



August 20, 2019

Hon. Kurt Schrader  
2431 Rayburn House Office Building  
Washington, DC 20510

Hon. John Shimkus  
2217 Rayburn House Office Building  
Washington, DC 20510

Dear Rep. Schrader and Rep. Shimkus:

Thank you for the opportunity to offer feedback on your discussion draft regarding providing increased Medicare Advantage (MA) flexibilities to the Centers for Medicare and Medicaid Services (CMS). Allowing flexibility, with proper consumer protections, permits Medicare Advantage Organizations (MAOs) to design innovative benefits and take on risk. This proposal would build upon the new flexibilities provided in the Chronic Care and Better Budget Acts as well as the Value Based Insurance Design (VBID) demonstrations being conducted by the Centers for Medicare and Medicaid Innovations (CMMI). The waiver authority for the Secretary, as proposed, does indeed create a framework to allow for more flexibility and innovation. As we have seen in other public programs such as Medicaid, the use of waivers can lead to delivery system transformations which improve outcomes and lower costs.

United States of Care is a nonprofit, nonpartisan organization founded in early 2018 with an ambitious mission, "to ensure that every single American has access to quality, affordable health care regardless of health status, social need or income." We believe there is no one-size-fits-all approach to solving our health care challenges. That is why our Board and Founder's Council includes well known leaders and thinkers from business, government and other experts from across the health care system, including hospitals, providers, issuers, patients and patient advocates. The feedback we provide below was developed through consultation with members of our Founder's Council, an academic

research network via our partnership with the Leonard Davis Institute of Health Economics at the University of Pennsylvania and the knowledge of our in-house health policy professionals.

The discussion draft begins with a provision allowing for the Act to take place starting in plan years after January 1, 2020. Given MAOs must submit bids a year in advance and benefit and plan designs are in development years prior to being offered, you may want to consider a start date of at least one or even two years after the Act becomes law.

On page 4, line 25, the discussion draft calls for the Secretary to determine whether or not the waiver will “preserve or enhance the quality of care received by individuals enrolled under such plan without increasing net program spending...” It would be helpful to define measures for what enhancing “quality of care,” means. Does that mean an increase in star ratings? Does it mean a reduction in certain comorbidities, hospital readmissions, post-surgical infections, medication adherence? The legislation could benefit from detailed metrics in this section. If you would like to allow the Secretary leeway, the language could be structured to require certain measures as mentioned above but also adding text similar to, “and other measures determined by the Secretary.”

MA star ratings also could be used as quality measures for these waivers. Placing emphasis on measures both aligned with patient outcomes and endorsed by providers could help strengthen the link between health plan and provider metrics. In fact, later in the draft, on page 7, lines 13 to 19, a few measures are delineated which could be added to any required quality measure evaluation. Page 8, lines 3 to 9 also specify measures which, “reflect national priorities for quality improvement...” This seems vague and it may be prudent to more thoroughly list measures which are not specifically provided for in 1890(b)(7)(B). Additionally, an assessment of the anticipated impact on providers and hospitals participating in the waiver MA plans, providing evidence that they will not be adversely impacted, would be advisable in order to ensure provider participation is not reduced. This will also incentivize MAOs not to be overly prescriptive of their care regimen so providers can make the best treatment determinations.

On page 5, line 15, we applaud efforts to incentivize taking on risk for MAOs by specifically requiring them to repay the federal government if total expenditures increase. At the same time, we appreciate the section starting on

page 6, line 1 regarding automatic renewal only if the MAO has received a shared savings payment. This provision should spur MAOs working within the specifications of the MA program to push the bounds of benefit design but also protect the integrity of the MA program by not permitting renewal of the waiver if cost increases have occurred. You may want to develop a specific metric for what constitutes a cost increase.

On page 6, line 12, we are thankful you have included a provision allowing for a public notice and comment period prior to a waiver application being approved. Allowing stakeholders from across the health care community to provide input should strengthen any waiver which is eventually approved. Along those lines, on page 6, line 20, ensuring no waiver application can be denied solely because the plan has been offered fewer than three years is a strong protection which will allow even the newest MAOs to innovate and participate and may even increase competition in MA markets.

The section beginning on page 7, line 1 appears to say the Secretary can terminate a waiver if it is shown to reduce spending, which may not be as the authors intend.

Finally, we share that this discussion draft is a good start to expanding the ability of MAOs to pursue innovative benefit designs. Even so, the draft remains vague and we offer the following points which may allow you to tighten the legislation:

- The Better Budget Act allows all plans the ability to apply to participate in the VBID demonstration. Is it your intention to go beyond that by opening up waivers to anything that a plan might want to request vs. the four targeted areas in VBID? Generally, it is good to see initiatives that give plans flexibility to serve beneficiaries in tailored or customized ways that are going to positively impact utilization, outcomes or cost. However, this discussion draft appears broad and open ended and seems as if it may be hard for the agency to review, monitor, evaluate, etc.
- We are unsure how this legislation would interact with the new authorities around supplemental benefits.

Thank you again for allowing United States of Care the opportunity to provide feedback on this proposed legislation. If you have further questions or would like to dive deeper, please feel free to contact Andrew Schwab, our Senior Manager of Policy & Federal Affairs at [aschwab@usofcare.org](mailto:aschwab@usofcare.org).

Sincerely,

A handwritten signature in black ink, appearing to read "Emily Barson". The signature is fluid and cursive, with a large loop at the end.

Emily Barson  
Executive Director