March 7, 2022

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, DC 20201

Re: CMS-4192-P: CY 2023 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Program

Dear Secretary Becerra:

The Health Care Transformation Task Force (HCTTF or Task Force) appreciates the opportunity to comment on the Centers for Medicare and Medicaid Services (CMS) CY 2023 Medicare Advantage (MA) and Medicare Prescription Drug Benefit Programs Proposed Rule (CMS-4192-P) ("Proposed Rule").

The Task Force is a consortium of private sector stakeholders that support accelerating the pace of transforming the delivery system into one that better pays for value. Representing a diverse set of organizations from various segments of the industry – including providers, payers, purchasers, and patient advocacy organizations – we share a common commitment to transform our respective businesses and clinical models to deliver a health system that achieves equitable outcomes through high-quality, affordable person-centered care. We strive to provide a critical mass of policy, operational, and technical support from the private sector that, when combined with the work being done by CMS and other public and private stakeholders, can increase the momentum of delivery system transformation.

Our comments focus on the Proposed Rule's sections addressing beneficiary engagement, health equity and social determinants of health, network adequacy, Medicare and Medicaid coordination, and the impact of COVID-19 and public health emergencies on program operations and the Star Rating methodology.

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## I. Enrollee Participation in Plan Governance

CMS proposes requiring any MA organization offering a D-SNP to establish at least one enrollee advisory committee (EAC) in each state that seeks input from enrollees. The Task Force shares CMS' belief in the value of community input to improve service programming and acknowledges the various regulatory barriers to creating prescriptive requirements for how such

input is acquired. At the same time, the Task Force recommends that CMS provide parameters regarding the following:

- the extent to which beneficiaries who participate in EACs have decision-making power over policy, in relation to their provision of input and feedback; and
- the importance of MA organizations facilitating access to EAC's – via such vehicles as training, recruitment, and location and timing of meetings that reflect the community and population – to create a process that allows beneficiaries to meaningfully participate in the EACs.

It should be recognized that if this level of outreach and engagement is to be meaningful, it requires resources to support beneficiaries in their participation. If this level of prescriptive parameter is not feasible to finalize in the CY 2023 final rule, we urge CMS to evaluate the effectiveness of EACs post-launch, to better understand how well they are working at achieving this policy goal.

Finally, The Task Force recognizes that many MA organizations are already facilitating enrollee feedback efforts for their D-SNP beneficiaries. We support CMS offering flexibility such that these organizations can continue to operate their existing committees.

## II. Standardizing Housing, Food Insecurity, and Transportation Questions on Health Risk Assessment

The Task Force fully supports CMS' proposal to incorporate an assessment of individuals' physical, psychosocial, and functional needs into the Health Risk Assessment (HRA). We believe the addition of standardized questions regarding housing status, food insecurity and transportation will help SNPs better address these needs by establishing the data necessary to connect beneficiaries to social service organizations and programs. The Task Force recommends CMS require all three categories of questions be added to the Health Risk Assessment and would strongly recommend requiring these questions be added as rapidly as possible, rather than delaying until 2025.

We also recommend that CMS include exemptions for MA organizations that already include social risk factor-related questions in their HRAs so these organizations can continue to use their existing tools and infrastructure. For these organizations, the removal of existing tools to accommodate new questions could create both administrative burden as well as put roadblocks into the process of linking beneficiaries with needed services. Ideally, CMS would create a standardized data submission tool which collects social risk factor-related data - focusing on a core set of elements - in a way most compatible to how the MA plans currently collect and report that data. We are concerned that requiring a standardized reporting format would cause MA organizations already actively collecting this data to undertake a potentially costly adjustment to their HRA operations.

## III. Refining Definitions for Fully Integrated and Highly Integrated D-SNPs

The Proposed Rule notes that beneficiaries eligible for Fully Integrated D-SNPs (FIDEs) and/or Highly Integrated D-SNPs (HIDEs) have a dizzying array of plans to choose from during D-SNP enrollment. CMS seeks to clarify the definitions of FIDE SNPs and HIDE SNPs - including specifying the differences between the options - to give beneficiaries a deeper understanding of the benefits available under each to drive toward more informed enrollee choices. The updated definitions would also serve to integrate more effectively the provision of Medicare and

Medicaid benefits for dually eligible beneficiaries. The Task Force supports these refinements and the goal of improving clarity and transparency for FIDE and HIDE beneficiaries.

## IV. Special Requirements During a Disaster or Emergency

All health care provider organizations were, and continue to be, impacted significantly by the COVID-19 pandemic. Provisions regulating MA organization and provider operations during public health emergencies (PHEs) provided guidance to ensure that beneficiaries had access to care during this disruptive period. CMS proposes to clarify the criteria used for determining when an MA organization is no longer obligated to comply with special requirements related to a disaster or emergency. Generally, this clarification will stipulate that if care is not being disrupted during a disaster or emergency, then an MA organization will not be required to follow the disaster or emergency requirements. The Task Force supports CMS' efforts to clarify these criteria and recommends the Agency clarify not only the criteria for determining when compliance with special disaster or emergency-related requirements is no longer necessary, but also clarifying the definition and criteria for determining what comprises a "disruption to health care."

## V. Amend MA Network Adequacy Rules by Requiring a Compliant Network at Application

CMS proposes that instead of allowing plans to attest to network adequacy standards at the time of submitting a service area expansion (SAE) application, they will be required to provide data demonstrating they meet those standards. The Task Force supports efforts to ensure that beneficiaries have adequate access to needed providers, which requires consideration of network adequacy standards. However, we are concerned that this proposal will not achieve the goal of ensuring beneficiary access and will instead create administrative burden for MA organizations to finalize their network contracts in a manner inconsistent with current MA product stand-up processes. CMS' proposal does not account for the fact that MA networks are often not finalized twelve months in advance, which is when the service area expansion application is submitted.

Of particular concern is that MA growth is predicted to occur in rural areas and those areas are where establishing networks and finalizing provider contracts are even more challenging due to geographic barriers. We fear that this proposal would stifle entry of MA plans into areas where they are most needed. On balance, we support the need for scrutiny into network adequacy, given the impact that networks have on beneficiaries' ability to access needed care and realize improved outcomes. We put forward two recommendations:

- Consider other options for ensuring network adequacy that will not have a detrimental effect on availability of MA products in locations where they are currently unavailable.
- If this proposal is finalized, CMS should – in addition to the automatic 10-percentage point credit – create a process to allow plans to submit letters of intent to meet network adequacy requirements with their application along with a request to apply for additional time and credits.

## VI. Allow CMS to Calculate Star Ratings for Certain Measures for 2023 due to COVID Impacts

CMS proposes to extend adjustments to the Star Ratings calculation methodology to account for the ways in which the PHE has affected the ability to collect data on the Health Outcome Survey (HOS), and the ongoing impact that this could have on future Star Ratings calculations. The Task Force understands the concerns regarding the disconnect between plan performance and measurement data on the two relevant HOS measures: "Improving or Maintaining Physical Health" and "Improving or Maintaining Behavioral Health." We are concerned, however, that removing these measures from the Star Ratings calculation for 2022 and 2023 sends an adverse message regarding the importance of these screening measures for patient outcomes. While agreeing with CMS to not include performance data on these measures in the Star Rating calculation, we recommend that CMS publicly report these data. Public reporting will send an important message about the value of these data, and provide transparency into provider performance without putting MA organizations at financial risk. Going back to the original adage "what gets measured gets attention," this is not the time to stop collecting data on physical or mental health.

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The Task Force appreciates the opportunity to respond to the Medicare Advantage and Part D Programs Proposed Rule. Please contact HCTTF Executive Director Jeff Micklos (jeff.micklos@hcttf.org) with questions related to these comments.

Sincerely,

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