

United States Senate

WASHINGTON, DC 20510

January 28, 2020

The Honorable Seema Verma
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Dear Administrator Verma:

We write to follow-up on our September 13, 2019 letter regarding Medicare Advantage (MA) plans' repeated violations of their contractual obligations and the Centers for Medicare and Medicaid Services' failure to hold them to account. Since then, the U.S. Department of Health and Human Services (HHS) Office of the Inspector General (OIG) issued a report detailing further evidence of waste and abuse perpetrated on American taxpayers by private MA plans. We request that CMS act immediately to recoup overpaid taxpayer dollars and to hold MA plans accountable for their deficiencies. We are concerned for the integrity of the U.S. Treasury as well as for the health and wellbeing of the 22 million older adults and people with disabilities enrolled in these MA plans. We also request a response to the questions presented in our September 2019 letter.

On September 13, 2019, we wrote to CMS requesting answers to several questions related to the 2019 first quarter HHS Payment accuracy report, which indicated a troubling trend of MA plans overbilling the government and, by default, American taxpayers. Three months later, on December 12, 2019, HHS OIG released a report again highlighting this troubling trend and recommending CMS take action to address this concerning practice. The 2019 HHS OIG report details significant concerns with corporate health insurance industry manipulation of Medicare's risk adjustment system. Specifically, HHS OIG indicates that private health insurers sponsoring MA plans frequently added inappropriate diagnoses to MA beneficiaries' charts in order to increase reimbursement. Because the government pays higher rates to MA plans with sicker beneficiaries, by exaggerating the diagnoses and health status of their enrollees, the HHS OIG report indicates that MA plans in some cases improperly inflated beneficiary diagnoses, thereby boosting their payments.

As a result of this widespread practice, HHS OIG found that MA plans collected nearly \$6.7 billion in improper payments in 2017 alone. The HHS OIG report also corroborates findings from a 2018 HHS OIG report, which found that some MA plans might improperly deny necessary care to beneficiaries as another way to boost insurance company profits. Despite these serious findings, CMS has failed to respond to our September 2019 letter and, more alarmingly, has yet to take any action designed to hold private corporate health insurers sponsoring MA plans accountable for meeting their obligations to both taxpayers and Medicare beneficiaries.

In 2019, just more than one-third of Medicare beneficiaries – 22 million older Americans – enrolled in an MA plan, an increase of nearly 1.6 million enrollees from plan year 2018. As more baby boomers age into Medicare, it is critical that CMS have the tools in place to hold private MA plans accountable to both their growing customer base and taxpayers. Unfortunately, we have no reason to believe that the Agency has made the management and oversight of this program a priority. While we understand that CMS is actively engaged in rulemaking to update the MA risk adjustment program, we urge you to take additional corrective action to ensure MA plan sponsors are meeting their contractual obligations and protecting the health and financial wellbeing of older adults and people with disabilities.

We share CMS's priorities of advancing the health and wellbeing of Medicare beneficiaries and being a good steward of taxpayer dollars. We also recognize that rigorous program oversight and contract enforcement requires significant resources. Given the concerning trends identified by HHS OIG and the systemic and persisting contractual violations detailed in our September letter, we urge you to dedicate additional resources to ensure MA works as intended for all Medicare beneficiaries.

We urge you to take immediate action to recoup past overpayments, establish mechanisms to prevent future overpayments, and engage in more regular oversight of the MA program. In addition, given the persisting serious contractual violations of MA plans, we ask that you let us know if you lack the ability to hold them to account, even with additional resources. If there are ways Congress can better support CMS as it works to address these challenges, we stand ready to help.

We look forward to receiving answers to this letter and the questions included in our September 2019 letter no later than February 28, 2020. Thank you in advance for your cooperation.

Sincerely,



Sherrod Brown
United States Senator



Bernard Sanders
United States Senator



Richard Blumenthal
United States Senator