

2023 MA & Part D Rules of the Road

Pharmacy DIR Negatively Impacts PBM & Plans; MLRs Come Back

- **CMS released the months-delayed Part D and Medicare Advantage technical rules** this afternoon. The [rules](#) start in 2023. Modest costs associated with proposal, and the proposal should not impact 2023 MA plan bids. CMS expects that the relatively modest costs associated with the provisions in the proposed rule will not significantly change MA plans' bids, supplemental benefits or beneficiary premiums.
- **Pharmacy DIR is baccckkk in 2023...CMS notes it saves beneficiaries \$21 B and impacts PBMs and plans (negatively).** We highlighted in our 2022 healthcare outlook that CMS announced its intention last fall to address PBM DIR. The agency is proposing Part D plans apply all price concessions they receive from pharmacies to the point of sale, so that the beneficiary can also share in the savings. CMS is proposing to redefine the negotiated price as the baseline, or lowest possible, payment to a pharmacy, effective January 1, 2023. This policy would reduce beneficiary out-of-pocket costs and improve price transparency and market competition in the Part D program.
- **DIR: This policy was in Grassley-Wyden or Prescription Drug Pricing Reduction Act of 2019 ([here](#)).** The negotiated plan-pharmacy price is frequently higher than the final payment to pharmacies, making bene cost-sharing higher, advancing through the Part D benefit more quickly. More Part D plans have entered into arrangements with pharmacies that may pay less money for dispensed drugs if pharmacies do not meet certain criteria. The negotiated price for a drug is the price reported to CMS at the point of sale (POS), which is used to calculate beneficiary cost-sharing and generally adjudicate the Part D benefit. With the emergence of these payment arrangements, the negotiated price is frequently higher than the final payment to pharmacies. Higher negotiated prices lead to higher beneficiary cost-sharing and faster beneficiary advancement through the Part D benefit.
- **Star Ratings would account for COVID.** CMS will calculate 2023 Star Ratings for 3 HEDIS measures that are based on the Health Outcomes Survey. Without this technical change, CMS would be unable to calculate 2023 Star Ratings for these measures for any MA contract since all contracts qualify for the extreme and uncontrollable circumstances adjustment for COVID-19.
 - Monitoring Physical Activity,
 - Reducing the Risk of Falling, and
 - Improving Bladder Control.
- **MA plan network adequacy requirements are stronger, and helps with bid pricing tool.** CMS is proposing that plans demonstrate they have a sufficient network of providers to care for beneficiaries before CMS approves an application for a new or expanded MA plan. This change would also provide MA plans with information regarding their adequacy ahead of bid submissions, mitigating current issues with late changes to the bid that may affect the bid pricing tool.
- **MLR reporting requirements in effect for contract years 2014 – 17 are back & CMS wants supplemental & social determinant info (dental, hearing, housing, transpo, food security) reported.** Current regulations require that MA and Part D plans report to CMS the % of revenue spent on patient care and quality and the amount of any remittance that must be paid to CMS for failure to meet the 85% (minimum) MLR requirement. MA and Part D plans would have to report the underlying cost and revenue information needed to calculate and verify the MLR % and remittance

amount, if any. MA organizations will report the amounts they spend on various types of supplemental benefits not available under original Medicare (e.g., dental, vision, hearing, transportation).

- **Special Needs Plans (SNPs) and Social Determinants/Health Equity.** Building on CMS's experience with other programs and model tests, we propose to require that all SNPs include standardized questions on housing stability, food security, and access to transportation as part of their health risk assessments (HRAs).
- **NEXT UP: This is a proposal for 2023, and we expect modifications between now and final.** The DIR policies are surely to concern PCMA and AHIP, with opposition likely. Next up of interest is the Advanced Notice for 2023 rates, which could be this month or next. CMS will show its card on proposed 2023 rates. We expect them to be plain vanilla, with few surprises. The final rule is due April 4. Should Congress want to extract MA plan savings they would do so via the legislative process.