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April 17, 2017

VIA ELECTRONIC TRANSMISSION

The Honorable Seema Verma
Administrator
Centers for Medicare & Medicaid Services
200 Independence Ave, S.W.
Washington, D.C. 20201

Dear Ms. Verma,

On May 19, 2015, I wrote the Centers for Medicare and Medicaid Services (CMS) regarding risk score gaming that reportedly cost approximately \$70 billion in improper Medicare Advantage payments between 2008 and 2013.¹ In that letter, I asked what CMS was doing to implement safeguards to reduce risk score fraud, waste, and abuse.

In response on July 31, 2015, CMS noted that it had performed two audits of Medicare Advantage organizations in 2007 and recovered \$13.7 million, including \$3.4 million from CMS's pilot audit in 2007 that included five plans, and the 2007 "Targeted Audit" focusing on 32 plans that recovered \$10.4 million. Notably, CMS informed the Committee that it obligates approximately \$30 million per year auditing Medicare Advantage waste, fraud, and abuse.

According to a January 2017 report citing internal CMS documents, CMS officials initially thought that Medicare might have overpaid the five health plans by \$128 million in 2007.² However, the Obama Administration never recovered that amount and instead settled in 2012 for \$3.4 million.³ The news article notes that Medicare paid the incorrect amount for almost two-thirds of patients reviewed and for "1 in 5 patients, the overcharges were \$5,000 or more for the year..."⁴

¹ Fred Schulte, *More whistleblowers allege health plan overcharges*, THE CENTER FOR PUBLIC INTEGRITY (April 23, 2015). See also, Fred Schulte, *Why Medicare Advantage costs taxpayers billions more than it should*, THE CENTER FOR PUBLIC INTEGRITY (June 4, 2014).

² Fred Schulte, *Medicare failed to recover up to \$125 million in overpayments, records show*, THE CENTER FOR PUBLIC INTEGRITY (January 6, 2017).

³ *Id.*

⁴ *Id.*

In CMS's previous response, the Obama Administration failed to mention to the Committee that its initial recovery assessment was \$128 million rather than the \$3.4 million actually recovered by the government from the five plans. The difference in the assessment and the actual recovery is striking and demands an explanation. Further, in light of the \$70 billion in risk score overpayments between 2008-2013 reported by the Center for Public Integrity, CMS's 2007 overpayment estimate of \$128 million appears low and could very well be just the tip of the iceberg.

By all accounts, risk score gaming is not going to go away. Therefore, CMS must aggressively use the tools at its disposal to ensure that it is efficiently identifying fraud and subsequently implementing timely and fair remedies. The use of these tools is all the more important as Medicare Advantage adds more patients and billions of dollars of taxpayer money is at stake. Accordingly, please answer the following:

1. What steps will CMS take, or is currently taking, to ensure that insurance companies are not fraudulently altering risk scores? Please explain.
2. Why did CMS not disclose to the Committee that it estimated that Medicare overpaid five plans by \$128 million in 2007?
3. Why did the Obama Administration only recover \$3.4 million from the CMS pilot audit rather than \$128 million? Please explain.
4. In the past two years, how many Medicare Advantage audits have been performed? How many audits are currently ongoing?
5. Is it still CMS's position that it obligates \$30 million per year auditing Medicare Advantage?

Thank you in advance for your cooperation with this request. Please number your answers according to their corresponding questions and respond no later than May 1, 2017. If you have questions, contact Josh Flynn-Brown of my Judiciary Committee staff at (202) 224-5225.

Sincerely,



Charles E. Grassley
Chairman
Committee on the Judiciary