

January 27, 2025

Jeff Wu
Acting Administrator
Centers for Medicare & Medicaid Services
United States Department of Health and Human Services
Attention: CMS-9898-NC
P.O. Box 8016, Baltimore, MD 21244-8016

RE: Contract Year 2026 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly (CMS-4208-P)

Dear Acting Administrator Wu,

The Association for Behavioral Health and Wellness (ABHW) appreciates the opportunity to submit comments on the Centers for Medicare & Medicaid Services (CMS) Medicare Program; Contract Year 2026 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly; Health Information Technology Standards and Implementation Specifications (MAPD) Notice of Proposed Rulemaking (NPRM or Proposed Rule).

ABHW is the national voice for payers managing behavioral health insurance benefits. ABHW member companies provide coverage to approximately 200 million people in the public and private sectors to treat mental health (MH), substance use disorders (SUDs), and other behaviors that impact health and wellness.

Our organization aims to increase access, drive integration, support prevention, raise awareness, reduce stigma, and advance evidence-based treatment and quality outcomes. Furthermore, our policy work strives to ensure that physical and behavioral health care is integrated and coordinated. ABHW is focused on guaranteeing better outcomes for whole-person care for all individuals and communities.

I. Ensuring Equitable Access to Behavioral Health Benefits Through Section 1876 Cost Plan and MA Cost Sharing Limits

CMS proposes to require Medicare Advantage Plans (MA) and Cost Plans' in-network cost sharing for specific categories of mental health and substance use disorder services (collectively

called “behavioral health services,” including intensive outpatient services, MH specialty services, opioid treatment program (OTP) services, outpatient SUD services, partial hospitalization, psychiatric services, and inpatient hospital psychiatric services) to be no greater than cost-sharing for those services under Traditional Medicare beginning in the contract year 2026.

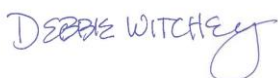
The MA program aims to empower plans to leverage benefit design and other flexibilities to provide patients with higher-quality, more cost-effective care. This policy would set a problematic precedent regarding the ability or lack thereof of MA organizations to independently determine the plan design that best achieves their program's goals. Furthermore, overly prescriptive cost-sharing requirements could hinder their ability to design tailored benefit packages, making it harder for beneficiaries to differentiate among offerings.

The proposed rule makes critical assumptions that permitting beneficiaries to pay the equivalent of Medicare Fee-for-Service (FFS) cost-sharing or less for all behavioral health-covered services will lead them to use those services more often without impacting MA plan finances or benefit design for other Medicare-covered services. While there is empirical evidence that reveals that OTPs show a marked improvement in service engagement when financial barriers are minimized, the data analyzed for all behavioral health services is not comprehensive. For example, CMS does not explore how differences in care management techniques, behavioral health integration, and provider contracting play a role in creating better patient access to services and mitigating potential affordability concerns raised by variations in cost-sharing.

ABHW urges CMS not to finalize this proposal and to continue to assess its potential implications before moving forward. Additionally, CMS should update MA capitation rates to reflect the increased costs that MA organizations incur. CMS recognizes the need to do so under 42 CFR 422.308(g), where adjustments are made when significant cost-benefit changes are made through a national coverage determination or legislative change in benefits.

Thank you for the opportunity to provide feedback on this NPRM. We are committed to engaging with CMS and other partners to find opportunities to improve behavioral health access for all individuals. If you have questions, please contact Kathryn Cohen, Senior Director of Regulatory Affairs, at cohen@abhw.org.

Sincerely,

A handwritten signature in blue ink that reads "DEBBIE WITCHEY". The signature is written in a cursive style with a large, stylized 'y' at the end.

Debbie Witchey, MHA
President and CEO