



# THE COMMITTEE ON ENERGY AND COMMERCE

## MEMORANDUM

March 11, 2014

To: Health Subcommittee Members

From: Majority Committee Staff

Re: “Keeping the Promise: Allowing Seniors to Keep Their Medicare Advantage Plans If They Like Them”

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On Thursday, March 13, 2014, at 10:00 a.m. in 2123 Rayburn House Office Building, the Subcommittee on Health will hold a hearing entitled “Keeping the Promise: Allowing Seniors to Keep Their Medicare Advantage Plans If They Like Them.”

The Subcommittee will review the following legislation was circulated as part of the hearing:

- H.R. 2453, Medicare Beneficiary Preservation of Choice Act of 2013;
- H.R. 3392, Medicare Part D Patient Safety and Drug Abuse Prevention Act of 2013;
- H.R. 4177, To amend the Internal Revenue Code of 1986 to allow Medicare beneficiaries participating in a Medicare Advantage MSA to contribute their own money to their MSA;
- H.R. 4180, To amend the Internal Revenue Code of 1986 to permit rollovers from health savings accounts to Medicare Advantage MSAs;
- H.R. \_\_, Seniors’ Rights to Know Act;
- H.R. \_\_, Seniors’ Fairness Act of 2014; and
- H.R. \_\_, Advantage of Medicare Advantage for Minorities and Low-Income Seniors Act of 2014.

### **I. Witnesses**

#### **Panel One**

- The Honorable Dennis A. Ross (FL-15);
- The Honorable Erik Paulsen (MN-3);
- The Honorable Jeff Denham (CA-10);
- The Honorable Jackie Walorski (IN-2); and,
- The Honorable Keith J. Rothfus (PA-12).

Panel Two<sup>1</sup>

- Mitchell Lew, M.D., CEO and Chief Medical Officer, Prospect Medical Systems;
- Glenn Giese, Principal, Oliver Wyman Consulting Actuaries;
- Frank Little, Medicare beneficiary with a Medicare Advantage plan; and,
- Judith Stein, Executive Director, Center for Medicare Advocacy.

**II. Background**

According to the Centers for Medicare and Medicaid Services (CMS), in 2014, Medicare Advantage (MA) enrollment will total approximately 15 million enrollees—roughly 29 percent of seniors on Medicare.<sup>2</sup> According to CMS, MA enrollment as a percentage of total Medicare enrollment has increased by 173 percent over the past 10 years.<sup>3</sup> One analysis found that the average senior will have 18 plans to choose from (with fewer choices in rural areas).<sup>4</sup>

A Kaiser Family Foundation analysis found that, in 2013, all Medicare Advantage plans offered an out-of-pocket maximum to protect seniors against unpredictable costs, and more than 3 in 4 seniors were enrolled in plans with annual out-of-pocket maximums of \$5,000 or less.<sup>5</sup> These out-of-pocket maximums are not available under the traditional fee-for-service Medicare program. As the Congressional Research Service notes, many view Medicare Advantage plans as an attractive alternative to more expensive supplemental insurance policies sold in the private market.<sup>6</sup>

MA plans are a source of quality coverage for low-income seniors and minorities. An industry analysis of data from the Medicare Current Beneficiary Survey (MCBS) found that MA plans served a disproportionate share of low-income and minority seniors in 2010.<sup>7</sup> The analysis found a higher than average percentage of African-American Medicare beneficiaries

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<sup>1</sup> Additional witnesses may be added.

<sup>2</sup> FY2015 “Budget in Brief,” HHS, page 61, available online at: <http://www.hhs.gov/budget/fy2015/fy-2015-budget-in-brief.pdf>.

<sup>3</sup> FY2015 “Budget in Brief,” HHS, page 61, available online at: <http://www.hhs.gov/budget/fy2015/fy-2015-budget-in-brief.pdf>.

<sup>4</sup> Kaiser Family Foundation, “Medicare Advantage 2014 Spotlight: Plan Availability and Premiums,” November 25, 2013, available online at: <http://kff.org/medicare/issue-brief/medicare-advantage-2014-spotlight-plan-availability-and-premiums/#PlanAvailability2014>.

<sup>5</sup> Kaiser Family Foundation, “Medicare Advantage 2014 Spotlight: Plan Availability and Premiums,” November 25, 2013, available online at: <http://kff.org/medicare/issue-brief/medicare-advantage-2014-spotlight-plan-availability-and-premiums/#PlanAvailability2014>.

<sup>6</sup> Paulette Morgan, “Medicare Advantage,” Congressional Research Service, March 3, 2009, R40374, available online at: <http://crs.gov/pages/Reports.aspx?PRODCODE=R40374&Source=search>.

<sup>7</sup> “Low-Income & Minority Beneficiaries in Medicare Advantage Plans, 2010,” by AHIP’s Center for Policy and Research, May 2012, available online at: <https://www.ahip.org/Issues/Medicare-Advantage.aspx#Coverage>

Note: Data for this study came from the 2010 Medicare Current Beneficiary Survey (MCBS) Access to Care files, maintained by the Centers for Medicare & Medicaid Services (CMS).

and Hispanic beneficiaries were enrolled in MA plans. The analysis also found that more than 4 in 10 seniors with MA plans had incomes of \$20,000 or less.

The Patient Protection and Affordable Care Act (PPACA) made over \$700 billion in reductions to the Medicare program, including over \$300 billion in direct and indirect reductions to the MA program.<sup>8</sup> The full impact of PPACA's MA cuts previously have been blunted somewhat due to a temporary \$8 billion nationwide, multi-year "demonstration" program, which the Government Accountability Office said had design flaws and raised legal concerns.<sup>9</sup>

As part of implementing the cuts to the MA program in PPACA, CMS released the MA advance notice for CY2015 on February 21, 2014. This notice includes proposed changes to Medicare Advantage payments for next year. The consulting firm Oliver Wyman reported that if the changes outlined in the CY2015 Advance Notice were finalized, plans on average would experience a 5.9 percent cut next year.<sup>10</sup> This would result in seniors facing benefit reductions and premium increases of \$35 to \$75 per month, or \$420 to \$900 for the year, according to the report. The impact of any new payment cuts may be seen by seniors in late October 2014, when they may face fewer choices or higher costs during the open enrollment period for 2015 Medicare Advantage coverage.

### **III. Staff Contacts**

Should you have any questions regarding the hearing, please contact Josh Trent, Paul Edattel, or Robert Horne at 202-225-2927.

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<sup>8</sup> Congressional Budget Office, March 2013.

<sup>9</sup> Quality Bonus Payment Demonstration Has Design Flaws and Raises Legal Concerns," Government Accountability Office, GAO-12-964t, July 25, 2012, available online at: <http://www.gao.gov/products/GAO-12-964T>.

<sup>10</sup> Glenn Giese and Kelly Backes, "2015 Advance Notice: Changes to Medicare Advantage Payment Methodology and the Potential Effect on Medicare Advantage Organizations and Beneficiaries," February 27, 2014. Available online at: <http://ahip.org/2015-Advance-Notice/>.