



California Public Employees' Retirement System

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Dr. Mehmet Oz, Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-6098-NC
P.O. Box 8013
Baltimore, MD 21244-8013

March 27, 2026

Subject: Request for Information Related to Comprehensive Regulations to Uncover Suspicious Healthcare [CMS-6098-NC]

Dear Administrator Oz,

On behalf of the California Public Employees' Retirement System (CalPERS), I am writing in response to the Request for Information related to Comprehensive Regulations to Uncover Suspicious Healthcare. We appreciate the Centers for Medicare and Medicaid Services (CMS) effort to solicit input on programmatic changes to protect the integrity of the Medicare program.

With more than 1.5 million members, CalPERS is the largest purchaser of public employee health benefits in California and the second largest public purchaser in the nation after the federal government. In 2024, we spent over \$12.4 billion to purchase health benefits for active and retired members and their families on behalf of the State of California (including the California State University system) and nearly 1,200 public agencies and schools. Of that amount, CalPERS spent approximately \$728 million to provide benefits for our 178,576 Medicare Advantage (MA) enrollees and 152,235 Medicare Supplement enrollees.^{1,2} Medicare is the backbone of CalPERS' retiree health benefits, and we support protecting the long-term health of the Medicare Trust Fund.

CalPERS is providing comments to better equip CMS to promote payment accuracy and efficiency to protect the integrity of Medicare. In particular, we offer insight on modifications to

¹ See CalPERS' Health Benefits Program, 2024 Annual Report, November 2025, *available at* <https://www.calpers.ca.gov/documents/health-benefits-program-annual-report-2025/download?inline>.

² Ibid.

program integrity requirements, with a focus on MA overpayments, prior authorization, marketing practices and data transparency.

Modifications to Program Integrity Requirements

Addressing MA Overpayments and Coding Intensity

According to the Medicare Payment Advisory Commission's (MedPAC) March 2026 Report to Congress, the federal government will pay MA plans an estimated \$76 billion more than it will for fee-for-service (FFS) enrollees in 2026.³ MedPAC asserts that while recent CMS policy changes have helped curb the impact of coding intensity, coding intensity continues to contribute to increased payments to MA plans, with MA risk scores 10% higher than those of FFS.⁴

A recent report from the Joint Economic Committee (JEC) also shows that MA overpayments inflate premiums for both MA and FFS enrollees. They estimate that these overpayments increased Part B premiums by \$212 per enrollee in 2025, totaling \$13.4 billion in higher premiums.⁵ Based on this pass-through effect, the JEC projects that Part B expenditures will nearly double by 2035 from MA overpayments.⁶

We recommend that CMS continue to refine policy changes to address risk adjustment and coding intensity. Ensuring that coding accurately reflects the true risk profile and acuity of care for the population is essential for appropriate compensation of health plans and providers. To achieve this, we recommend that CMS adopt the proposed risk adjustment methodology and the exclusion diagnoses from audio-only encounters and unlinked chart reviews outlined in the Advance Notice of Methodological Changes for Calendar Year 2027 for Medicare Advantage Capitation Rates and Part C and Part D Payment Policies. Further, we encourage CMS to adopt policies that promote fairness across plans and discourage potentially inappropriate coding practices.

Reforming Prior Authorization in MA

When implemented appropriately, prior authorization serves as an important tool for preventing inappropriate or potentially harmful care. However, it has also become a point of contention among MA beneficiaries, many of whom are reporting experiencing unnecessary delays, denials, and obstruction in accessing medically necessary care. In 2024, 53 million prior authorization requests were submitted on behalf of MA enrollees, up from 49.8 million requests in 2023, with 7.7% of all requests being denied.⁷ Additionally, the Senate Permanent Subcommittee on Investigations released a report in the fall of 2024 titled, "Refusal of

³ See MedPAC, March 2026 Report to Congress, March 2026, available at https://www.medpac.gov/wp-content/uploads/2026/03/Mar26_MedPAC_Report_To_Congress_SEC.pdf.

⁴ Ibid.

⁵ See The Joint Economic Committee, The Part B Premium Pass-Through: Medicare Advantage Overpayments Inflate Premiums for All, March 2026, available at: https://www.jec.senate.gov/public/vendor/_accounts/JEC-R/issue-briefs/The%20Part%20B%20Premium%20Pass-Through.pdf.

⁶ Ibid.

⁷ See KFF, Medicare Advantage Insurers Made Nearly 53 Million Prior Authorization Determinations in 2024, January 2026, available at <https://www.kff.org/medicare/medicare-advantage-insurers-made-nearly-53-million-prior-authorization-determinations-in-2024/#6e420acb-2fc1-4707-8689-ac19594e493a>.

Recovery: How Medicare Advantage Insurers Have Denied Patients Access to Post Acute Care.” One of the major findings showed that between 2019 and 2022, UnitedHealthcare, Humana, and CVS each denied prior authorization requests for post-acute care at far higher rates than they did for other types of care, resulting in diminished access to post-acute care for Medicare Advantage beneficiaries.⁸ The American Medical Association’s recent survey results suggest that delayed and disrupted care has become a predictable and unpleasant part of the patient experience as widespread use of prior authorization programs continues to negatively impact the delivery of necessary medical treatments, jeopardize quality care, and harm patients.⁹

While CMS has taken action in recent years to address these concerns, we urge the agency to take additional steps to ensure that prior authorization effectively protects against inappropriate care without creating significant barriers for members seeking medically necessary services. We recommend holding the MA industry accountable to the prior authorization commitments they made in June 2025. These commitments include reducing the volume of medical services subject to prior authorization, enhancing transparency and communication around authorization decisions and appeals, expanding real-time responses to minimize care delays, and ensuring that qualified medical professionals review all clinical denials.¹⁰ If meaningful progress is not demonstrated, we recommend CMS establish and enforce these standards through rulemaking to ensure these practices are lawfully justified and consistently applied without placing further undue barriers to medically appropriate care.

Ensuring Consumer Protection in MA Marketing Practices

CalPERS acknowledges the improvements CMS has made to address marketing techniques of MA organizations. However, we believe deceptive marketing practices persist, including misleading advertisements, high-pressure sales, and inappropriate financial incentives that steer older adults into plans that do not align with their clinical or financial needs, often without fully informed consent.¹¹ CalPERS urges CMS to continue to rein in these deceptive tactics to ensure that Medicare enrollees’ needs are prioritized over MA plan profits.

Leveraging Data Transparency

CalPERS has found that direct access to comprehensive health plan-reported data is foundational to identifying potential indicators of fraud, waste, and abuse. As recently stated in our February 2026 letter supporting the Transparency in Coverage proposed rule, insight into health care pricing and rate setting is essential for purchasers to conduct effective oversight

⁸ See Senate Permanent Subcommittee on Investigations, How Medicare Advantage Insurers have Denied Patient Access to Post-Acute Care, October 2024, available at <https://www.hsgac.senate.gov/wp-content/uploads/2024.10.17-PSI-Majority-Staff-Report-on-Medicare-Advantage.pdf>.

⁹ See American Medical Association, AMA Survey Indicates Prior Authorization Wreaks Havoc on Patient Care, June 2024, available at <https://www.ama-assn.org/press-center/ama-press-releases/ama-survey-indicates-prior-authorization-wreaks-havoc-patient-care#:~:text=The%20AMA%20survey%20results%20illustrate,impeded%20a%20patient's%20job%20performance.>

¹⁰ See Department of Health and Human Services, HHS Secretary Kennedy, CMS Administrator Oz Secure Industry Pledge to Fix Broken Prior Authorization System, June 2025, available at <https://www.hhs.gov/press-room/kennedy-oz-cms-secure-healthcare-industry-pledge-to-fix-prior-authorization-system.html>.

¹¹ See The Commonwealth Fund, The Private Plan Pitch: Seniors’ Experiences with Medicare Marketing and Advertising, September 2023, available at <https://www.commonwealthfund.org/publications/issue-briefs/2023/sep/private-plan-pitch-seniors-experiences-medicare-marketing-advertising>.

and negotiations with providers and health plans.¹² Our Health Care Decision Support System serves as a centralized data warehouse that supports health plan rate setting, clinical program evaluation, performance monitoring, and analytical reporting. Through this system, CalPERS can conduct claims trend analysis, outlier detection, and cost driver analysis, which allows us to reconcile and validate health plan premiums. It also enables us to identify unusual utilization patterns or pricing anomalies that may signal potential fraud, waste, or abuse. Enhanced transparency and access to standardized data sources strengthen our ability to proactively detect irregularities and improve payment integrity for our health program.

We thank you for your consideration and we welcome the opportunity to work with you on our shared goal of improving health care access and affordability. Please do not hesitate to contact Donald Moulds, CalPERS Chief Health Director, at (916) 795-0404 or Danny Brown, Chief of the CalPERS Legislative Affairs Division, at (916) 795-2565.

Sincerely,

Marcie Frost
Chief Executive Officer

¹² See CalPERS' Transparency in Coverage Proposed Rule [CMS-9882-P], February 13, 2026, *available at* <https://www.calpers.ca.gov/documents/comment-on-cms-transparency-in-coverage-proposed-rule-02132026/download?inline>.