Center on Health Policy at BROOKINGS

January 8, 2024

Chiquita Brooks-LaSure, Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

Re: Patient Protection and Affordable Care Act, HHS Notice of Benefit and Payment Parameters for 2025; Updating Section 1332 Waiver Public Notice Procedures; Medicaid; Consumer Operated and Oriented Plan (CO-OP) Program; and Basic Health Program [CMS-9895-P]

Dear Administrator Brooks-LaSure:

Thank you for the opportunity to comment on this proposed rule.[1] This letter comments on certain proposals by the Centers for Medicare and Medicaid Services (CMS) related to risk adjustment, namely: (1) the proposed changes to the American Indian and Alaska Native (AI/AN) cost-sharing reduction (CSR) adjustment factors; and (2) CMS' decision to otherwise continue current policy regarding how CSR plan variants are handled in risk adjustment. In brief, I argue that while the proposed change to the AI/AN CSR adjustment factors would improve risk adjustment, it would be preferable to comprehensively reform how CSR variants are handled in risk adjustment to account for the fact that issuers are no longer directly compensated for providing CSRs.

As context, the risk adjustment system aims to compensate plans for the difference between the claims risk they bear (as captured in the risk term of the transfer formula) and the premium revenue they should be able to collect (as captured in the rating term of the transfer formula). The system's goal is to eliminate issuers' incentives to avoid high-risk enrollees, such as by changing how they design and operate their plans, where they offer plans, or how they market plans.

When CMS' current risk adjustment methods were established, it was expected that issuers would be directly compensated for the (mechanical) costs of providing CSRs, which has not been the case since 2017. As CMS has noted previously, two features of these risk adjustment methods are hard to justify in an environment where CSR payments are not being made:[2]

1. **Risk scores for CSR enrollees reflect base metal tier actuarial values (AVs).** Risk scores for CSR enrollees are calculated using a model that predicts plan liability for a person enrolled in a plan with the *base AV* for the relevant metal tier. This means that risk scores for silver CSR enrollees reflect plan liability for a plan with an AV of 70%, not the higher AV that these enrollees actually receive. Similarly, risk scores for AI/AN enrollees

[1] The views expressed in this letter are my own and do not necessarily reflect the views of the Brookings Institution or anyone affiliated with the Brookings Institution other than myself.

[2] Centers for Medicare and Medicaid Services, "HHS-Operated Risk Adjustment Technical Paper on Possible Model Changes," October 26, 2021, https://www.cms.gov/files/document/2021-ra-technical-paper.pdf.

reflect plan liability for the base AV of their plan's metal tier (typically bronze). While the resulting risk scores are scaled up by a CSR adjustment factor before being entered into the transfer formula, this adjustment factor was calibrated to offset only the incremental utilization induced by CSRs, not the associated mechanical increase in plan liability (since the latter was expected to be offset by direct CSR payments to issuers). This aspect of CMS' methods is likely the main driver of CMS' finding that the risk term of the transfer formula currently greatly underestimates plan liability for AI/AN enrollees.

2. **The rating term calculates expected premium revenue using base metal tier AVs.** The rating term calculates expected premium revenue using the base AV of the relevant metal tier. In particular, expected revenue for a silver plan is calculated using the base silver plan AV of 70%. In reality, the effective AV of a silver plan is now in the mid-to-high 80s since issuers are not being reimbursed for CSRs, and issuers reflect this fact in the premiums they set for silver plans (via so-called "silver loading").[3]

CMS' proposal to increase the AI/AN CSR adjustment factors is one way (albeit, as discussed below, perhaps not the best way) of addressing the first issue identified above, the mismatch between risk scores and actual plan AVs, as it pertains to the relatively small number of AI/AN enrollees. By better aligning predicted plan liability for these enrollees with the coverage they receive, this change will improve issuers' incentives to serve AI/AN enrollees.

However, CMS' decision to otherwise continue current policy regarding how CSR plan variants are treated in risk adjustment means that the mismatches described above will largely persist. Thus, CMS should explore a more comprehensive set of changes that would: (1) create CSR-variant-specific risk score models that reflect the actual AV of CSR variants; and (2) modify the rating term to reflect silver loading. CMS has considered changes in this vein previously.[4]

The effects of changes like these would be partially offsetting. Basing risk scores on the actual AV of CSR variants would tend to increase average transfers to silver plans (absent offsetting changes to the CSR adjustment factors), while modifying the rating term to reflect silver loading would tend to reduce transfers to silver plans by a roughly comparable amount. Thus, these changes might have little effect on *average* transfers by metal tier, on net. Among other things, this implies that these changes would have little net effect on the relative premiums of plans by metal tier.

Nevertheless, changes in this vein would still have two potentially important effects:

- **Better capturing how plan liability for CSR enrollees varies with health and demographic characteristics.** Because benefit designs are non-linear (e.g., they include deductibles and out-of-pocket limits, not just copayment and coinsurance requirements), the *relative* plan liability generated by enrollees with different health and demographic

[3] For estimates of the effective AV of silver plans, see Matthew Fiedler, "The Case for Replacing 'Silver Loading'" (Brookings Institution, May 20, 2021), https://www.brookings.edu/essay/the-case-for-replacing-silver-loading/.

[4] Centers for Medicare and Medicaid Services, "HHS-Operated Risk Adjustment Technical Paper on Possible Model Changes."

characteristics tends to depend on the AV of the plan they are enrolled in. Thus, the current approach of calculating CSR enrollee risk scores by rescaling risk scores obtained from a model that predicts plan liability for a person enrolled in a plan with the base AV for the relevant metal tier likely offers a distorted picture of relative plan liability for different types of enrollees in a given CSR variant. Thus, this approach likely makes risk adjustment less effective at offsetting differences in claims risk across issuers.

Estimating separate risk score models for each CSR variant could address this problem. Indeed, this is precisely why CMS currently estimates different risk scores models for each (base) metal tier. Given the magnitude of CSR enrollment, the resulting performance improvement could be meaningful. During 2023 open enrollment, 94% AV silver CSR plan variants accounted for more than one-third of plan selections in the HealthCare.gov states, more than bronze, non-CSR silver, gold, or platinum plans.[5]

Notably, CMS' proposed change to CSR adjustment factors for AI/AN enrollees would not achieve the same improvements in the accuracy of the relative risk scores of different AI/AN enrollees. This is the key respect in which creating CSR-variant-specific risk score models would be superior to simply tweaking CSR adjustment factors.

- **Raising average risk scores for CSR enrollees relative to other enrollees.** Introducing CSR-variant-specific risk score models would increase average risk scores for CSR enrollees relative to other enrollees (absent offsetting changes to CSR adjustment factors). For AI/AN enrollees, this approach would have qualitatively similar effects on average risk scores as CMS' proposed changes to CSR adjustment factors and thus also have the effect of better aligning risk scores with observed plan liability for these enrollees.

  For enrollees in silver CSR variants, however, this approach would increase average risk scores, whereas CMS' proposed approach would not. There is room to debate whether it would be desirable to increase average risk scores for these enrollees. Indeed, the proposed rule states that the current risk term already relatively accurately predicts plan liability for plan types other than AI/AN CSR variants—including silver CSR variants.

  If CMS wished to continue matching current patterns of plan liability, it could pair a shift to CSR-variant-specific risk score models with an offsetting change to CSR adjustment factors for silver CSR variants. In this case, it could achieve improved predictive accuracy across people enrolled in a given CSR variant while also continuing to match (current) average plan liability by metal tier and CSR variant. Under this approach, the combined package of changes would tend to reduce transfers into the silver tier and, thus, increase the premiums of silver plans relative to plans in other metal tiers. One notable effect of this shift would be to reduce premiums for subsidized enrollees buying non-silver plans.

[5] These enrollment figures reflect the 2023 Marketplace Open Enrollment Period Public Use Files.

However, it is important to note that matching current patterns of plan liability may not be the right policy objective.[6] Indeed, it is somewhat surprising that the current method of computing risk scores for silver CSR enrollees accurately predicts average plan liability since this method does not account for the mechanical increase in plan liability attributable to CSRs; this suggests that some factor is depressing utilization in this group. If that factor is (at least partially) under issuers' control, it might be appropriate to increase the generosity of risk adjustment for this group, notwithstanding the fact that this would cause the risk adjustment system to overpredict current plan liability for this group.

Apart from their substantive benefits, changes to rationalize how CSR variants are handled in risk adjustment would have the virtue of making CMS' methods more transparent. The fact that important aspects of the risk adjustment system reflect the bygone era where CSR payments were still being made makes risk adjustment policy harder to understand than it needs to be. Eliminating this mismatch could facilitate better policy discussion and, ultimately, better policymaking.

Thank you for the opportunity to comment on this proposed rule. I hope that this information is helpful to you. If I can provide any additional information, I would be happy to do so.

Sincerely,

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[6] For more on this point and citations to relevant literature, see Matthew Fiedler and Timothy Layton, "Comment on HHS-Operated Risk Adjustment Technical Paper on Possible Model Changes," December 1, 2021, https://www.brookings.edu/opinions/comment-on-hhs-operated-risk-adjustment-technical-paper-on-possible-model-changes/.