

September 9, 2024

The Honorable Xavier Becerra
Secretary of Health and Human Services
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

The Honorable Chiquita Brooks-LaSure
Administrator Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
200 Independence Avenue SW
Washington, DC 20201

Re: Part C Medicare Advantage Reporting Requirements and Supporting Regulations in 42 CFR 422.516(a) (CMS-10261)

Dear Secretary Becerra and Administrator Brooks-LaSure:

[Predict Health, Inc.](#) – a company that uses Artificial Intelligence (“AI”), data analytics and member voice to help healthcare organizations improve member experience, quality and retention outcomes – appreciates the opportunity to comment on this Information Collection Request regarding revisions to Part C Medicare Advantage Reporting Requirements.

Since the Calendar Year (CY) 2023 Medicare Advantage and Part D Rule¹ was finalized in April 2022 (referred to hereafter as “the Final Rule”), Predict Health has been working with MA organizations (MAOs) that offer Dual-Eligible Special Needs Plans (D-SNPs) to help them establish and maintain enrollee advisory committees (“EACs”) that are both effective and compliant with federal requirements at 42 CFR § 422.107. Currently, Predict Health helps implement EACs for D-SNPs covering about 5 percent of all D-SNP members across 20 odd states. To date we have helped D-SNPs implement and manage a little more than a 100 EACs and similar Advisory Groups. From this perspective, we offer the following comments, which are focused on Section IX of the updated CY 2025 Part C Medicare Advantage Reporting Requirements: “D-SNP Enrollee Advisory Committee.”

In general, we are supportive of CMS’s efforts to gather more information on EACs, and on the proposed data elements:

- A. Does the D-SNP share an enrollee advisory committee (EAC) with other D-SNP(s)? (“Yes” or “No” only)
- B. Provide the total number of D-SNP EAC meetings held during the measurement year.
- C. List the dates during the measurement year when the D-SNP EAC met.
- D. Were interpreter services offered for each D-SNP EAC meeting? (“Yes” or “No” only)
- E. Were auxiliary aids and services offered for each D-SNP EAC meeting? (“Yes” or “No” only)

¹ 87 FR 27719.

These data elements will allow CMS to gather basic information about EACs and their meetings. However, we believe that collectively, they fail to capture important elements needed to understand compliance with the letter and spirit of CMS requirements, specifically those related to meeting attendance and the extent to which EAC membership is representative of the MAO's D-SNP population.

We therefore suggest that three data elements (F – H) be added as follows and provide additional rationale below.

Data Element ID	Data Element Description
A.	Does the D-SNP share an enrollee advisory committee (EAC) with other D-SNP(s)? (“Yes” or “No” only)
B.	Provide the total number of D-SNP EAC meetings held during the measurement year.
C.	List the dates during the measurement year when the D-SNP EAC met.
D.	Were interpreter services offered for each D-SNP EAC meeting? (“Yes” or “No” only)
E.	Were auxiliary aids and services offered for each D-SNP EAC meeting? (“Yes” or “No” only)
F.	<i>Provide the number of attendees at each EAC meeting held during the measurement year.</i>
G	<i>Does the EAC have a reasonably representative sample of enrollees of the population enrolled in the dual eligible special needs plan or plans, or other individuals representing those enrollees? (“Yes” or “No” only)</i>
H.	<i>Describe how the extent to which the EAC includes a reasonably representative sample was assessed.</i>

F. Provide the number of attendees at each EAC meeting held during the measurement year.

While we acknowledge that CMS does not specify through regulation or guidance the number of EAC members that must participate or attend a given meeting, it is important to understand how many members are attending each meeting. This information can shed light on whether an MAO's EAC meetings are in fact substantive or occurring “on paper only” – that is, announced and held, but with no or few enrollees in attendance. It may also help inform future efforts by CMS or others to provide guidance and best practices around a minimum number of attendees needed for meaningful participation.

G. Does the EAC have a reasonably representative sample of enrollees of the population enrolled in the dual eligible special needs plan or plans, or other individuals representing those enrollees (“Yes” or “No”)

The requirement for an EAC to include a reasonably representative sample of the population enrolled in the D-SNP(s) is one of the core requirements finalized by CMS and is essential for achieving CMS's goal of providing for meaningful enrollee participation in plan governance. However, this requirement is not reflected in the proposed data elements A – E. Adding an attestation of compliance with this requirement would be both a reasonable and valuable addition.

H. Describe how the extent to which the EAC includes a reasonably representative sample was assessed.

To accompany our suggested attestation of compliance with the requirement for the EAC to be reasonably representative (Data Element G), we recommend that CMS include an additional Data Element H that asks MAOs to describe their assessment of whether the EAC includes a reasonably representative sample of the overall D-SNP population. To achieve this, CMS could provide additional context through the technical specifications about ways in which an MAO might make this assessment. For example, in the final rule's preamble, CMS notes that "we intended that D-SNPs incorporate multiple characteristics of the total enrollee population of the D-SNP(s) served by the enrollee committee, including but not limited to geography and service area, and demographic characteristics."²

Together, we believe that CMS's proposed Data Elements A – E, along with our suggested Data Elements F – H, will enable CMS to monitor basic compliance with the core features of its EAC requirement. We do not believe CMS's proposed elements A – E or our suggested elements F – H will impose a substantial burden on MAOs operating EACs, because in our experience, MAOs are already collecting information on EAC attendance for their own purposes. Given that creating an EAC with a reasonably representative sample is a central requirement and assists with the usefulness and quality of the member data collected, they should also already be documenting their processes for building an EAC that meets that requirement.

We thank you again for the opportunity to comment on this Information Collection Request. In addition to our written comments on this request, we welcome the opportunity to engage with CMS in its broader efforts to increase enrollee participation in plan governance in D-SNPs and other aspects of the Medicare Advantage program. If you have any questions or would like to set up a discussion, please reach out to Kacey Dugan, Advisor to Predict Health, at Kacey.dugan@faegredrinker.com or +1 202 589 2828.

Sincerely,



Shub Debgupta
Founder and CEO
Predict Health, Inc.

² 87 FR 27719.