Congress of the United States

Washington, DC 20515

March 27, 2025

The Honorable Robert F. Kennedy Jr.
Secretary
Department of Health and Human Services
200 Independence Ave SW
Washington, DC 20201

Stephanie Carlton
Acting Administrator
Centers for Medicare and Medicaid Services (CMS)
7500 Security Boulevard
Baltimore, MD 21244

Dear Secretary Kennedy and Acting Administrator Carlton:

We write to express our grave concern that corporate health insurers offering Medicare Advantage (MA) plans are endangering the solvency of the Medicare Trust Funds through tremendously wasteful practices, harming patients across the country, raising costs for taxpayers, and failing to advance health equity. Initially promoted as a way to save taxpayer dollars and improve quality of care, the Medicare Advantage program has continuously cost more than if the same enrollees were covered by Traditional Medicare[1] and has not improved health outcomes. We strongly urge you to rein in the wasteful and harmful practices committed by corporate health insurers in MA.

The nonpartisan, independent Medicare Payment Advisory Commission (MedPAC) found that MA coverage cost 22 percent more per enrollee in 2024.[2] As a result, the nonpartisan Committee for a Responsible Federal Budget estimates that overpayments to MA plans could total as much as $1.2 trillion dollars over the next decade.[3] Despite this astonishingly high spending, MA plans have not improved care. Private MA plans frequently interfere with physicians' professional judgments and deny care that would have been approved by Traditional Medicare, in violation of Medicare coverage guidelines.[4] One study found that 15 percent of surveyed denials were attributable to self-imposed MA policies that were more restrictive than Traditional Medicare's coverage rules.[5] Compared with Traditional Medicare enrollees, MA patients are also more likely to be discharged prematurely, have shorter home health lengths of stay, and receive less care from nurses, therapists, and aides.[6] At a time when Americans are paying nearly $26,000 per family in premiums per year,[7] while the largest US insurer made $23 billion in annual profits,[8] reining in profiteering could not be more important.

To preserve Medicare's promise to provide quality, affordable health care to seniors and vulnerable populations, we strongly urge the Centers for Medicare and Medicaid Services (CMS) to take the following actions:

1. Eliminate waste and abuse from overpayments by improving risk adjustment calculations in the proposed 2026 Medicare Advantage Rate Notice and strictly enforcing the overpayment regulations for Medicare Advantage Organizations outlined in the 2025 Medicare Physician Fee Schedule rule.
2. Strengthen enforcement against MA insurers that illegally deny care.
3. Address additional barriers to care.
4. Enact reforms to reduce disparities in care.

Eliminate waste and abuse in the form of overpayments

Private insurers in MA overcharged CMS by at least $83 billion in 2024.[9] These wasteful overpayments to MA plans threaten the stability of the Medicare program, which is expected to run a deficit beginning in 2029,[10] and is already harming enrollees by increasing Part B premiums by $13 billion in 2024 alone.[11] The average MA gross margin was $1,982 per enrollee in 2023, nearly double the second highest margin for health insurance programs.[12] Health insurance companies are making record profits off taxpayer dollars through a variety of tactics, predominantly by "upcoding," a process of adding unsupported diagnosis codes to a patient's medical record to make them appear sicker and secure higher payments, even if enrollees do not receive treatment for those conditions.[13] In response, CMS initiated a three-year proposal to eliminate diagnosis codes most frequently subjected to fraud and abuse. As you finalize the 2026 Rate Notice, we urge you to fully implement the remaining changes to the MA risk adjustment model finalized in the 2024 Medicare Advantage Rate Notice, consistent with CMS' previously proposed timeline.[14] This policy will limit insurers' misuse of diagnosis codes and save taxpayers $3.4 billion.[15] Even as these changes have been phased in, the MA program remains highly profitable for private insurers, and MA plan margins have remained stable.[16]

CMS estimated that the policies and payment rates under the proposed Rate Notice would result in an increase of more than $21 billion in payments to private insurers in MA, bringing total payment to up to $591 billion in 2026. This is an unjustified waste of taxpayer dollars when MA insurers are making record profits, interfering with access to care, and charging far more than the cost to care for enrollees in Traditional Medicare. CMS has broad statutory authority to address the rampant fraud, waste, and abuse that has led to record high profits for private insurers in MA. To ensure program integrity, we strongly encourage you to modify the 5.9 percent minimum risk adjustment and implement a more appropriate benchmark adjustment that accounts for the full degree of overpayment MA plans are receiving, currently estimated at 22 percent.[17] We also urge you to crack down on vertically integrated insurers in MA that send inflated payments to affiliated provider groups.[18]

Strong oversight and enforcement are also essential to detect and prevent fraud, waste, and abuse. Starting January 1, 2025, MA organizations that knowingly receive or retain an overpayment are required to report and return the overpayment within 60 days of identifying it, as outlined in the 2025 Medicare Physician Fee Schedule final rule.[19] As the rule is implemented, we urge CMS to take the necessary enforcement actions to ensure MA organizations consistently report and return overpayments in a timely manner and impose penalties when plans are non-compliant. Among the available remedies, CMS has the authority to restrict future enrollment in plans that engage in fraud and to terminate MA plan contracts. We encourage CMS to exercise full enforcement authority and utilize all available penalties to protect consumers and taxpayers.

Strengthen enforcement against MA insurers that illegally deny care

We urge you to rigorously scrutinize unlawful and widespread denials of care within MA plans. MA has a notorious reputation for denying and hindering access to care. About 50 million prior authorization requests were required by MA insurers in 2023, most commonly for higher cost, urgent services such as chemotherapy, inpatient hospital stays, and skilled nursing facility stays.[20] Prior authorization is increasingly required year after year,[21] despite a 2022 Health and Human Services (HHS) Office of Inspector General (OIG) finding that 13 percent of MA plan denials should have been approved, and that when appealed, over 80 percent of denials are ultimately overturned.[22] According to

the American Medical Association's physician survey, 94 percent of physicians reported that prior authorization requirements delay access to necessary care for patients.[23] Additionally, 78 percent of physicians reported that this process has likely led to patients abandoning their treatment.[24] Prior authorization places unnecessary strain on providers and patients, drives up costs, and creates an enormous waste of administrative resources. We urge you to exercise strong oversight and enforcement when reviewing and approving MA benefits to ensure they meet coverage criteria[25] and to not subject MA enrollees to inappropriate and unnecessary barriers to care.

Address additional barriers to care

We are alarmed by reports that care under MA plans may be worsening as insurers increasingly rely on Artificial Intelligence (AI) and algorithms to evaluate requests. There are harrowing reports of patients with MA coverage who were denied care for stroke recovery, forced into dangerously premature discharges from their hospital stays, and more – all because private insurers followed denial recommendations from arbitrary, unregulated AI algorithms.[26] We urge you to a) develop new regulations to ensure that any new algorithms abide by Medicare coverage requirements and b) enforce existing statutory requirements compelling insurers to disclose the methodology behind algorithms used for coverage decisions to CMS and medical providers.

Concerningly, it appears private MA insurers construct restricted networks to prevent enrollees from getting the care they need. Researchers found that patients enrolled in MA who had lung, esophagus, stomach, pancreas, colon, or rectal cancer were five times less likely to receive cancer care at a National Cancer Institute-designated cancer center and almost half as likely to receive care at a Commission on Cancer accredited hospital because their insurance provider excluded top-tier hospitals from the network. Even when MA enrollees try to find in-network providers, they must rely on plan directories that often contain numerous errors or list providers who are unreachable or unavailable. These "ghost" networks make it even more difficult to find care.[27] We urge CMS to increase oversight of MA plan networks to ensure that every network offered meets network adequacy requirements and allows seniors and people with disabilities to get the care that they need.

Enact reforms to reduce disparities in care

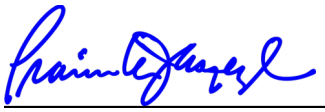
Recent studies have indicated that MA plans are worsening disparities in care across race, ethnicity, and ability. A recent CMS report showed that Black, Native American or Alaska Native, and Hispanic MA enrollees scored below the national average on 44%, 37%, and 27% of clinical care measures, respectively, despite studies showing they are healthier prior to enrolling in MA.[28] While the number of Black, Asian, and Hispanic enrollees in MA has grown over the last several years, those communities continue to be offered and enrolled in plans with lower quality ratings than those of white MA enrollees.[29] Individuals with disabilities enrolled in MA fall well below the national average for routine breast cancer screening, chronic obstructive pulmonary disease diagnostic testing, as well as treatment for depression – despite MA's purported focus on preventative care.[30] As you consider further reforms to the star rating system, we encourage you to account for disparities in care outcomes when evaluating and scoring plans' performance, and ensure data-sharing mechanisms are in place to allow enrollees to make informed choices about their coverage.

Conclusion

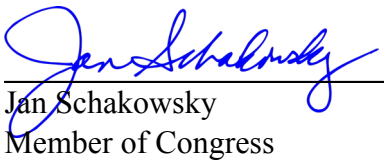
We urge you to take the actions outlined in this letter to protect the health of all Medicare enrollees, extend the solvency of the Medicare Trust Fund, and curb billions in taxpayer overpayments driven by for-profit insurers. These actions are crucial to improve health outcomes and ensure Medicare's sustainability for future generations.

Thank you for your attention to this important matter.

Sincerely,



Pramila Jayapal
Member of Congress



Jan Schakowsky
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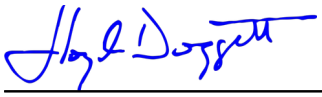
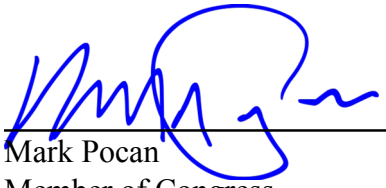


Lloyd Doggett
Member of Congress



Mark Pocan
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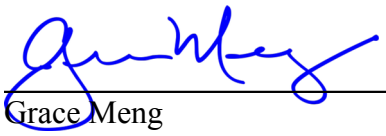

Grace Meng
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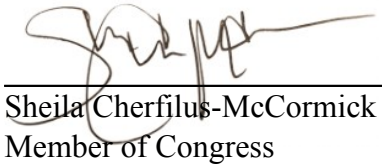

Sheila Cherfilus-McCormick
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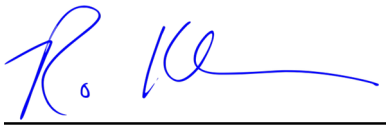
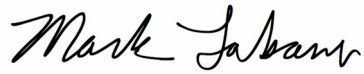


Ro Khanna
Member of Congress



Mark Takano
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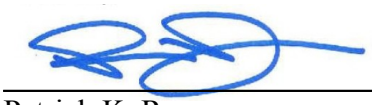

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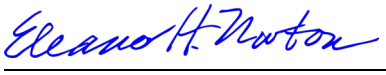

Eleanor Holmes Norton
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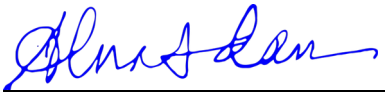

Alma S. Adams, Ph.D.
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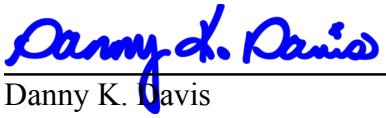

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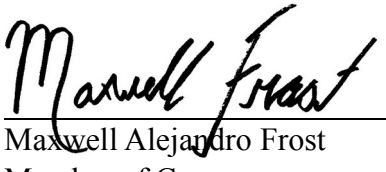

Maxwell Alejandro Frost
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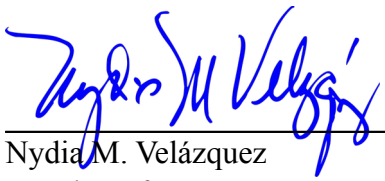

Nydia M. Velázquez
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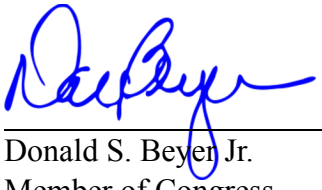

Donald S. Beyer Jr.
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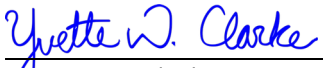

Yvette D. Clarke
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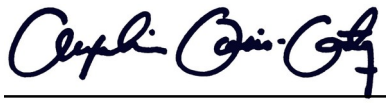

Alexandria Ocasio-Cortez
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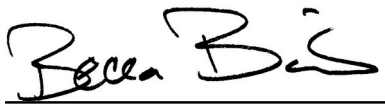

Becca Balint
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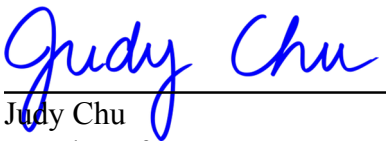

Judy Chu
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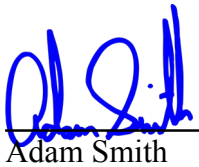

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Bonnie Watson Coleman
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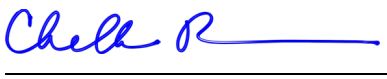

Chellie Pingree
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Jill Tokuda
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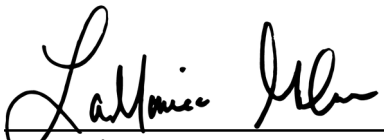

LaMonica McIver
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Yassamin Ansari
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Robin L. Kelly
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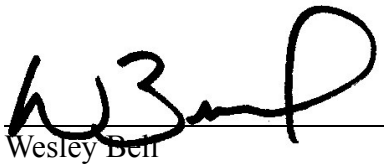

Wesley Bell
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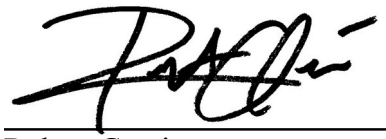
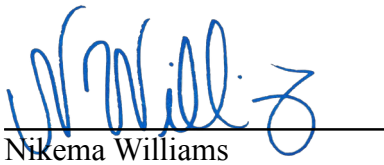
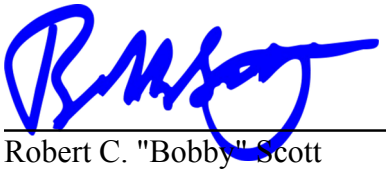


Robert Garcia
Member of Congress



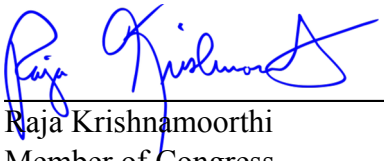
Nikema Williams
Member of Congress



Robert C. "Bobby" Scott
Member of Congress

Val Hoyle
Member of Congress

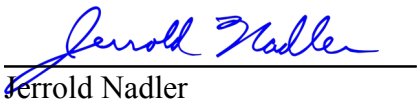
Teresa Leger Fernández
Member of Congress



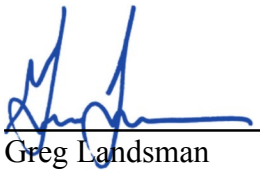
Raja Krishnamoorthi
Member of Congress

Mike Thompson
Member of Congress

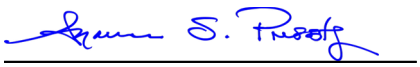
Paul Tonko
Member of Congress



Jerrold Nadler
Member of Congress

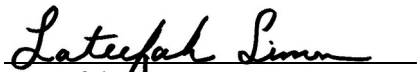


Greg Landsman
Member of Congress



Ayanna Pressley
Member of Congress

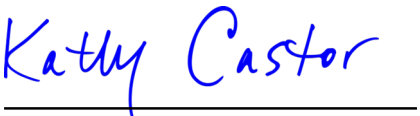
Bennie G. Thompson
Member of Congress



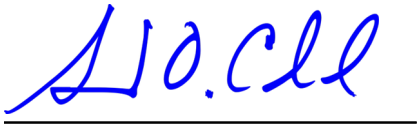
Lateefah Simon
Member of Congress

Mark DeSaulnier
Member of Congress

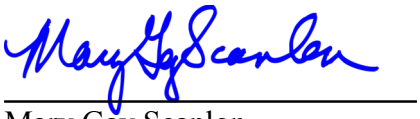
Shri Thanedar
Member of Congress



Kathy Castor
Member of Congress

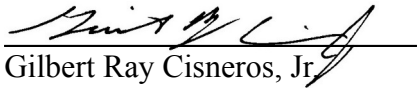


Salud Carbajal
Member of Congress

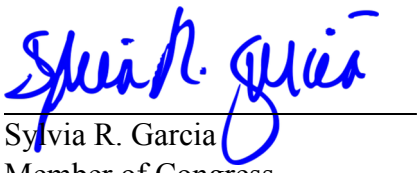


Mary Gay Scanlon
Member of Congress

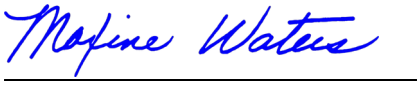
André Carson
Member of Congress



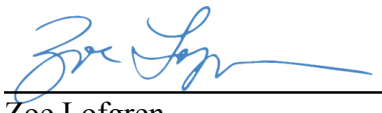
Gilbert Ray Cisneros, Jr.
Member of Congress



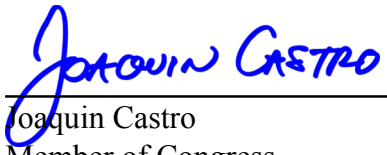
Sylvia R. Garcia
Member of Congress



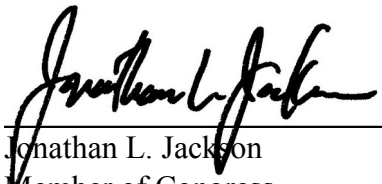
Maxine Waters
Member of Congress



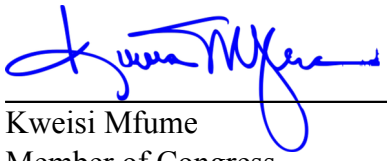
Zoe Lofgren
Member of Congress



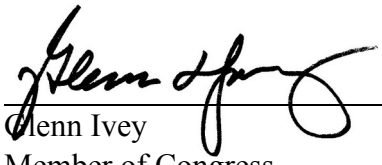
Joaquin Castro
Member of Congress



Jonathan L. Jackson
Member of Congress



Kweisi Mfume
Member of Congress



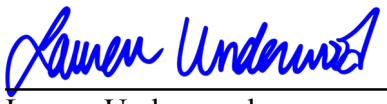
Glenn Ivey
Member of Congress

Luz M. Rivas
Member of Congress

Al Green
Member of Congress
Scion of the Enslaved Africans
-
Sacrificed to Make America Great

George Latimer
Member of Congress

Mike Quigley
Member of Congress



Lauren Underwood
Member of Congress

Emanuel Cleaver, II
Member of Congress

Emily Randall
Member of Congress

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