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Seema Verma, Administrator
The Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O. Box 8016
Baltimore, MD 21244-8013

Re: Calendar Year 2021 Medicare Advantage Advance Rate Notice and Payment for Beneficiaries with End-Stage Renal Disease (ESRD)

Administrator Verma:

As you prepare for the release the Calendar Year (CY) 2021 Medicare Advantage Advance Notice and Call Letter, we write to underscore our support for Medicare Advantage and urge you to consider policies that maintain stability and support a strong Medicare Advantage option for beneficiaries. Better Medicare Alliance (BMA) is a community of 135 ally organizations, along with 400,000 beneficiaries, who value the option of Medicare Advantage. Together, our alliance of health plans, provider groups, aging service organizations and beneficiaries share a commitment to ensuring Medicare Advantage remains a high-quality, cost-effective option for current and future beneficiaries. We are writing to highlight an emergent issue related to payment adequacy in Medicare Advantage for caring for those with end-stage renal disease (ESRD), and to ask that you address the issue we raise as you draft the CY 2021 Advance Notice and Draft Call Letter.

The 2016 21st Century Cures Act expanded Medicare Advantage eligibility to beneficiaries with ESRD. Medicare Advantage offers beneficiaries a quality-focused, fully integrated system in which care is closely managed and coordinated; it is well-positioned to serve the needs of the clinically complex ESRD population. However, we are concerned that the ESRD benchmarks, used to determine payments to Medicare Advantage plans for ESRD beneficiaries, are significantly lower than the actual costs of care for this population, resulting in ongoing underpayments to Medicare Advantage plans. We fear that long-term payment inadequacy will do a disservice to those with ESRD who deserve the quality, integrated care in Medicare Advantage and will destabilize the program, by increasing premiums and decreasing benefits, for more than 22 million enrollees. We summarize our concerns below.

Inaccurate ESRD Benchmarks Results in Payments That Are Inadequate to Cover Costs for the ESRD Population

We believe there are several underlying reasons the ESRD benchmarks are not reflective of actual costs, including:

1. **The benchmarks are calculated based on the Fee-for-Service (FFS) ESRD population, who do not have an annual maximum out-of-pocket (MOOP) limit.** Medicare Advantage beneficiaries have the benefit of an annual out-of-pocket maximum spending limit, which does not exist in FFS Medicare. For more than half of plans, that limit is between $3,400 and $6,700, the maximum allowed under current rules, while for the rest it is lower. Because of the predictable and high cost of dialysis, ESRD beneficiaries in Medicare Advantage are considerably more likely than

non-ESRD beneficiaries to hit the MOOP limit. To ensure adequacy of payments, CMS should account for the MOOP limit in the calculation of ESRD benchmarks.

2. **The dialysis provider market is highly concentrated, and plans have little ability to negotiate payment rates at or below FFS Medicare levels.** The dialysis provider market is highly concentrated, and it is largely dominated by two provider organizations. Because Medicare Advantage plans must meet network adequacy requirements, they have few options to leverage price competition in most markets. As a result, Medicare Advantage plans have been unable to negotiate rates at or near FFS Medicare levels, and actual payments are significantly higher than FFS rates. Because the ESRD benchmarks are based on FFS payment rates, they underrepresent the true cost of care in Medicare Advantage.

Wakely, an actuarial firm that works with many Medicare Advantage organizations, calculated that in 2017, the Medical Loss Ratio (MLR) for ESRD beneficiaries in Medicare Advantage was 112 percent. By comparison, the MLR for non-ESRD beneficiaries was about 86 percent.[1] On average, the cost to care for an ESRD beneficiary is *nine times* the cost to care for a non-ESRD beneficiary.[2] With such a disconnect between the payments to plans and the actual costs of caring for ESRD beneficiaries, an increase in ESRD beneficiary enrollment in Medicare Advantage could destabilize the program for more than 22 million enrollees.

ESRD Beneficiary Enrollment in Medicare Advantage Will Increase Substantially, Exacerbating the Underfunding Problem

As you know, the 2016 21st Century Cures Act mandated a change in Medicare Advantage eligibility for those with ESRD, by allowing them to freely enroll in a plan during the annual open enrollment period beginning in 2021. Currently ESRD beneficiaries may only enroll in a Medicare Advantage plan under limited circumstances. Given this new opportunity to voluntarily enroll, the ESRD population is sure to become a greater share of the Medicare Advantage population than it is today.

As we stated above, we believe Medicare Advantage is positioned to provide high-quality, integrated care for the ESRD population. We also recognize that the financial protections provided under Medicare Advantage make it a very attractive option to ESRD beneficiaries. The average premium for a Medicare Advantage plan in 2019 is around $28 per month, and nearly half of plans charge no monthly premium at all. Many plans offer cost sharing for dialysis at levels more generous than FFS Medicare, with 1 in 5 plans charging a $30 copay or less.[3] And as discussed above, Medicare Advantage offers beneficiaries financial protection in the form of an annual MOOP limit. Given these benefits, and given the predictable frequency and cost of dialysis, it will be fairly straightforward for most ESRD beneficiaries to quickly determine that Medicare Advantage rather than FFS Medicare is a more cost-effective option for them. We believe this could result in the highest-cost ESRD beneficiaries opting for Medicare Advantage, with lower average cost beneficiaries potentially remaining in FFS. This phenomenon would further exacerbate the problems outlined above.

[1] Wakely, *White Paper: Increased ESRD Beneficiary Flexibility Presents a Potential Financial Challenge for Medicare Advantage Plans in 2021.* February 2019.
[2] Better Medicare Alliance, *White Paper: Caring for ESRD Beneficiaries in Medicare & Medicare Advantage.* November 2016.
[3] Wakely, *ibid.*

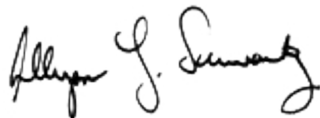
Taking No Action Will Destabilize Medicare Advantage for 22 Million Beneficiaries

As we have outlined above, we believe Medicare Advantage represents an attractive option to many ESRD beneficiaries who can voluntarily enroll beginning in 2021. However, if payments remain inadequate to cover true costs, an influx of ESRD beneficiaries into Medicare Advantage will destabilize the program for more than 22 million enrollees. Underfunding will result in a significant increase in Medicare Advantage premiums and a decrease in the availability and generosity of benefits. Wakely's analysis shows that if no changes are made to the ESRD payment calculation, premiums for all Medicare Advantage enrollees could increase by $16 per member per month, or more than 50 percent, or supplemental benefits could be decreased by the same level.[4] Nearly half (47 percent) of Medicare Advantage beneficiaries live on less than $24,000 per year.[5] They cannot absorb an increase in costs of this magnitude.

Conclusion

We strongly believe that the high-quality, integrated model of Medicare Advantage, with incentives to better manage and coordinate care for chronically ill individuals, is well positioned to serve the complex needs of the ESRD Medicare population. However, CMS must address the chronic underfunding of ESRD in Medicare Advantage by fixing the ESRD benchmark calculation to reflect actual costs and ensure accurate and adequate payment for the ESRD population and protect Medicare Advantage as an important option for millions of Medicare beneficiaries. We look forward to working with you and your staff to identify specific policy solutions to address this issue. Please do not hesitate to reach out to us to discuss this or other issues before you.

Kind regards,



Allyson Y. Schwartz
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[4] Wakely, *ibid.*
[5] Better Medicare Alliance, *Medicare Advantage Provides Key Financial Protections to Low- and Modest-Income Populations (Analysis by Anne Tumlinson Innovations).* July 2019.