



***MEDICARE DRUG & HEALTH PLAN CONTRACT ADMINISTRATION GROUP***

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DATE: April 9, 2021

TO: All Organization Types and Stakeholders

FROM: Kathryn A. Coleman  
Director

SUBJECT: Draft Contract Year 2022 Part C Benefits Review and Evaluation

This draft memorandum addresses bid and operational instructions for Medicare Advantage (MA) organizations and, where specified, Section 1876 Cost Plans. Statutory cites in this memorandum are to the Social Security Act (the Act) and regulatory cites are to 42 C.F.R. parts 417 and 422 unless otherwise noted. This memorandum does not replace or revise any previously issued guidance documents regarding bid and operational instructions as it contains updates for contract year 2022.

We are releasing these draft bid and operational instructions for comment consistent with CMS's longstanding practice of seeking input from stakeholders on these topics. Comments on this memorandum may be submitted electronically at: [PartCComments@cms.hhs.gov](mailto:PartCComments@cms.hhs.gov).

Please ensure each comment references the section title and page number to which the comment pertains. Comments will be made public, so submitters should not include any confidential or personal information. In order to receive consideration prior to finalizing this memorandum in advance of bid submission, comments must be received by 6:00 PM Eastern Standard Time on April 23, 2021. Because of the expected volume of public comments, we are not able to acknowledge or respond to them individually. We intend to issue an HPMS memorandum in April finalizing the bid and operational instructions for contract year 2022 and summarizing comments and responses.

We note that CMS issued a proposed rule for public and stakeholder comments titled, "Medicare and Medicaid Programs; Contract Year 2021 and 2022 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicaid Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly (CMS-4190-P)", published February 5, 2020 (referred to as the February 2020 Proposed Rule) at <https://www.federalregister.gov/public-inspection/current>.<sup>1</sup> Our response to comments about the

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<sup>1</sup> CMS has finalized most of the policies in that NPRM in two final rules: (1) Medicare Program; Contract Year 2021 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, and Medicare Cost Plan Program (CMS-4190-F), 85 FR 33796; and (2) Medicare and Medicaid Programs; Contract Year 2022 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicaid Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly (CMSD-4190-F2), 86 FR 5864. Those final rules do not address the MOOP and cost sharing proposals in the NPRM.

proposals concerning Maximum Out-of-Pocket (MOOP) Limits for Medicare Parts A and B Services, Service Category Cost Sharing Limits for Medicare Parts A and B Services and per Member per Month Actuarial Equivalence Cost Sharing would be in a published final rule and not in our final version of this document. We reiterate that this memorandum applies only to contract year 2022 and applies standards in current regulations.

### ***Overview of CY 2022 Part C Benefits Review***

Portions of this memorandum apply to section 1876 Cost Plans and MA plans (including EGWPs, Dual-Eligible Special Needs Plans (D-SNPs), Chronic Condition Special Needs Plans (C-SNPs), and Institutional Special Needs Plans (I-SNPs)) as summarized in the table below.

Medicare-Medicaid Plans in a capitated model under the Medicare-Medicaid Financial Alignment Initiative are not subject to the review criteria summarized in the table below and benefit review information for these plans will be provided separately.

Each year, CMS makes all of the necessary tools and information available to MA organizations in advance of the bid submission deadline. By law, MA organizations must submit their best, accurate, and complete bid(s) on or before Monday, June 7, 2021 at 11:59 PM PDT. Any organization whose bid fails bid review requirements and evaluation standards at any time prior to final approval may receive a compliance notice, even if the organization is allowed to correct the deficiency. The severity of compliance notice may depend on the type and/or severity of error(s).<sup>2</sup>

For CY 2022, CMS will use the standards, limits, and policies described in the HPMS memo titled “Final Contract Year 2021 Part C Benefits Review and Evaluation” issued April 8, 2020, which can be found at: [https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/final%20cy%202021%20part%20c%20bid%20review%20memorandum\\_4-8-2020\\_8.pdf](https://www.hhs.gov/guidance/sites/default/files/hhs-guidance-documents/final%20cy%202021%20part%20c%20bid%20review%20memorandum_4-8-2020_8.pdf). Therefore, the bid instructions for CY 2021 are generally being applied in the same manner as for CY 2022 bids and under the same authority. To the extent that there are significant changes in the underlying analysis or data, we provided updates in this memo. Otherwise, the analysis and application of the regulatory and statutory authority explained in the April 8, 2020 memo continue to apply. We note that the April 8, 2020 memo also references information issued in the Final CY 2020 Call Letter, such as Plans with Low Enrollment (pages 170-171) and Part C Optional Supplemental Benefits (page 181).

The following information provides specific changes that will be applicable for CY 2022 bids, such as policy clarifications, dollar amount updates, or references to helpful resources. Page references contained below correspond to the relevant pages of the April 8, 2020 HPMS memo.

### ***Part C Cost Sharing Standards***

Page 12, Skilled Nursing Facility – Days 21 through 100 in Table 5: This cost sharing limit is increased from \$184 per day to \$188 per day for both the voluntary and mandatory MOOP limits in CY 2022 to reflect the projected increase in the Part A

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<sup>2</sup> See sections 1852(a) and 1854 of the Act; 42 CFR §§ 417.454, 422.254, 422.256, 422.100 through 422.102, 422.510, 422.641 through 422.764.

deductible for 2022. The cost sharing limit for days 21 through 100 in a SNF is calculated by taking one eighth of the projected Part A deductible for the applicable contract year.

*Total Beneficiary Cost (TBC)*

Page 15 (second full paragraph): For more information, please reference the HPMS memorandum dated December 31, 2020 titled “CY 2021 Baseline Out-of-Pocket Cost (OOPC) Model”. The CY 2022 Bid Review OOPC Model is expected to be released in April 2021.

Page 16 (first full paragraph): For CY 2021, CMS excluded benefits and cost sharing reductions entered in Section B-19 of the PBP from the TBC evaluation. For CY 2022, CMS will include the Cash or Monetary Rebate component of the Value-Based Insurance Design (VBID) in the TBC evaluation, but will continue to exclude other benefits and cost sharing reductions entered in Section B-19 of the PBP from the TBC evaluation.

Page 16 (fourth full paragraph): The Part B premium for 2022 is projected to increase. Therefore, the Technical Adjustments to the OOPC Model for CY 2022 bids are: (1) annual changes in OOPC model software and (2) maximum Part B premium buy-down amount change in the bid pricing tool (\$148.50).

For convenience, the following table displays key MA bid review criteria and identifies the criteria used to review the bids of the various plan types identified in the column headings. The criteria are generally unchanged from the April 8, 2020 HPMS memo.

**Table 1: Plan Types and Applicable Bid Review Criteria**

<b>Bid Review Criteria</b>	<b>Applies to Non-Employer Plans (Excluding Dual Eligible SNPs)</b>	<b>Applies to Non-Employer Dual Eligible SNPs</b>	<b>Applies to 1876 Cost Plans</b>	<b>Applies to Employer Plans</b>
Low Enrollment 42 C.F.R. § 422.510(a)(4)(xv)	Yes	Yes	No	No
Total Beneficiary Cost section 1854(a)(5)(C)(ii) of the Act 42 C.F.R. §§ 422.254(a)(4) and 422.256(a)	Yes	No	No	No
Maximum Out-of-Pocket (MOOP) Limits 42 C.F.R. §§ 422.100(f)(4) and (5) and 422.101(d)(2) and (3)	Yes	Yes	No	Yes
PMPM Actuarial Equivalent Cost Sharing 42 C.F.R. §§ 422.254(b)(4) and 422.100(f)(2) and (f)(6)	Yes	Yes	No	Yes
Service Category Cost Sharing 42 C.F.R. §§ 417.454(e), 422.100(f) and 422.100(j)	Yes	Yes	Yes*	Yes
Part C Optional Supplemental Benefits 42 C.F.R. §§ 422.100(f) and 422.102	Yes	Yes	No	No

\* Section 1876 Cost Plans and MA plans may not charge enrollees higher cost sharing than is charged under Original Medicare for chemotherapy administration, skilled nursing care and renal dialysis services (42 C.F.R. §§ 417.454(e) and 422.100(j)).

CMS will interpret and apply the regulatory and statutory standards for service category cost sharing standards and amounts, PMPM Actuarial Equivalence factors, and TBC thresholds consistent with prior years. Unless otherwise noted above, the guidance for these policies for CY 2022 is the same as for CY 2021. In addition, MA organizations also must address other requirements in their bids, such as the medical loss ratio, and are expected to do so independently of our requirements for benefits and bid review to be consistent with prior years. Therefore,

CMS is not making specific adjustments or allowances for these changes in the benefits review requirements.

### ***Conclusion***

The policies described in this memorandum will be used in the evaluation of CY 2022 bids submitted by MA organizations. Unless otherwise noted in this document, other information or an applicable final rule, the instructions issued in the Final CY 2020 Call Letter apply for CY 2022, which can be found at: <https://www.cms.gov/Medicare/Health-Plans/MedicareAdvtgSpecRateStats/Downloads/Announcement2020.pdf>. The following is a non-exhaustive list of CY 2020 Call Letter policies that apply for CY 2022:

- Incomplete and Inaccurate Bid Submissions (pages 163-165)
- Plan Corrections (pages 165-166)
- Plans with Low Enrollment (pages 170-171)
- Part C Optional Supplemental Benefits (page 181)

The contents of this document do not have the force and effect of law and are not meant to bind the public in any way, unless specifically incorporated into a contract. This document is intended only to provide clarity to the public regarding existing requirements under the law. This guidance document will also appear in <https://www.hhs.gov/guidance/> when final.