January 26, 2024

MA: Transparency Sought by CMS

Congress Investigates Medicare Marketers, Changes Afoot

Relevant Companies

UnitedHealth Group, Molina Healthcare, Cigna Healthcare, Elevance Health, Centene Corporation, CVS Health

Our Take & Next Up

The heat is on: CMS indicates transparency is forthcoming with a RFI (request for information) released (here), while Senate Finance Committee solicits info from Medicare marketers (here). The agency wants to solicit feedback from the public on how best to enhance MA data capabilities and increase public transparency. Now that penetration in MA plans is over 50% the agency seeks more info as spending is projected to be $7 T over the next decade. Separately, the Finance committee sent letters to 5 TPMOs (third party marketing organizations) this week given (some) marketers misleading seniors by indicating they are from the Medicare program. The letters, sent to the company heads of eHealth, GoHealth, Agent Pipeline, SelectQuote, and TRANZACT, seek information on how the companies use insurance agents, lead generators and other data to target, market to, and direct seniors towards certain MA plans.

Key Points

Healthcare is a black box. Secretary Becerra notes in the CMS press release that enrollees feel as if their health care is a 'black box', while CMS Administrator Brooks-LaSure notes that the RFI will allow the agency to ensure that "the program best meets the needs of enrollees". Comments on the RFI are due on May 29, 2024.

This RFI is part of CMS' ongoing efforts to provide oversight of the MA program and could lead to additional data collection efforts from MA plans. The agency points out it has started to collect additional information on supplemental benefits but continues to seek information that can be used to compare traditional Medicare and MA. The RFI also comes upon the release of a letter from Senator Wyden to several third party marketing organizations (TPMOs) that question their activities.

Changes afoot for the 2026 MA proposed rate notice? Likely. While the RFI does not commit the agency to a specific regulatory action, it does signal their continued commitment to MA oversight. With the release of the rate notice within the next week (our thoughts reiterated below), CMS will set payment policy for 2025 and could provide more information on their direction for MA policy.

MA challenges are notable. Given recent earnings reports from United and Humana, the MA market in the short term faces notable challenges and oversight from CMS and Congress will almost certainly continue. In a second Biden term, this oversight could take the form of additional regulatory requirements for MA plans. A Trump win is likely helpful for healthcare services & MA plans overall, with calls for patient-centered policies and other oversight/monitoring, essentially a continuation of current policy sought by both sides of the aisle. We note that Seema Verma, CMS administrator under President Trump, called for less regulatory burden for plans.

RATES DUE BY FEB 1

Our take on Medicare Advantage & Part D 2025 rates & policy (due by Feb 1) can be found below. Medicare Advantage (MA) plans, suffering from elevated medical costs in 4Q as well as scrutiny from MedPAC as being 'overpaid,' should see few surprises in the 2025 rate notice given year two of v28 phase-in. The advance rate notice should be released after the close of the US markets (mid next week).

MA Growth rate is likely to be in the +2.5 to 3.5% range. Upticks in utilization in Medicare relative to projections could result in CMS having a growth rate that is at the higher end of this range. Given that the advance rate notice may not include claims data through the end of 2023, it is possible that the growth rate could be higher in the final rate notice (due by April 1) than in the advance notice. CMS is also phasing in changes to the rate book (2023 is the second year of a three-year scheduled phase-in) that involve removing medical education costs which could lower the growth rate somewhat.

CMS likely to continue phase-in of V28 model as proposed (no speed up or slow down). CMS indicated in last year's final rate notice that it would phase-in the model over a three-year period. Given changes to Part D benefit (see below for details), CMS will focus most of its attention with regard to risk adjustment on the revised Part D model. In previous years, when the agency has announced a phase-in of a risk adjustment change, they have tended to adhere to that schedule.

Bottom line impact likely to less than <+1% (unlikely to be negative) but surprises are always possible. Phase in of v28 model, combined with reduced payment due to reduction in Star ratings, is likely to lead to a bottom line that is v. slightly positive. Given that it is an election year, and with increased enrollment in MA (over half of Medicare enrollees currently), CMS is unlikely to pursue major changes to risk adjustment or coding intensity in the rate notice.

Separately, we want to highlight a separate MA payment rule as potentially more onerous to plans. CMS is likely to finalize 2025 MA/Part D regulation largely as proposed (these are separate rules but highly impactful to plans) in the coming weeks. The rules (our take on proposal in Nov is here) include additional requirements on MA, including the following that would require plans to:

- Include outpatient behavior health providers to meet network adequacy standards
- Include evidence showing effectiveness of SSBCI benefits
- Inform enrollees who have not used supplemental benefits that these benefits are available
- Add a member to the UM committee with expertise in health equity
- No longer offer a lookalike D-SNP if 70% of duals are in the plan in 2025 and 60% in 2026
- Only allow enrollees in a D-SNP if those enrollees are in an affiliated Medicaid MCO with the same parent organization

As a reminder, most of the IRA Part D restructuring kicks in 2025, and will likely be the crux of the MA/Part D rulemaking (due by Feb 1). The phasing-in of new cost changes is occurring now in 2024 with elimination of the enrollee cost sharing in the catastrophic period. This effectively caps out of pocket costs at that catastrophic threshold ($8,000). CMS will propose a new Part D risk adjustment model that reflects the increased liability for plans. 2025 changes that will be implemented include:

- A new $2,000 out-of-pocket spending cap for seniors should alleviate OOP pain particularly those who are chronically ill on polypharmacy.
- Elimination of the coverage gap "donut hole" phase

- Health insurers will be on the hook for 60% in the catastrophic phase (versus 15% today).
- The government is currently responsible for 80% and that moves to 20% for brand & 40% for generics above the OOP threshold.
- Manufacturers will be required to provide a 20% discount on brand-name drugs above the OOP cap.

2024 PDP premiums are up (despite the agency's claims) and will likely be up in 2025, as well. Each fall, CMS releases their expected MA and PDP premiums for the next benefit year. For 2024, standalone Part D plans are seeing increases in their premiums by 21%. MA-PD premiums in contrast, remain relatively stable with most seeing no premium increase. We expect to see Part D premium increases in 2025 due to the increased plan liability from restructuring including implementation of the OOP cap for enrollees.

Ipsita Smolinski
Managing Director I Capitol Street
ipsita@capitol-street.com

202.250.3741 I www.capitol-street.com

900 19th St NW 6th Fl
Washington, D.C. 20006

CAPITOL STREET
