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House of Representatives
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MEMORANDUM

March 13, 2014

To: Committee on Energy and Commerce Democratic Members and Staff
Fr: Committee on Energy and Commerce Democratic Staff
Re: Insurance Industry Claims Regarding Reforms to Medicare Advantage

On February 27, 2014, America's Health Insurance Plans (AHIP), the national trade association representing the health insurance industry, released a report on the purported impact of recent reforms to the Medicare Advantage (MA) program. The report claims that this year's proposed changes to the payment methodology used by the Center for Medicare and Medicaid Services (CMS) will cause seniors "to face higher costs and lose benefits and choices upon which they rely today."

Analyses by independent experts, financial analysts, and even some individual health insurance companies have reached very different conclusions about the impact of the payment reforms on beneficiaries and the insurance industry itself. This memorandum puts the recent AHIP analysis in context by presenting the views of other experts and stakeholders. It also examines AHIP's record of making exaggerated claims about the impacts of federal policies.

I. The AHIP Report

On February 27, 2014, AHIP released a report entitled "2015 Advance Notice: Changes to the 2015 Medicare Advantage Payment Methodology and the Potential Effect on Medicare Advantage Organizations and Beneficiaries."¹ The report addressed the reforms to Medicare Advantage enacted in the Affordable Care Act to reduce overpayments to Medicare Advantage

¹ America's Health Insurance Plans, *2015 Advance Notice: Changes to the 2015 Medicare Advantage Payment Methodology and the Potential Effect on Medicare Advantage Organizations and Beneficiaries* (Feb. 27, 2014) (online at <http://www.ahip.org/2015-Advance-Notice/>).

plans, the annual fee on health insurance companies, the risk adjustment methodology used in Medicare Advantage, and the estimated per beneficiary costs of providing Medicare services.

AHIP concluded that Medicare Advantage plans would see a total payment reduction of 5.9% in 2015. The AHIP report claims that these estimated reductions would lead to premium increases or benefit changes of \$35 to \$75 per month for Medicare Advantage enrollees. The report claims that this “could result in a significant amount of upheaval in the MA market that will likely affect virtually all of the approximately 15 million Medicare beneficiaries enrolled in [Medicare Advantage plans]. This includes the potential for plan exits, reductions in service areas, reduced benefits, provider network changes, and reduced MA enrollment.” The report predicts these impacts will disproportionately affect low-income beneficiaries and other vulnerable populations.

II. Independent Assessments of Medicare Advantage Reforms

Since the release of CMS’s 2015 payment notice, analyses by independent experts, financial analysts, and individual health insurance companies have reached significantly different conclusions about the Medicare Advantage reforms than the AHIP report. These independent analyses have found that Medicare Advantage enrollment will continue to grow, that insurers’ Medicare Advantage businesses remain highly profitable, and that many of the reforms announced by CMS will be positive for Medicare Advantage plans. Financial markets appear to have found these analyses more credible than AHIP’s claims, with many insurance company stocks rising significantly in recent days.

A Barclays analysis found that similar rate changes from 2009 through 2014 have not adversely affected MA plans because “MA plans have been able to grow membership an aggregate 4.7 million lives or 41%.” Barclays noted that even after CMS’s reforms go into effect, Barclays expects Medicare Advantage enrollment growth of 3% to 5% in 2015. Barclays also noted that “managed care plans have many levers they can pull to further maintain profit margins.”²

JP Morgan and health insurer Humana both estimated that the actual reduction in overpayments to Medicare Advantage plans would be approximately 4% in 2015, approximately one-third less than the reduction AHIP claimed. JP Morgan released an analysis stating that the bank “maintain[s] our positive long-term view of Medicare Advantage” and touted Medicare Advantage plans’ “long term revenue growth potential.”³ JP Morgan also noted that some of the largest health insurers have seen better than expected financial returns in recent years, noting “better growth than initially expected at [Humana], [Aetna], and [HealthNet], [and] growth instead of initially expected attrition at [Wellpoint].”⁴ A financial journalist commented that

² Barclays, *2015 Prelim MA Rates Better than Worst Case, but Will Be More Plan Specific* (online at <https://live.barcap.com/PRC/servlets/dv.search?contentPubID=FC2012232&bcmlink=decode>).

³ J.P. Morgan, *Medicare Advantage, 2015 Rates Better than Expected at -4% as FFS Normalization Offsets Negative Trend Adjustments* (Feb. 24, 2014).

⁴ *Id.*

“Medicare Advantage plans have long been regarded as a major growth engine, as more baby boomers reach 65, qualifying for the program.”⁵ As a result, major health insurers like Humana, Aetna, and United Health saw their stock prices rise rapidly in the days following the CMS announcement.⁶

Prior to passage of the Affordable Care Act (ACA), Medicare Advantage plans were paid significantly more per beneficiary than the cost of coverage under traditional Medicare. Medicare Advantage rates exceeded traditional Medicare spending by an average of 18% in 2009, costing taxpayers \$800 more per beneficiary than traditional Medicare and raising premiums for traditional Medicare beneficiaries.⁷

These overpayments had multiple adverse impacts. Numerous independent observers including the Medicare Payment Advisory Commission (MedPAC), the Government Accountability Office (GAO), and the Congressional Budget Office (CBO) have noted repeatedly that these significant overpayments increase premiums in traditional Medicare, weaken the financial health of the Medicare program, and increase the federal budget deficit.⁸ They also do not appear to improve health outcomes or the quality of care. Despite these excessive costs, numerous independent analyses demonstrated that Medicare Advantage beneficiaries did not see lower out-of-pocket costs or receive higher quality care than traditional Medicare beneficiaries.⁹

⁵ Barron’s, *Humana, Aetna Rally as Medicare Cuts Misinterpreted* (Feb. 24, 2014) (online at <http://blogs.barrons.com/stockstowatchtoday/2014/02/24/health-insurers-rebound-medicare-cuts-not-so-bad/>).

⁶ *Id.*

⁷ The Commonwealth Fund, *Realizing Health Reform’s Potential. The Impact of Health Reform on the Medicare Advantage Program: Realigning Payment for Performance* (Oct. 2012) and Letter from Secretary of Health and Human Services Kathleen Sebelius to Speaker John Boehner (Feb. 21, 2014) (online at <http://democrats.energycommerce.house.gov/sites/default/files/documents/Boehner-HHS-Affordable-Care-Act-Medicare-Advantage-2014-2-21.pdf>).

⁸ Government Accountability Office, *Substantial Excess Payments Underscore Need for CMS to Improve Accuracy of Risk Score Adjustments* (Jan. 31, 2013) (online at <http://www.gao.gov/products/GAO-13-206>); Government Accountability Office, *CMS Should Improve the Accuracy of Risk Score Adjustments for Diagnostic Coding Practices* (Jan. 26, 2012) (online at <http://www.gao.gov/products/GAO-12-51>); Medicare Payment Advisory Commission, *Report to Congress: Medicare Payment Policy* (Mar. 2009) (online at http://www.medpac.gov/chapters/Mar09_Ch03.pdf); Congressional Budget Office, *Budget Options, Volume 1, Health Care* (Dec. 2008) (online at <http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/99xx/doc9925/12-18-healthoptions.pdf>).

⁹ See e.g. Government Accountability Office, *Higher Spending Relative to Medicare Fee-for-Service May Not Ensure Lower Out-of-Pocket Costs for Beneficiaries* (Feb. 28, 2008) (online at <http://www.gao.gov/products/GAO-08-522T>); Center on Budget and Policy Priorities, *Curbing Medicare Advantage Overpayments Could Benefit Millions of Low-Income and Minority Americans* (Feb. 19, 2009) (online at <http://www.cbpp.org/files/2-19-09health.pdf>);

MedPAC recommended that Congress take action to reduce these overpayments. They recommended that Congress protect taxpayers by tying Medicare Advantage payments more closely to fee-for-service payments and by limiting insurers' ability to reap greater profits and shift costs onto traditional Medicare by enrolling healthier beneficiaries.¹⁰ The Affordable Care Act included reforms similar to the MedPAC recommendations. Under the Affordable Care Act, overpayments to Medicare Advantage plans are phased down, but they have not been eliminated.

This approach has proven successful. Independent analysts and the financial markets have expressed confidence in the continued profitability of Medicare Advantage plans. At the same time, Medicare Advantage enrollment has increased significantly, premiums have declined by 10%, and seniors continue to have broad access to a variety of plans.¹¹ These positive trends directly contradict the dire predictions made by insurers when the Affordable Care Act was enacted.

III. AHIP's Record of Exaggerated Claims

Since before the enactment of the Affordable Care Act, the insurance industry has made numerous claims about the negative impact of the law on Americans with insurance and the finances of the industry. The industry's predictions have been particularly negative and particularly inaccurate about the impact of the law on Medicare Advantage, but the industry has made similarly inaccurate predictions on the impact of a number of provisions in the law. Understanding this record is important for members as they assess the reliability of the industry's current claims about Medicare Advantage.

In 2010, the health insurance industry described the ACA's reforms to Medicare Advantage by saying: "[t]he legislation imposes \$200 billion in cuts to Medicare Advantage that

International Journal of Health Care Finance and Economics, *Nothing for Something? Estimating Cost and Value for Beneficiaries from Recent Medicare Spending Increases on HMO Payments and Drug Benefits* (Mar. 2009) (online at <http://link.springer.com/article/10.1007%2Fs10754-008-9047-x>); Government Accountability Office, *Substantial Excess Payments Underscore Need for CMS to Improve Accuracy of Risk Score Adjustments* (Jan. 31, 2013) (online at <http://www.gao.gov/products/GAO-13-206>); The Commonwealth Fund, *The Impact of Health Reform on the Medicare Advantage Program: Realignment Payment with Performance* (Oct. 16, 2012) (online at <http://www.commonwealthfund.org/Publications/Issue-Briefs/2012/Oct/Impact-of-Health-Reform-on-the-Medicare-Advantage-Program.aspx>).

¹⁰ Medicare Payment Advisory Commission, *Report to Congress: Medicare Payment Policy* (Mar. 2009) (online at http://www.medpac.gov/chapters/Mar09_Ch03.pdf).

¹¹ Kaiser Family Foundation, *Medicare Advantage 2014 Spotlight: Plan Availability and Premiums* (Nov. 25, 2013) (online at <http://kff.org/medicare/issue-brief/medicare-advantage-2014-spotlight-plan-availability-and-premiums/>) and Letter from Secretary of Health and Human Services Kathleen Sebelius to Speaker John Boehner (Feb. 21, 2014) (online at <http://democrats.energycommerce.house.gov/sites/default/files/documents/Boehner-HHS-Affordable-Care-Act-Medicare-Advantage-2014-2-21.pdf>).

will cause massive disruption for the more than 10 million seniors enrolled in the program. If these cuts are enacted, millions of seniors in Medicare Advantage will lose their coverage, and millions more will face higher premiums and reduced benefits.”¹²

Since the ACA was enacted, Medicare Advantage premiums have fallen by 9.8% and enrollment has increased by more than 30% to an all-time high of over 15 million. Over 80% of beneficiaries have access to an MA plan with no premium. The average beneficiary has a choice of 18 MA plans and 99% of beneficiaries have access to at least one Medicare advantage plan. Medicare Advantage plans’ quality ratings have improved: there has been a 28% increase in the number of plans with four or more stars.¹³

In testimony before the Subcommittee on Health, a leading advocate for Medicare beneficiaries stated: “we find that the MA market has vastly improved in recent years as a result of policies advanced by the ACA and CMS to stabilize beneficiary cost sharing, streamline plan choices, and enhance the quality of MA plans.”¹⁴

The industry also made dire claims about the impact of the ACA’s Medical Loss Ratio (MLR), which is the requirement that insurers spend no more than 20% of the premiums they collect on profits and administrative expenses or rebate the excess to their customers. The industry claimed, “The current MLR proposal will reduce competition, disrupt coverage, and threaten patients’ access to health plans’ quality improvement services.”¹⁵ The industry also argued that “the MLR could turn back the clock on ... quality enhancing programs as well as fraud prevention initiatives while potentially inhibiting the next generation of delivery system reforms.”¹⁶

¹² America’s Health Insurance Plans, *End the Health Insurance Tax* (Mar. 18, 2010) (online at <http://www.ahip.org/News/Press-Room/2010/AHIP-Statement-on-Health-Care-Reform-Legislation.aspx>).

¹³ Letter from Secretary of Health and Human Services Kathleen Sebelius to Speaker John Boehner (Feb. 21, 2014) (online at <http://democrats.energycommerce.house.gov/sites/default/files/documents/Boehner-HHS-Affordable-Care-Act-Medicare-Advantage-2014-2-21.pdf>).

¹⁴ House Committee on Energy and Commerce, Subcommittee on Health, Testimony of Joe Baker, President, Medicare Rights Center, *Hearing on Medicare Advantage: What Beneficiaries Should Expect Under the President’s Health Care Plan* (Dec. 4, 2013).

¹⁵ America’s Health Insurance Plans, *AHIP Statement on MLR* (Oct. 21, 2010) (online at [http://www.ahip.org/News/Press-Room/2010/AHIP-Statement-on-MLR\(2\).aspx](http://www.ahip.org/News/Press-Room/2010/AHIP-Statement-on-MLR(2).aspx)).

¹⁶ America’s Health Insurance Plans, *AHIP Statement on the Medical Loss Ratio Requirement* (Apr. 26, 2012) (online at <http://www.ahip.org/News/Press-Room/2012/AHIP-Statement-on-the-Medical-Loss-Ratio-Requirement.aspx>).

None of this has happened. In the first two years the MLR was in effect, insurers paid out \$1.5 billion in rebates – giving the average family a rebate of \$100.¹⁷ Insurers have become more efficient, cutting their administrative costs and giving consumers better value for their premium dollar. In total, the ACA’s medical loss ratio requirement has helped save consumers \$5 billion through lower premiums and rebates.¹⁸ There is no evidence that the MLR is reducing fraud fighting efforts or harming quality improvement efforts.

The industry’s claims about the impact of the annual health insurance fee have been similarly negative. AHIP claimed that the fee is “a massive new sales tax on health insurance which will increase the cost of coverage for individuals, small businesses, and public program beneficiaries.”¹⁹ An advocacy group aligned with the industry claimed that the fee “[s]ignificantly raises small business costs and creates considerable uncertainty about the future.”²⁰

Independent analyses have come to the opposite conclusions. A RAND Corporation study found that “small group premiums ... will be unchanged by the law.”²¹ A 2011 report by the Urban Institute found that “employers with fewer than 50 employees are expected to experience substantial savings on health care costs due to the benefits of the health insurance exchanges and subsidies for the smallest firms.”²²

When the law was enacted, the Congressional Budget Office did not predict significant premium increases in the small group market.²³ Since then, CBO has found that premiums in the individual market are lower – not higher – than CBO estimated. In fact, premiums in the new

¹⁷Center for Medicare and Medicaid Services, *80/20 Rule Delivers More Value to Consumers in 2012* (June 20, 2013) (online at <http://www.cms.gov/CCIIO/Resources/Forms-Reports-and-Other-Resources/Downloads/2012-medical-loss-ratio-report.pdf>).

¹⁸ *Id.*

¹⁹ America’s Health Insurance Plans, *End the Health Insurance Tax* (Mar. 18, 2010) (online at <http://www.ahip.org/News/Press-Room/2010/AHIP-Statement-on-Health-Care-Reform-Legislation.aspx>).

²⁰ *Stop the HIT* (online at <http://www.stopthehit.com/home>).

²¹ RAND Corporation, *The Affordable Care Act and Health Insurance Markets; Simulating the Effects of Regulation* (2013) (online at http://www.rand.org/content/dam/rand/pubs/research_reports/RR100/RR189/RAND_RR189.pdf).

²² Urban Institute, *The Effects of Health Reform on Small Businesses and Their Workers* (June 2011) (online at http://www.smallbusinessmajority.org/_docs/resources/Urban_Small_Biz_Report.pdf).

²³ Letter from Congressional Budget Office Director Douglas Elmendorf to Senator Evan Bayh (Nov. 30, 2009) (online at <http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/107xx/doc10781/11-30-premiums.pdf>).

health insurance marketplaces are 16% below CBO estimates.²⁴ Expert independent analyses have reached similar conclusions. The Kaiser Family Foundation concluded: “While premiums will vary significantly across the country, they are generally lower than expected ... suggesting that the cost of coverage for consumers and the federal budgetary cost for tax credits will be lower than anticipated.”²⁵

IV. Conclusion

The Affordable Care Act has required reforms in the insurance industry that lower costs and improve the quality of care. In every instance, the insurers have a choice of how to comply. The companies can decide whether (1) to raise costs on their customers, (2) to reduce their costs by becoming more efficient, or (3) to reduce their substantial profit margins. Consistently, the insurers have found ways to comply with the new requirements of the Affordable Care Act without raising costs to consumers. The evidence suggests that they are likely to continue to be able to do so in the future. The leading insurance companies have multi-billion dollar annual profits, their stock prices have risen substantially in recent years, and they expect significant growth in customers and revenues in the coming years.²⁶

²⁴ U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, *Health Insurance Marketplace Premiums for 2014* (Sep. 2013) (online at http://aspe.hhs.gov/health/reports/2013/marketplacepremiums/ib_marketplace_premiums.cfm).

²⁵ Kaiser Family Foundation, *An Early Look at Premiums and Insurer Participation in Health Insurance Marketplaces, 2014* (Sep. 2013) (online at <http://kaiserfamilyfoundation.files.wordpress.com/2013/09/early-look-at-premiums-and-participation-in-marketplaces.pdf>).

²⁶ See e.g. Forbes, *Despite Glitches, Obamacare Profit Windfall to Insurers Well Underway* (Oct. 26, 2013) (online at <http://www.forbes.com/sites/brucejapsen/2013/10/26/despite-glitches-obamacare-profit-windfall-to-insurers-well-underway/>) and Center for Public Integrity, *Analysis – Health Insurance Corporate Profits Spiked Despite Dire Predictions of Health Care Reform Wreckage* (Apr. 25, 2011) (online at <http://www.publicintegrity.org/2011/04/25/4321/analysis-health-insurance-corporate-profits-spiked-despite-dire-predictions-health>).