

JUSTICE IN AGING

FIGHTING SENIOR POVERTY THROUGH LAW

May 4, 2023

Centers for Medicare & Medicaid Services
Office of Strategic Operations and Regulatory Affairs
Division of Regulations Development,
Room C4-26-05
7500 Security Boulevard
Baltimore, Maryland 21244

Submitted electronically via [regulations.gov](https://www.regulations.gov)

Re: Agency Information Collection Activities: Proposed Collection; Comment Request, CMS-2023-0041

Justice in Aging appreciates the opportunity to submit comments in response to the above-referenced proposed Medicare Advantage reporting requirements and collection of supplemental benefit utilization and cost data. Justice in Aging is an advocacy organization with the mission of improving the lives of low-income older adults. We use the power of law to fight senior poverty by securing access to affordable healthcare, economic security, and the courts for older adults with limited resources. We have decades of experience with Medicare and Medicaid, with a focus on populations who have been marginalized and excluded from justice such as older adults of color, older women, LGBTQ+ older adults, older adults with disabilities, and older adults who are immigrants or have limited English proficiency.

Justice in Aging supports CMS's proposal to resume collection of key data with regard to supplemental benefits offered and provided by Medicare Advantage plans. Medicare Advantage plans are permitted to offer benefits that are not available in traditional Medicare with the goal of improving the health and wellbeing of plan enrollees. Supplemental benefits are financed by rebates CMS pays to plans. Such rebates have increased significantly over recent years and Medicare Advantage plans heavily market the availability of these benefits to Medicare enrollees. Yet, despite the significant federal funding that plans are receiving to offer benefits and the gains in enrollment that plans have realized through the marketing of supplemental benefits, there is no data on the extent to which Medicare enrollees are actually receiving and utilizing supplemental benefits.

Accordingly, we strongly support CMS's proposal to require Medicare Advantage plans to report on utilization measures for supplemental benefits categorized by the authority under which each plan offers supplemental benefits (mandatory, optional, SSBCI, uniformity flexibility) and the costs plans and enrollees expended on supplemental benefits.

We also urge CMS to require plans to report demographic data with the proposed utilization and cost measures. Utilization and cost data paired with demographic data is necessary to determine whether Medicare Advantage plans are providing equitable access to supplemental benefits. Specifically, CMS should add disaggregated reporting fields for proposed data elements E through J for race/ethnicity; age; rural/urban status; disability, language, sex, sexual orientation, and gender identity. Such data collection promotes Executive Order 13985 which calls for advancing equity for underserved

Washington, DC



Los Angeles, CA



Oakland, CA

populations and advances the goals and objectives outlined in the CMS Framework for Health Equity 2022-2032 and the HHS Equity Action Plan.¹

Lastly, we urge CMS to make the data it collects from Medicare Advantage plans publicly available and request CMS to review and analyze the data in its oversight capacity. We also ask that the data be collected and maintained in formats that facilitate analysis by researchers and other analysts.

If any questions arise concerning this submission, please contact Amber Christ achrist@justiceinaging.org or Georgia Burke at gburke@justiceinaging.org.

Sincerely,



Amber C. Christ
Managing Director, Health Advocacy

¹ Executive Order 13985, <https://www.whitehouse.gov/briefing-room/presidentialactions/2021/01/20/executiveorder-advancingracial-equity-and-support-or-underservedcommunities-through-the-federal-government/>; CMS Framework for Health Equity 2022–2032: <https://www.cms.gov/files/document/cmsframework-healthequity.pdf>; HHS Equity Action Plan, <https://www.hhs.gov/sites/default/files/hhs-equity-action-plan.pdf>.