

United States Senate

WASHINGTON, DC 20510

November 14, 2022

Ms. Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
200 Independence Ave SW
Washington, DC 20510

Dear Administrator Brooks-LaSure:

We write to you today on behalf of Medicare beneficiaries in our state who are increasingly subject to aggressive and potentially predatory marketing tactics related to the sale of Medicare Advantage (MA) plans or other insurance products. We urge the Centers for Medicare and Medicaid Services (CMS) to take further action to protect eligible beneficiaries and ensure they have information necessary to make informed decisions when choosing their health insurance coverage.

When choosing between traditional Medicare and MA, older adults and people with disabilities typically consider the relative strength of each option. Traditional Medicare provides access to a nationwide network of providers that includes most hospitals and doctors. It does not require a referral to see a specialist, and prior authorization is rarely required to obtain services. MA plans can offer a valuable coverage alternative, providing financial protection and benefits not offered by traditional Medicare. Enrollees often benefit from out-of-pocket cost limits and plan options that fit their needs, such as access to dental, vision, in-home care and transportation benefits.

However, beneficiaries must be aware prior to enrollment whether they are choosing traditional Medicare or a MA plan or other coverage. Without proper disclosures, it is impossible for enrollees to make a fully informed decision that will ultimately affect future care and treatment options. Unfortunately, as CMS is aware these disclosures are increasingly absent from marketing materials targeting Medicare beneficiaries. As of May 2022, CMS reported that complaints related to marketing materials for MA plans had more than doubled from 2020 to 2021.¹ The National Association of Insurance Commissioners has also reported increases in complaints about misleading marketing of MA plans.

Equally concerning, our state insurance department recently briefed our federal delegation on aggressive sales practices targeting Granite State seniors, most commonly by third party

¹ <https://www.federalregister.gov/documents/2022/05/09/2022-09375/medicare-program-contract-year-2023-policy-and-technical-changes-to-the-medicare-advantage-and>

marketing organizations (TPMOs). According to state regulators², TPMOs operate overseas with little to no oversight, steering older Americans via phone or email to choose insurance products without disclosing important details such as provider networks, reimbursements, benefits or premiums. The products being sold are also often unclear, ranging from MA plans to short-term limited duration plans and other alternative insurance products.

We appreciate CMS's ongoing work to regulate the marketing materials for MA products, including the recent memorandum to MA and Part D Plan Sponsors on CMS Monitoring Activities and Best Practices during the Annual Election Period. However, we urge CMS to bolster their oversight to identify and stop predatory marketing practices in conjunction with state insurance departments receiving related complaints. We also request CMS provide recommendations to Congress to ensure the agency has the authority and resources necessary to protect Medicare beneficiaries.

Thank you for your timely attention to this matter. We look forward to your prompt response.

Sincerely,



Jeanne Shaheen
United States Senator



Margaret Wood Hassan
United States Senator



Ann McLane Kuster
Member of Congress



Chris Pappas
Member of Congress

CC: Christopher Nicolopoulos, Commissioner, State of New Hampshire Insurance Department

² <https://www.nh.gov/insurance/media/pr/2022/documents/20220824-mma-ma-marketing.pdf>