



September 22, 2023

The Honorable Chiquita Brooks-LaSure, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Protecting Medicare Beneficiaries by Establishing a Maximum Total Compensation for Brokers

Dear Administrator Brooks-LaSure:

The Alliance of Community Health Plans (ACHP) applauds the Administration's commitment to improving the Medicare enrollment process for beneficiaries, including providing additional tools to assist in selecting the best Medicare Advantage (MA) plan for their needs. With more than half of beneficiaries enrolled in a MA plan and growing, it's imperative that CMS protect beneficiaries and ensure stewardship of taxpayer dollars. As part of *MA for Tomorrow*, ACHP's vision for the Medicare Advantage program, we offer policy recommendations to safeguard consumers and ensure an unbiased enrollment process by regulating the total compensation paid to brokers. **ACHP encourages the Administration to include these policy recommendations in the Contract Years 2025 Part C and D Policy and Technical Changes proposed rule.**

ACHP represents the nation's top-performing non-profit health plans improving affordability and outcomes in the health care system. ACHP member companies are provider-aligned health organizations that deliver high-quality coverage and care to tens of millions of Americans across nearly 40 states and D.C. They are leading the industry in practical, proven reforms around primary care delivery, value-based payment and data driven systems improvement.

Brokers play an essential role in helping seniors understand their coverage options and find the right health plan for their needs. In exchange for their services, brokers are compensated through various payments and at varying rates. In 2023, CMS set a maximum broker commission of \$611 per new enrollee and \$306 for first-year renewal (on average). However, there are no limits on add-on fees including referral payments, marketing costs, bonuses and incentives for completing a health risk assessment. As a result, brokers often collect more than double broker commission limits, totaling billions of dollars each year. The financials are straightforward: the more seniors a broker enrolls, the higher their earnings.

Health plans across the country have experienced alarming increases in total broker compensation, well above and beyond the regulatorily established commission ceiling. Paying the maximum commission is table stake, resulting in override and additional payments increasing at an unsustainable rate. These add-on payments incentivize steering beneficiaries into plans with the highest broker payment without considering which is best for the consumers' health needs. This is particularly problematic when brokers within a certain market are under a Field Marketing Organization (FMO) and are able to establish market leverage over plans, driving costs higher and requiring additional Medicare Trust Fund dollars. Health



plans are faced with either increasing broker compensation payments or foregoing a contract with a FMO, risking enrollment and threatening market competitiveness.

ACHP and its member companies value the essential role brokers offer in helping seniors understand the coverage options available and to find the right health plan for their needs. We offer three immediate regulatory changes to ensure brokers remain sufficiently compensated for assisting seniors while ensuring health plans appropriately utilize Medicare dollars to compete for enrollment.

- 1. Standardize and limit the override and administrative fees tied to broker compensation.** Curbing the growth of broker override and administrative fees would address misaligned incentives. CMS has the authority to build on compensation standards to protect the integrity of the Medicare dollar by limiting total broker payment and preventing steering based on health plan compensation.
- 2. Create incentives for enrolling consumers in high-quality and value-based plans.** Brokers are a key part of the health care system, assisting seniors through the complex process of enrolling in Medicare. Brokers should be rewarded if they match a senior with a health plan that is high quality (star rating of 4 or higher).
- 3. Require plans to report total broker compensation amounts.** Consistent and annual reporting would shed light on an issue that currently has very little to no data. Transparency on how much of a health plans marketing dollars are going to brokers is an essential step toward evaluating the MA broker market.

ACHP strongly urges the Administration to include these policy recommendations in the Contract Years 2025 Part C and D Policy and Technical Changes proposed rule. Broker payment reform is an essential component to improving how consumers navigate the Medicare program and these changes support financial stewardship of the taxpayer dollar and Medicare Trust Fund. We value your team's significant interest and regular engagement with ACHP and our member companies to understand the importance and breadth of this issue. We are also encouraged by bipartisan interest of lawmakers to safeguard the more than 31 million consumers and counting enrolled in MA. Please contact Michael Bagel, ACHP Associate Vice President of Public Policy (mbagel@achp.org) with any questions and to continue the dialogue.

Sincerely,

Ceci Connolly
President and CEO