing payment rates to MA plans that the Commission has found to be deeply flawed.”).

¹⁶ *Id.*

¹⁷ Vilsa Curto et al., “Healthcare Spending and Utilization in Public and Private Medicare,” *American Economic Journal of Applied Economics*, 11(2): 302-332 (Apr. 2019) (online at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6532061/>).

¹⁸ MedPAC, *The Medicare Advantage Program: Status Report and Mandated Report on Dual-Eligible Special Needs Plans*, (Mar. 2022) (online at https://www.medpac.gov/wp-content/uploads/2022/03/Mar22_MedPAC_ReportToCongress_Ch12_SEC.pdf).

¹⁹ Kaiser Family Foundation, *Medicare Advantage Hospital Networks: How Much Do They Vary?* (June 20, 2016) (online at <https://files.kff.org/attachment/Report-Medicare-Advantage-Hospital-Networks-How-Much-Do-They-Vary>).

²⁰ Health and Human Services Office of the Inspector General, *Medicare Advantage Appeal Outcomes and Audit Findings Raise Concerns About Service and Payment Denials* (Sept. 25, 2018) (online at <https://oig.hhs.gov/oei/reports/oei-09-16-00410.asp>).

many patients with complicated conditions—including high-cost patients,²¹ people with Alzheimer’s disease and other related dementias,²² and patients in their last year of life²³—to disenroll from Medicare Advantage plans. Because patients of color with Medicare Advantage plans are more likely to be denied care due to cost-related barriers than patients in traditional Medicare,²⁴ overinvestment in Medicare Advantage also exacerbates racial inequities in health care.

Given our concerns, we urge you to reconsider the decision to finalize policies that will increase payments for insurers in the Medicare Advantage program at the cost of taxpayers, traditional Medicare beneficiaries, and the Medicare HI Trust Fund. We look forward to working with you on other ways to ensure greater transparency and value in the Medicare Advantage program.

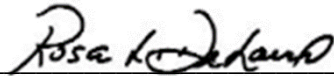
Sincerely,



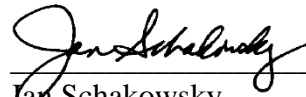
Katie Porter
Member of Congress



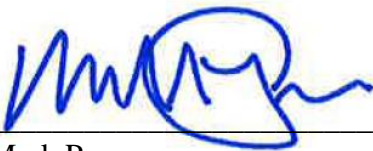
Elizabeth Warren
U.S. Senator



Rosa DeLauro
Member of Congress



Jan Schakowsky
Member of Congress



Mark Pocan
Member of Congress



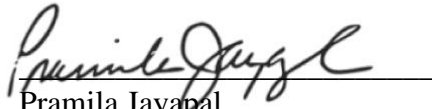
Sherrod Brown
U.S. Senator

²¹ “High-Cost Patients Had Substantial Rates Of Leaving Medicare Advantage And Joining Traditional Medicare,” *Health Affairs* (online at <https://www.healthaffairs.org/doi/10.1377/hlthaff.2015.0272>).


²² David J. Meyers et al., “Plan switching among Medicare Advantage beneficiaries with Alzheimer’s disease and other dementias,” *Alzheimer’s & Dementia*, 7(1): e12150 (Mar. 23, 2021) (online at <https://pubmed.ncbi.nlm.nih.gov/33778149/>).

²³ Government Accountability Office, *Medicare Advantage: Beneficiary Disenrollments to Fee-for-Service in Last Year of Life Increase Medicare Spending*, (June 28, 2021) (online at <https://www.gao.gov/products/gao-21-482>).


²⁴ Kaiser Family Foundation, “Cost-Related Problems Are Less Common Among Beneficiaries in Traditional Medicare Than in Medicare Advantage, Mainly Due to Supplemental Coverage” (June 25, 2021) (online at <https://www.kff.org/medicare/issue-brief/cost-related-problems-are-less-common-among-beneficiaries-in-traditional-medicare-than-in-medicare-advantage-mainly-due-to-supplemental-coverage/>).



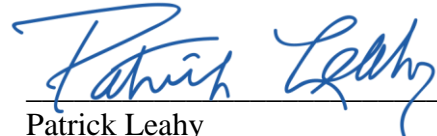
Pramila Jayapal
Member of Congress



Bernard Sanders
U.S. Senator




Raúl M. Grijalva
Member of Congress




Patrick Leahy
U.S. Senator



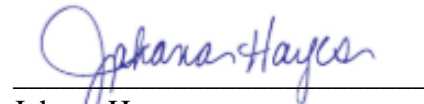
Judy Chu
Member of Congress



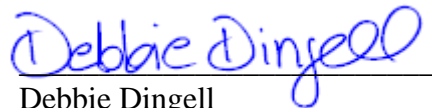
Cory A. Booker
Member of Congress



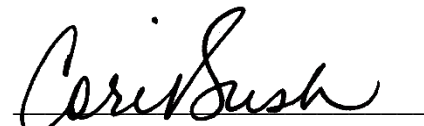
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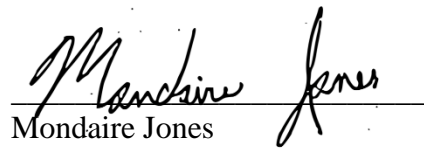
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Debbie Dingell
Member of Congress



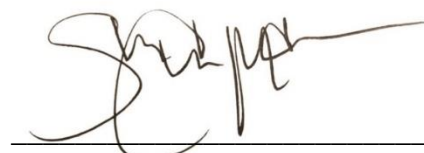
Cori Bush
Member of Congress



Mondaire Jones
Member of Congress



Rashida Tlaib
Member of Congress



Sheila Cherfilus-McCormick
Member of Congress

The Honorable Chiquita Brooks-LaSure
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CC: The Honorable Xavier Becerra
Department of Health and Human Services