U.S. Chamber of Commerce

1615 H Street, NW
Washington, DC 20062-2000
uschamber.com

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The Honorable Robert F. Kennedy, Jr.
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Dear Secretary Kennedy,

On behalf of the U.S. Chamber of Commerce, we appreciate the opportunity to provide comments in response to the Request for Information (RFI) on "Ensuring Lawful Regulation and Unleashing Innovation to Make American Healthcare More Affordable." Our recommendations are based on extensive feedback from our members and a strong commitment to reducing regulatory burdens, promoting innovation, and fostering a more efficient, effective healthcare delivery system. Below, we address the questions posed in the RFI, providing detailed recommendations for regulatory changes that align with these goals.

Addressing Regulations That Impose Unnecessary Costs and Burdens

Several HHS regulations and guidance meet the criteria outlined in Executive Order 14219, particularly those that impose significant administrative burdens, hinder innovation, and result in unnecessary costs to stakeholders. Notable examples include the following:

- **Health Equity Reporting Requirements**: CMS's final rule requiring Medicare Advantage plans to report prior authorization data stratified by social risk factors under 42 CFR §§ 422.137(d)(6)–(7) is an example of a regulation that places substantial costs on health plans and providers. This provision requires significant investments in IT infrastructure and administrative resources to collect, report, and analyze data. Furthermore, it lacks clear operational guidance and standardized data collection methods, making it difficult for plans to implement effectively. There is also no evidence that this reporting will provide actionable insights to improve patient outcomes or reduce disparities in healthcare.

  Recommendation: We recommend rescinding this provision to reduce

unnecessary reporting costs. Instead, CMS should focus on pursuing more targeted health equity strategies that are outcomes-driven and developed in consultation with health plans and stakeholders. These changes would not only alleviate unnecessary costs but would also enable health plans to dedicate resources toward initiatives that directly improve care quality and health equity, ultimately leading to more impactful and sustainable progress.

- Mid-Year Supplemental Benefit Notices: CMS's requirement for Medicare Advantage plans to send physical notices about unused benefits (42 CFR §§ 422.111(l) and 422.2267(e)(42)) introduces operational inefficiencies and administrative costs for health plans. Furthermore, it can confuse beneficiaries by delivering potentially irrelevant or redundant information. This leads to confusion and unnecessary overhead for both health plans and beneficiaries.

  Recommendation: We recommend rescinding the requirement for physical mid-year notices and replacing it with a more efficient approach, such as digital, on-demand notifications. These digital solutions would reduce the administrative burden associated with paper-based mailings, improve beneficiary engagement by delivering targeted information in a timely manner, and lower operational costs for health plans.

These regulatory changes will significantly reduce administrative burdens, allow for more efficient allocation of resources, and promote more effective and responsive healthcare delivery, resulting in both cost savings and improved patient outcomes.

Supporting Innovation and Reversing Chronic Disease

In line with the administration's focus on reversing chronic disease, we believe that certain regulations should be reconsidered, particularly those that impede innovation or hinder the accessibility of care. Addressing these regulatory barriers is critical to fostering a healthcare environment that can better address chronic diseases.

- Supplemental Benefit Reporting: CMS's expansion of supplemental benefit reporting requirements under CMS-10261, OMB No. 0938-1054, imposes significant administrative burdens on Medicare Advantage plans. This regulatory expansion increases complexity without adding corresponding value, particularly due to inconsistent benefit standardization across plans. Health plans must dedicate extensive resources to ensure compliance, which detracts from their ability to focus on providing value-based care and managing chronic disease.

Recommendation: We recommend reevaluating and streamlining the supplemental benefit reporting process. By reducing redundancy and simplifying reporting requirements, health plans would be able to allocate more resources toward chronic disease management programs that can improve health outcomes for beneficiaries, particularly those with multiple, complex conditions. This change would lower administrative costs and facilitate more effective and targeted care delivery.

- Complexity in Network Adequacy Standards: The current Medicare Advantage network adequacy standards, based on time-and-distance requirements outlined in 42 CFR § 422.116, are outdated. These standards fail to take into account innovative care models, such as telehealth, which has proven effective in managing chronic conditions and providing timely access to care, especially for underserved populations. By maintaining these rigid standards, CMS inadvertently restricts access to care and fails to recognize modern care delivery methods.

  Recommendation: We recommend revising the network adequacy standards to reflect modern care delivery methods, including telehealth and other virtual care models. Additionally, expanding the criteria to allow for exceptions based on provider shortages or unique community factors would improve access to care for beneficiaries, particularly in rural and underserved areas. This change would facilitate the delivery of high-quality, patient-centered care while supporting innovation in care delivery.

These changes will directly support the reversal of chronic diseases by enabling health plans to focus on effective, innovative, and resource-efficient care delivery models.

Removing Unnecessary Regulatory Complexities

Additionally, there are several other regulations that impose unnecessary complexity or excessive reporting, ultimately hindering efficiency and innovation. Addressing these issues would help streamline administrative processes and foster an environment that encourages both innovation and efficient care delivery.

- Impose unnecessary complexity or require excessive reporting:
  The prior authorization reporting requirements under 42 CFR §§ 422.122(c) and 422.137(d)(6)–(7) create inefficiencies, conflicting data formats, and significant

administrative costs. Health plans are required to gather and submit similar data through different reporting processes, leading to redundant efforts and increased resource allocation.

Recommendation: We recommend consolidating and harmonizing these reporting requirements. A streamlined process would reduce redundancy, improve data consistency, and reduce the administrative burden placed on health plans, ultimately driving down operational costs.

- Impede innovation:
  Outdated Medicare Advantage network adequacy standards hinder the adoption of modern care delivery models, such as telehealth. These restrictions prevent health plans from fully embracing innovative technologies and care approaches that could significantly improve care access and quality, particularly for chronic disease management.

  Recommendation: We recommend revising the network adequacy standards to account for telehealth and other innovative care delivery models. This would eliminate barriers to the adoption of technologies that could enhance care quality and patient access, particularly for populations managing chronic conditions.

- Are confusing or conflict with state regulations:
  The inconsistency between federal preemption and state regulations governing Medicare Advantage and Part D plans creates unnecessary complexity and increases administrative burden. States often impose additional requirements on plans that are either duplicative or inconsistent with federal regulations, which leads to confusion and inefficiency.

  Recommendation: CMS should collaborate with stakeholders like AHIP and NAIC to clarify the scope and application of federal preemption. By providing clear guidance to states, CMS can reduce conflicting requirements and streamline oversight, promoting regulatory consistency and efficiency.

Leveraging Technology to Improve Efficiency

To achieve the same goals with fewer burdens, we recommend the following alternative approaches, which are being successfully employed by state governments and private companies:

- **Digital Communication and E-Delivery**: Many health plans already utilize digital tools to effectively communicate with beneficiaries. By leveraging these tools, such as digital notifications for supplemental benefits and health equity initiatives, CMS can reduce costs associated with paper mailings and improve beneficiary engagement.

  Recommendation: We recommend extending e-delivery safe harbor rules to ERISA health and welfare plans and incentivizing digital engagement. This would not only reduce administrative costs but also improve access and enhance the environmental sustainability of health plan communications.

- **Leveraging Real-Time Translation Tools**: The requirement for full printed translations of documents is costly and inefficient. Many beneficiaries are already accustomed to using digital tools, which could be more effective and cost-efficient.

  Recommendation: We recommend that CMS update its model document requirements to incorporate flexible, real-time translation tools and digital formats. This would ensure that health plan communications are accessible, reduce waste, and improve understanding.

Updating Outdated Technology

HHS regulations, guidance, and reporting requirements rooted in outdated technology could be significantly improved by leveraging modern technological solutions. By doing so, substantial cost savings and operational efficiencies could be realized.

Outdated Technology in Reporting Requirements: Many of CMS's reporting requirements, including for supplemental benefit reporting (CMS-10261, OMB No. 0938-1054), rely on outdated technologies. These manual processes create inefficiencies and require significant human intervention, which drives up costs and leads to errors.

Recommendation: We recommend leveraging cloud-based platforms or blockchain technologies to streamline and automate reporting. By using these modern tools, CMS could significantly reduce the need for manual processes and paper-based reporting, leading to substantial cost savings, increased efficiency, and fewer errors.

Aligning Regulations with Modern Health Goals

We also note that several regulations conflict with broader healthcare reform objectives, such as those laid out in the administration's Executive Orders. These discrepancies create barriers to innovation and reduce the effectiveness of healthcare delivery.

- **Regulations Inconsistent with Modern Care Delivery**: CMS's current network adequacy standards (42 CFR § 422.116) fail to account for modern telehealth and virtual care models. These outdated standards contradict the goals of Executive Orders aimed at expanding access to healthcare through innovation, particularly for patients managing chronic conditions.

  Recommendation: We recommend that CMS revise its network adequacy standards to include telehealth and other innovative models of care. This change would align with broader policy objectives and enable more efficient, patient-centered care delivery.

- **State-Federal Regulatory Conflicts**: The inconsistency between federal preemption and state regulations increases complexity, leading to confusion and additional regulatory burdens.

  Recommendation: CMS should work with stakeholders to clarify the scope of federal preemption and ensure that state regulations align with federal policies. This would streamline oversight and reduce duplicative requirements, making healthcare administration more efficient.

EHB-Related Concerns:

The 2025 Notice of Benefit and Payment Parameters (NBPP) introduced several concerning provisions related to Essential Health Benefits (EHBs). These provisions allow states to add costly benefits, such as adult dental coverage (45 CFR § 156.115(d)), and simplify benchmark selection (45 CFR § 156.111(a)). These changes deviate from the statutory intention of defining EHBs based on typical employer coverage and could lead to significant increases in premiums and federal spending.

Recommendation: We recommend that HHS rescind or revise these provisions to realign with the statute's original intention of maintaining affordability and plan flexibility. Such revisions would ensure that EHBs remain based on typical employer coverage, helping to

preserve plan affordability and reduce unnecessary cost burdens on employers and consumers.

MHPAEA Final Rule:

The final rule for the Mental Health Parity and Addiction Equity Act (MHPAEA) has raised significant concerns due to provisions that are inconsistent with the statute itself and introduce new administrative burdens on both health plans and providers. These provisions detract from the primary objective of the MHPAEA, which is to improve access to mental health and substance use disorder treatment. Furthermore, the current interpretation of the rule diverts critical resources away from directly helping patients by imposing additional reporting and compliance requirements that are difficult to implement.

Recommendation: The Chamber welcomes further discussions with HHS and the administration to address the MHPAEA final rule, particularly focusing on the inconsistencies between the rule and the statute. These discussions should focus on ensuring that compliance is achievable without diverting resources from patient care. Simplifying the requirements and providing clearer operational guidance would reduce the burden on health plans, improve mental health and addiction treatment access, and ensure the rule achieves its intended goals.

We appreciate your consideration of these comments. The U.S. Chamber of Commerce is committed to working with HHS to implement regulatory reforms that foster innovation, reduce unnecessary burdens, and improve healthcare delivery for all Americans.

Sincerely,

Marty Durbin
Senior Vice President, Policy
President, Global Energy Institute
U.S. Chamber of Commerce