February 10, 2022

Centers for Medicare & Medicaid Services
Re: CMS-10142
7500 Security Boulevard
Baltimore, Maryland 21244–1850

Re: Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP)

Submitted Electronically: www.reginfo.gov/public/do/PRAMain

Dear Sir/Madam:

UnitedHealthcare (UHC) is submitting comments regarding the information collection request for the Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDP). UHC is dedicated to helping people live healthier lives and making the health system work better for everyone by simplifying the health care experience, meeting consumer health and wellness needs, and sustaining trusted relationships with care providers. UHC offers the full spectrum of health benefit programs for individuals, employers, and Medicare and Medicaid beneficiaries, and contracts directly with more than 1.3 million physicians and care professionals, and 6,500 hospitals and other care facilities nationwide.

Proposed Aggregate Gain/Loss Margin

CMS proposes that any aggregate Medicare Advantage (MA) or Prescription Drug Plan (PDP) bid margin outside the range of 0 to 5.5 percent must be explained, supported and approved by CMS. This proposal to remove the non-Medicare business comparison test and replace it with a consistent margin range across the MA and PDP programs would be a great improvement. The uniform range is more equitable because it does not penalize Medicare Advantage organizations (MAOs) or Part D sponsors that are also in lines of insurance with lower profit margins (e.g., Medicaid).

UHC recommends expanding the bid margin range to between 0 and 6.5 percent (effectively 4.5 percent after the impact of sequestration). UHC proposes a 1 percent increase at the top of the range to ensure potential competitors remain incented to enter the market and innovate on behalf of Medicare beneficiaries such that the MA and PDP programs continue to thrive. Historically, high functioning plans have been able to achieve margins that incented companies to enter these programs and invest in better member benefits, experiences and outcomes. Between plan years 2017 and 2022, the eligible-weighted average number of MAOs per county has grown from 7.2 to 10.8. As a result of this increase in competition, MA plans have increased the value of benefits available to members. We urge CMS to allow this competitive market dynamic to continue by allowing for a sustainable margin of up to 6.5 percent without additional plan level review.

A narrower range (i.e., 0 to 5.5 percent) could also create a disincentive for plans to add new or innovative benefits. New benefits can be risky because a plan does not necessarily have historical usage data to accurately estimate costs. In the event a new benefit proved to have unexpectedly high utilization and turned out to be too costly, a plan with an aggregate margin outside the range may not have flexibility in subsequent years to cut or modify the new benefit without individual bid margin review and approval by CMS. This potential lack of flexibility may disincentivize certain plans from innovating around investing in new benefits and capabilities that could benefit members.

Alternatively, if CMS does not agree with our proposal to increase the bid margin range to 6.5 percent, UHC proposes a two-step review process for MAOs or Part D sponsors with aggregate margins above 5.5 percent. For plans with an aggregate margin between 5.5 and 6.5 percent, we recommend that CMS permit the plan to justify the aggregate margin with reference to aggregate factors rather than immediately subject each individual bid margin to heightened scrutiny. For example, CMS could permit a plan to demonstrate that its aggregate margin is close to the range, consistent with its historical margins and that the plan is not cutting benefits or raising premiums in the aggregate. If CMS is willing to look at aggregate factors, UHC requests that plans be allowed to submit an explanation of those factors and receive feedback in advance of the formal bid deadline. This timing would be beneficial because it would provide some clarity on whether the planned bid strategy is acceptable, thereby reducing the risk to consumers that the product portfolio will be disjointed due to hasty, last-minute changes to meet CMS approval.

For MAOs or Part D sponsors with a margin greater than 6.5 percent or below 0 percent, UHC agrees that CMS should evaluate individual bid margins. UHC requests that CMS include the criteria in the bid instructions it would use to evaluate aggregate and individual bid margins. This will allow plans to design their individual benefit structures to meet CMS's expectations and know before submitting final bids whether they are acceptable.

Related Party Arrangements

UHC also supports CMS's proposal to include related party contracts in the bid at the full contracted rate because it will simplify the bid process. MAOs will be able to design their plans knowing what costs can be included in their bids without having to wait to determine if each agreement meets the related party test.

UHC requests written confirmation that related party expenses should be entered in the BPT at the contracted rate for both the base period and projection period.

Part D Bid Instructions

UHC suggests that Sections 13.4 through 13.9 of the Part D Bid Instructions (December 2021 Version) be modified so they are consistent with Sections 13.4 through 13.5 in the MA Bid Instructions (December 2021 Version). These sections of the MA Bid Instructions have been updated to reflect the proposed change to include related party contracts in the bid at the full contracted rate.

Definition of High Margin Plan

Currently, the allowable margin for a plan that does not require justification of benefit value is 12 percent. In November 2021, CMS proposed lowering the margin to 11 percent and, in its most recent proposed changes released on January 14, 2022, it proposed an 11.5 percent margin. UHC supports maintaining a 12 percent margin because lowering the margin would increase the number of plans subject to additional review, which will increase the bid filing burden for MAOs and CMS.

Documentation of Related Party Agreements

CMS proposes that only when related party agreements are collectively above 10 percent of contract revenue do they need to be fully documented. UHC agrees that there should be a cut off for when related party documentation is required and proposes that it be 20 percent of contract revenue for MA bids. For Part D, the test should be allowed related party costs as a ratio of total allowed cost because of the high net to allowed ratio on those bids compared to MA. Implementing these proposed changes would reduce the number of plans that have to submit support and thereby reduce the burden for MAOs and CMS.

Supporting Documentation

The proposed supporting documentation item number 38 states the following:

> "...Provide a recalculation of Worksheet 4, Section IIC, lines a through u. Use the following assumptions: A/B mandatory supplemental benefits identical to CY2022, Medicare-covered benefits for CY2023, and the same projected population in the initial bid submission for CY2023..."

Based on our interpretation of these instructions, we believe this means MAOs are required to reprice the 2023 bid using the benefits that were offered in 2022 with updates to Medicare Fee-for-Service (FFS) cost sharing levels (e.g., use the 2023 FFS Part A/B Deductibles in cases where the plan cost sharing ties to FFS Medicare cost sharing). Specifically, this repricing would be performed using the following assumptions: the maximum out-or-pocket Medicare Part A/B covered cost sharing (copays and coinsurance), Part A/B Mandatory Supplemental benefits for additional services (e.g., Dental, Vision, hearing), and premium levels - both Part D and total plan premium - would be set at the same levels offered in 2022.

A comparison of the worksheet 4 values in section IIC, lines a through u of the filed 2023 bid to the repricing scenario using the methodology described above would then reflect the full impact of Part A/B Mandatory Supplemental benefit changes for both reductions in cost sharing and additional non-Medicare-covered services when moving from the benefits offered in 2022 to those offered in 2023. Please confirm if our interpretation is correct.

UHC requests that the final Bid instructions confirm that the related party support required in Section 13.5.2 of the instructions is for the projected period only. We think these clarifications will substantially reduce a plan's administrative burden associated with preparing bids. We also think this is consistent with how CMS explained the rule change on the user group call.

Thank you for your thoughtful consideration of our comments. Should you have any questions, please do not hesitate to contact me.

Sincerely,

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