

January 5, 2024

Administrator Chiquita Brooks-LaSure
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS–4205–P
P.O. Box 8013
Baltimore, MD 21244

RE: Comments on Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program (CMS–4205–P)

Submitted electronically on regulations.gov

Dear Administrator Brooks-LaSure:

On behalf of the American Telemedicine Association (ATA), the only organization exclusively devoted to advancing telehealth, and ATA Action, the ATA’s affiliated trade association focused on advocacy, we encourage CMS to continue its ongoing work to expand access to telehealth and digital care services within the Medicare Advantage (MA) program.

We appreciate the MA program’s strong history of delivering telehealth benefits, which enables the system to better care for more people. Notably, 97% of all MA plans include telehealth benefits,¹ bringing widespread access to the more than 30 million people who turn to the MA program for their care.² The ATA maintains that telehealth can reduce disparities and advance health equity, in part by increasing access to affordable care.³ We support the ability of plans to use telehealth providers to satisfy network adequacy standards and to use digital health services to meet beneficiary needs.

Please see our comments on Contract Year 2025 Policy and Technical Changes to the MA Program (CMS–4205–P) below:

CMS Statement or Proposal	ATA Comments
As we indicated in the April 2023 final rule, Medicare FFS claims data shows that telehealth	Data across payers indicates that telehealth is a popular and effective

¹ Kaiser Family Foundation, Medicare Advantage 2023 Spotlight: First Look, November 2022. Available at: <https://www.kff.org/medicare/issue-brief/medicare-advantage-2023-spotlight-first-look/>

² Fierce Healthcare, CMS data: Medicare Advantage tops 30M, January 2023. Available at: <https://www.fiercehealthcare.com/payers/cms-data-medicare-advantage-tops-30m>

³ American Telemedicine Association, A Framework for Eliminating Health Disparities Using Telehealth, October 2021. Available at: <https://www.americantelemed.org/resources/a-framework-for-eliminating-health-disparities-using-telehealth>



<p>was the second most common place of service for claims with a primary behavioral health diagnosis in 2020.</p>	<p>modality for behavioral health services. We encourage CMS to continue to allow and encourage telehealth as an option for behavioral health and other services for which it is effective.</p>
<p>MA plans may receive a 10-percentage point credit towards the percentage of beneficiaries that reside within published time and distance standards for certain providers when the plan includes one or more telehealth providers of that specialty type that provide additional telehealth benefits.</p> <p>Currently, § 422.116(d)(5) specifies 14 specialty types for which the 10-percentage point credit is available. Because we understand from stakeholders who commented on our April 2023 final rule that they were supportive of usage of the 10-percentage point credit for behavioral health specialty types, we also propose to add the new Outpatient Behavioral Health facility-specialty type to the list at § 422.116(d)(5) of the specialty types that that will receive the credit if the MA organization's contracted network of providers includes one or more telehealth providers of that specialty type that provide additional telehealth benefits, as defined in § 422.135, for covered services.</p>	<p>As we have commented previously, ATA supports the ability of MA plans to receive a 10% credit towards the percentage of beneficiaries that must reside within required time and distance standards when they contract with telehealth providers.</p> <p>We strongly support CMS continuing to expand the specialties for which this credit can apply for plans to use telehealth providers to help meet network adequacy requirements.</p>
<p>We are also proposing a second basis on which a facility-based I-SNP may request an exception from the network adequacy requirements in § 422.116(b) through (e) if: (1) A facility-based I-SNP provides sufficient and adequate access to basic benefits through additional telehealth benefits (in compliance with § 422.135) when using telehealth providers of the specialties listed in paragraph (d)(5) in place of in-person providers to fulfill network adequacy standards in paragraphs (b) through (e). (2) Substantial and credible evidence that sufficient and adequate access to basic benefits is provided to enrollees using additional telehealth benefits furnished by</p>	<p>We support the proposal that I-SNP plans be able to use telehealth benefits to meet network adequacy requirements when necessary.</p>



<p>providers of the specialties listed in paragraph (d)(5) of this section and the facility-based I–SNP covers out-of-network services furnished by a provider in person when requested by the enrollee, with in-network cost sharing for the enrollee.</p>	
<p>Finally, we also propose to add the new “Outpatient Behavioral Health” facility-specialty type to the list of the specialty types that will receive a 10-percentage point credit towards the percentage of beneficiaries that reside within published time and distance standards for certain providers when the plan includes one or more telehealth providers of that specialty type that provide additional telehealth benefits in its contracted network.</p>	<p>We strongly support CMS continuing to expand the specialties for which this credit can apply in order for plans to use telehealth providers to help meet network adequacy requirements.</p>
<p>We are proposing that an MA organization that includes an item or service as [Special Supplemental Benefits for the Chronically Ill] SSBCI in its bid must be able to demonstrate through relevant acceptable evidence that the item or service has a reasonable expectation of improving or maintaining the health or overall function of a chronically ill enrollee.</p>	<p>We support the ability of plans to offer services, including digital health services, to beneficiaries as supplemental benefits if those services can demonstrate a reasonable expectation of improving or maintaining the health or function of a chronically ill enrollee. Also, requirements to establish clear eligibility guidelines would better ensure that these benefits are used efficiently on proven solutions for enrollees with chronic conditions.</p>
<p>The establishment of a minimum requirement for targeted outreach with respect to supplemental benefits that have not been accessed by enrollees would standardize a process to ensure all enrollees served under MA are aware of and utilizing, as appropriate, the supplemental benefits available to them. We propose to use our authority to establish standards to ensure adequate notice is provided to enrollees regarding supplemental benefits coverage.</p>	<p>We support efforts to increase enrollees’ awareness of and facilitate greater access to their supplemental benefits. Encouraging enrollees to seek care and use available benefits can help to drive better health outcomes in federal programs.</p>



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Thank you for the opportunity to respond to these proposed changes. If you have any questions, please contact Kyle Zebley at kzebley@ataaction.org.

Kind regards,

A handwritten signature in black ink that reads 'Kyle Zebley'.

Kyle Zebley
Executive Director
ATA Action