



September 26, 2023

The Honorable Chuck Schumer
Senate Majority Leader
United States Senate
Washington, DC 20510

The Honorable Mitch McConnell
Senate Minority Leader
United States Senate
Washington, DC 20510

The Honorable Kevin McCarthy
Speaker
U.S. House of Representatives
Washington, DC 20515

The Honorable Hakeem Jeffries
Minority Leader
U.S. House of Representatives
Washington, DC 20515

Dear Leader Schumer, Speaker McCarthy, Leader McConnell and Leader Jeffries:

The Alliance of Community Health Plans (ACHP) applauds the bipartisan congressional support for the Medicare Advantage (MA) program. The Medicare annual open enrollment period starts in less than a month. With more than half – and a growing number – of beneficiaries enrolled in a MA plan, it is imperative that policymakers take steps to ensure the program continues to serve and protect beneficiaries while providing good stewardship of taxpayer dollars. ***ACHP urges Congress to weigh in with the Centers for Medicare and Medicaid Services (CMS) to safeguard consumers and ensure an unbiased enrollment process by regulating the total compensation paid to MA brokers in the Contract Year 2025 Part C and D Policy and Technical Changes proposed rule.***

At ACHP, we recognize that even the most successful programs need a refresh. Earlier this year, we released *MA for Tomorrow*, an ambitious set of policy proposals that embrace the success of the MA program while advancing practical ideas that take MA to the next level in coverage and care for America's 65+ population.

ACHP is uniquely positioned to lead an effort to improve the MA program. ACHP member companies represent the nation's top-performing, non-profit health organizations improving affordability and outcomes in the health care system for millions of Americans across nearly 40 states and D.C. ACHP member companies are non-profit, provider-aligned health plans that have led the MA program in high-quality coverage and care since its inception. Although our member companies represent just 10 percent of the total MA market, they cover 33 percent of 5-star enrollees.

MA for Tomorrow includes proposals to safeguard consumers and ensure an unbiased enrollment process by regulating the total compensation health plans may pay to brokers. Brokers play an essential role in helping seniors understand their coverage options and find the plan for their needs.

In 2023, CMS set a fair and adequate maximum broker commission of \$611 per new enrollee and \$306 for first-year renewal (on average). However, there are no limits on creative add-on fees such as



referral payments, marketing, administrative expenses, bonuses and incentives for completing a health risk assessment. As a result, brokers often collect more than double broker commission limits, totaling billions of dollars each year that could be used to enhance care or extend the Medicare Trust Fund. The financials are straightforward: the more seniors a broker enrolls in the most lucrative options, the higher their earnings.

Total broker compensation across the country has increased at an alarming pace, allowing companies with the deepest pockets to influence broker recommendations. Paying the maximum commission is now table stakes, resulting in override and additional payments increasing at an unsustainable rate. These wasteful add-on payments incentivize steering beneficiaries into plans with the highest broker payment without necessarily considering which plan is best for consumers' health needs.

This is particularly problematic when brokers partner with Field Marketing Organizations (FMOs), driving costs higher and requiring additional Medicare Trust Fund dollars to be spent. Health plans are faced with either joining this broker arms race with ever higher and excessive add-on fees or foregoing a contract with the FMO, potentially losing beneficiaries and undermining true competition and choice.

ACHP and its member companies value the essential role brokers offer in helping seniors understand the coverage options available and to find the health plan best suited to their needs. We offer three immediate changes to ensure brokers remain sufficiently compensated for assisting beneficiaries while ensuring health plans appropriately utilize Medicare dollars to compete for enrollment based on quality and care.

1. **Standardize and limit the override and administrative fees tied to broker compensation.** Curbing the growth of broker override and administrative fees would address misaligned incentives. CMS has the authority to build on compensation standards to protect the integrity of the Medicare dollar by limiting total broker payment and preventing steering based on broker compensation.
2. **Create incentives for enrolling consumers in high-quality and value-based plans.** Brokers should be rewarded if they match a senior with a health plan that is high quality (star rating of 4 or higher) and advances value-based care.
3. **Require plans to report total broker compensation.** Consistent and annual reporting would shed light on an issue that currently has little to no data. Transparency on how much of a health plan's marketing dollars go to brokers (not just the commission) is an essential step toward evaluating the MA broker market.

All three of these recommendations can be implemented under existing CMS authority. To address this concerning situation, **we ask you to contact CMS and urge the inclusion of these policy recommendations in the Contract Year 2025 Part C and D Policy and Technical Changes proposed rule.** Broker payment reform is an essential component to improving how consumers navigate the Medicare program and these changes support financial stewardship of the taxpayer dollar and Medicare Trust Fund.



We appreciate your consideration of our request to contact CMS regarding broker payments, and we look forward to working with you in support of the more than 31 million seniors and counting enrolled in MA. If you have questions or require additional information, please contact Tricia Guay, ACHP Director of Legislative Affairs (tguay@achp.org).

Sincerely,

Ceci Connolly
President and CEO

CC: The Honorable Richard Durbin
The Honorable John Thune
The Honorable Ron Wyden
The Honorable Mike Crapo
The Honorable Bernie Sanders
The Honorable Bill Cassidy

The Honorable Steve Scalise
The Honorable Tom Emmer
The Honorable Katherine Clark
The Honorable Cathy McMorris Rodgers
The Honorable Frank Pallone
The Honorable Jason Smith
The Honorable Richard Neal