

February 13, 2023

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-4201-P
P.O. Box 8013
Baltimore, Maryland 21244-8013

Submitted via: www.regulations.gov, CMS-4201-P

Re: Proposed Rule – Contract Year 2024 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs

Dear Administrator Brooks-LaSure:

The MAPRx Coalition (MAPRx) appreciates the opportunity to provide the Centers for Medicare & Medicaid Services (CMS) with comments regarding the Contract Year 2024 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs proposed rule – published December 27, 2022.

Our group, MAPRx, is a national coalition of beneficiary, caregiver, and healthcare professional organizations committed to improving access to prescription medications and safeguarding the well-being of Medicare beneficiaries with chronic diseases and disabilities. With this letter, the undersigned members of the MAPRx Coalition are pleased to provide CMS with our official commentary in response to your efforts to lower out-of-pocket (OOP) costs for Medicare Part D beneficiaries, improve consumer protections, reduce disparities, and support health equity in Medicare Advantage (MA) and Part D.

Over the past 18 years, the Medicare Part D program has provided a critical avenue for beneficiaries to access prescription drugs. Its success in providing millions of Medicare beneficiaries with coverage for self-administered drugs is commendable.

MAPRx largely supports the Administration's efforts to expand access to Medicare Part D, but we are concerned that some of the proposed policy changes may fall somewhat short of meeting this critical objective. Overall, we would encourage CMS to use these next two years to do broad education and outreach both directly to beneficiaries as well as through other stakeholders to communicate the changes in the proposed rule as well as those created by the Inflation Reduction Act.

Specifically, MAPRx would like to address the following issues raised in the proposed rule:

- **Expand eligibility for the Low-Income Subsidy (LIS) benefit under Part D**
- **Make the Limited Income New Eligible Transition (LI NET) demonstration permanent**
- **Change the Medical Therapy Management (MTM) program**
- **Update MA and Part D marketing and communication**
- **Align Part C and Part D Special Enrollment Periods (SEPs) with Medicare exceptional condition enrollment**

- **Failure to collect and incorrect collections of Part D premiums and cost-sharing amounts**

Expand eligibility for the LIS benefit under Part D

Currently, an individual qualifies for the full LIS benefit if their income is below 135% of the federal poverty level (FPL) and qualifies for a partial LIS benefit if their income is between 135% and 150% of the FPL. CMS is proposing to implement a section of the Inflation Reduction Act (IRA) to expand eligibility for the full LIS benefit to individuals with incomes between 135% and 150% of the FPL who qualify for a partial subsidy.

MAPRx supports the IRA's provision and CMS' proposal to implement expanding eligibility under the LIS program to individuals with incomes between 135% and 150% of the FPL, effective January 1, 2024. This change may enhance access to Part D medications for over 400,000 who may still struggle to afford the OOP costs of their medications. While we greatly support this effort, we are concerned that those beneficiaries between 135% and 150% of the FPL are not auto-enrolled into a LIS-eligible plan, and therefore, may not know they may be eligible for the full benefit. To that end, MAPRx recommends that CMS explore opportunities to educate beneficiaries potentially eligible for the full LIS benefit effective January 1, 2024. A mechanism for auto-enrollment for all LIS beneficiaries may pave the way for greater uptake of the benefit.

Additionally, MAPRx supports CMS' guidance for the resource limits that would have applied to partial LIS individuals apply to all LIS moving forward. This is critically important for those who historically have been eligible for the full-benefit LIS as it minimizes the potential resource burden on them.

Extend the LI NET demonstration to a permanent program

CMS is proposing to make the LI NET demonstration plan permanent as required by the Consolidated Appropriations Act of 2021 (CAA). CMS seeks to maintain core components of the LI NET demonstration. Currently, the LI NET demonstration provides temporary and retroactive Part D prescription drug coverage for low-income beneficiaries for eligible individuals not already enrolled in a Medicare drug plan.

MAPRx supports a permanent LI NET program and appreciates CMS' commitment to maintain core components of the LI NET demonstration. The LI NET demonstration ensures that beneficiaries transitioning from Medicaid to Medicare do not experience a gap in coverage for prescription medication, and it enrolls eligible individuals automatically. CMS proposes that eligible individuals include full-benefit dual-eligible individuals and LIS-eligible individuals who have not yet enrolled in a prescription drug plan or an MA prescription drug plan or who have enrolled but coverage has not taken effect. MAPRx appreciates that the permanent LI NET program will continue to provide retroactive drug coverage to ensure that beneficiaries have access to their prescription drugs.

Because enrollment in LI NET is temporary, MAPRx encourages CMS to consider additional outreach to LI NET enrollees to ensure that beneficiaries have time to choose the appropriate Medicare Part D prescription drug plan and to reduce the enrollment burden on beneficiaries at the pharmacy counter. Specifically, we strongly believe that a Social Security letter verifying

eligibility should suffice. Currently, if a beneficiary does not select a plan during LI NET, Medicare will enroll them into a benchmark plan automatically. By conducting additional outreach, CMS can support beneficiary access to the appropriate Part D plan.

Adopt most of the proposed changes to the MTM program

CMS proposed changes to its MTM program to reduce eligibility gaps so that more Part D enrollees with complex drug regimens at increased risk of medication therapy problems would be eligible for MTM services. Specifically, CMS proposes: (1) Adding HIV/AIDS to the list of core chronic diseases, and requiring plan sponsors to include all core chronic diseases previously identified by CMS in their targeting criteria; (2) Lowering the maximum number of covered Part D drugs a sponsor may require from 8 to 5 drugs and requiring sponsors to include all Part D maintenance drugs in their targeting criteria; and (3) Revising the methodology for calculating the cost threshold (\$4,935 in 2023) to be commensurate with the average annual cost of 5 generic drugs (\$1,004 in 2020).

MAPRx commends CMS for proposing to require that plans include all 10 core chronic diseases identified by CMS – including HIV/AIDS – in their MTM targeting criteria. As CMS indicated in the proposed rule, this will expand the number of beneficiaries who will be eligible for MTM services.

MAPRx also appreciates CMS proposing to lower the maximum number of covered Part D drugs sponsors may require from 8 to 5 for a beneficiary to be eligible for the MTM program. This will enable more beneficiaries to be eligible for the MTM program. While the decrease in the cost threshold is appreciated, we believe that the cost threshold is irrelevant; the number of drugs not their cost is the key metric. Overall, we believe that these reductions will improve patient safety.

Update Medicare Advantage (MA) and Part D marketing and communication

CMS is proposing changes to marketing and communication materials that will protect Medicare beneficiaries by ensuring they receive accurate and accessible information about Medicare Advantage and Part D coverage.

MAPRx commends CMS for proposing steps that would help ensure any marketing of MA plans is not confusing, inaccurate, or misleading. This is especially important in light of MA and Part D marketing being the subject of a Congressional investigation,¹ CMS rulemaking,² and CMS subregulatory guidance in 2022.²

MAPRx is supportive of CMS efforts that encourage accurate communication to plan enrollees, including prohibiting the marketing of benefits in a service area where those benefits are not available and requiring agents to explain the effect of an enrollee's choice on their current coverage. MAPRx encourages CMS to provide explicit guidance for insurance agents that

¹ Wyden reports deceptive marketing practices in Medicare Advantage that harm seniors. US Senate Committee on Finance. November 3, 2022. Accessed January 17, 2023. <https://www.finance.senate.gov/chairmans-news/wyden-reports-deceptive-marketing-practices-in-medicare-advantage-that-harm-seniors>

² Centers for Medicare & Medicaid Services. Medicare Program; Contract Year 2023 policy and technical changes to the Medicare Advantage and Medicare prescription drug benefit programs; policy and regulatory revisions in response to the COVID-19 public health emergency; additional policy and regulatory revisions in response to the COVID-19 public health emergency. Final rule. May 9, 2022. Accessed January 17, 2023. <https://www.govinfo.gov/content/pkg/FR-2022-05-09/pdf/2022-09375.pdf>

details appropriate communication between agents and enrollees. Specifically, guidance should ensure that agents properly and clearly explain the following: the effect of an enrollment choice on an enrollee's OOP costs, premium, drug coverage, and in-network vs out of network coverage for healthcare providers.

While we appreciate CMS' commitment to ensuring transparent and fair marketing, we also believe updates and improvements to Medicare.gov's Plan Finder tool would align with this proposed rule. The current Plan Finder tool does not have an integrated provider directory that allows enrollees to search for plans based on their chosen provider's in-network or out-of-network status. Updating the Plan Finder tool with an integrated provider directory would enable enrollees to better understand the impact of their enrollment choice on their current coverage. Additional updates to Plan Finder will allow enrollees to easily find and compare benefits.

Currently, the Plan Finder tool does not prominently display utilization management requirements and drug restrictions, nor has it been updated to reflect the \$35 insulin copay cap or the \$0 cost-sharing on vaccines covered by Part D. Finally, Plan Finder should integrate a tool that allows enrollees to easily compare additional benefits, like dental coverage, for Medicare Advantage plans. Updating the Plan Finder tool would further support enrollees and protect Medicare beneficiaries.

Align Part C and Part D SEPs with Medicare exceptional condition enrollment

Currently, under the parameters of the Part D SEP, individuals who are not entitled to premium-free Part A and who enroll in Part B during the General Enrollment Period (GEP) for Part B are allowed to enroll in a Part D plan. According to the CAA, if an individual enrolls in Part B during the GEP on or after January 1, 2023, entitlement begins the first day of the month following the month in which the individual enrolled. CMS is proposing to add corresponding exceptional condition SEPs for MA and Part D enrollment, to align with the new Medicare premium Part A and B exceptional condition SEP's created by the CAA. Specifically, CMS identified five exceptional conditions

MAPRx is supportive of this CMS proposal because we believe that expanding the Part D SEP will offer individuals who missed an opportunity to enroll in Medicare due to circumstances that were outside of their control. We support beneficiaries' access to affordable, quality health coverage and believe that expanding Part D SEP eligibility will reduce potential coverage gaps.

Currently, beneficiaries who fail to enroll in premium Part A, Part B, or both, during their Initial Enrollment Period (IEP) will incur a late enrollment penalty. CMS' proposal will eliminate the penalty for those beneficiaries with exceptional circumstances including individuals impacted by an emergency or disaster, individuals who experienced a health plan or employer error, formerly incarcerated individuals, individuals who lose Medicaid coverage, and other exceptional conditions addressed on a case-by-case basis. Aligning Part C and Part D SEPs with Medicare exceptional condition enrollment will provide relief to individuals and prevent late enrollment penalties for beneficiaries in need.

Failure to collect and incorrect collections of Part D premiums and cost-sharing amounts

Currently, Part D sponsors' waiver of cost-sharing or premiums would violate the uniform premium and benefit requirements of the CAA. CMS is proposing to codify new requirements regarding failure to collect premiums and cost-sharing amounts. CMS seeks to bring Part D

sponsor requirements into alignment with the existing MA requirements. CMS is also proposing new requirements for Part D sponsors.

MAPRx appreciates CMS' efforts to align Part D requirements with existing MA requirements for incorrect collections. MAPRx is also supportive of CMS' new proposed Part D requirements, including the proposal that would require a Part D sponsor to make a reasonable effort to collect monthly beneficiary premiums and ensure collection of cost-sharing at the time a drug is dispensed. We support updating the coordination of benefits requirements and the establishment of a 3-year lookback period for premium adjustments and claims adjustments unrelated to coordination of benefits. MAPRx appreciates CMS' work to streamline requirements for incorrect collections and supports CMS' proposal to have Part D plan sponsors refund identified enrollees for overpayment.

Advancing health equity

CMS is also proposing further clarification of a current requirement for MA plans to provide culturally competent care. Additionally, CMS is proposing building on current best practices by requiring MA organizations to include providers' cultural and linguistic capabilities in provider directories. If finalized, this change would improve the quality and usability of provider directories, particularly for non-English speakers, limited English proficient individuals, and enrollees who use American Sign Language. Finally, CMS is proposing that MA organizations must address health disparities as part of existing requirements to develop and maintain quality improvement programs.

MAPRx appreciates CMS' commitment to the advancement of health equity and supports CMS requirements that promote culturally competent care for MA plans, including the proposal that MA organizations include providers' cultural and linguistic capabilities in provider directories. Our organizations understand the impact of health disparities on Medicare beneficiaries and MAPRx supports CMS' proposal that MA organizations must address health disparities as part of existing requirements to develop and maintain quality improvement programs.

Thank you for your consideration of comments on the proposed changes to the Part D and MA programs. As more Americans become eligible for Medicare, the Part D program will play an increasingly integral role in maintaining beneficiaries' health and reducing overall healthcare costs. We look forward to engaging the agency further on implementation of the Inflation Reduction Act, specifically on key provisions like the smoothing mechanism. The undersigned members of MAPRx appreciate your leadership to improve Medicare Part D. For questions related to MAPRx or the above comments, please contact Bonnie Hogue Duffy, Convener, MAPRx Coalition, at (202) 540-1070 or bduffy@nvglc.com.

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American Association on Health and Disability
American Cancer Society Cancer Action Network
American Kidney Fund
American Society of Consultant Pharmacists
Arthritis Foundation
Autoimmune Association
Cancer Support Community
GO2 for Lung Cancer
HealthyWomen
HIV + Hepatitis Policy Institute

International Foundation For Autoimmune & Autoinflammatory Arthritis
Lakeshore Foundation
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