



NRLN Review

NRLN
NATIONAL RETIREE
LEGISLATIVE NETWORK

NRLN Review, Summary for August 2022

The NRLN Review provides a monthly report on National Retiree Legislative Network actions, events in Congress and important retirement news.

NRLN Responds to CMS Request for Information on Medicare Advantage

On August 25, NRLN President Bill Kadereit submitted the NRLN's 16-page response to the Centers for Medicare and Medicaid's (CMS) Request for Information (RFI) on Medicare Advantage (MA). Kadereit has been researching since the late 1990s the steadily increasing cost of MA to taxpayers and the unfairness of 39 million original Medicare participants being denied the special benefits offered by most MA plans.

Concern was expressed about the lack of information from the Medicare Innovations Center on its plan to implement ACO REACH on January 1, 2023, that will absorb ten of thousands of Medicare and MA participants into its plans. NRLN requested that CMS to be more forthcoming with all ACO REACH details ASAP so NRLN can compare its rules with MA and to offer improvement suggestions. NRLN requested that a RFI be issued on ACO REACH RFI this fall.

The NRLN's position is that MA plans have received unwarranted rebates that have subsidized the funding of Medicare beneficiary cost sharing and the payment for extra healthcare benefits for 37 years. These rebate subsidies, funded by taxpayer revenue, have yet to reduce the avowed MA healthcare cost objective - to provide better healthcare at a lower cost per enrollee than original Medicare.

The legislation enabling MA capitated bids and Quality Bonus Plan (QBP) rebate bonuses has created discrimination within Medicare. Over \$450 billion has been distributed to MA plans over 37 years, with \$53 billion expected in 2022 and \$100 billion by 2030. In 2022, cost-sharing and extra benefit payments on behalf 24.7 million MA beneficiaries will be \$1,980 each. The remaining 39 million in original Medicare got \$0.

The NRLN's document cited a [A CASE for IMPROVEMENT](#): 20,000 Tennessee Valley Authority (TVA) retirees had their supplemental health plan terminated and by law were entitled to enroll in new Medigap plans offered by a national Private Medicare Exchange (PME). PME offered plans were sold to retirees at 30-40% above many other plans of the same type in specific zip codes. When requested, both the state of Tennessee and CMS denied responsibility for requiring that retirees be offered another Medigap Special Enrollment Period (SEP) and full disclosure offerings of all plans available by zip code, plan type, and carrier. The NRLN continues to advocate for an SEP for TVA retirees.

The last six pages of the document sent to the Secretary of Health and Human Services and Administrator for CMS was the NRLN's Talking Points and Position Paper on MA.

Facts that can't be denied: **1)** healthcare costs are rising four times faster than Medicare enrollees, **2)** private plan Medicare **market share rose by 2% to a 46% (27.4 million enrollees)** in 2021; **revenue was \$350 billion, 3)** after 37 years (1985-2022) of doling out over **\$450 billion in rebates**, the Committee for Medicare and Medicaid Services (CMS) payments per Medicare Advantage (MA) plan enrollee increased to **103% of payments** made per enrollee for Medicare Fee-for-Service (FFS) enrollees in 2020 and **to 104% in 2022, 4)** it's time to realize that subsidized growth can no longer be justified, Congress, CMS and Insurers must be held accountable!

CMS paid MA insurer rebates of \$81 a month per enrollee in 2016. In 2021, rebate payments rose 14%, above 2020 to the highest level in history, \$140 monthly (\$1,680 / year /enrollee). In 2022 rebates are up 17.8% to \$165 a month (\$1,980 per year per enrollee. The 2022 rebate of \$165 is up over 100% from \$81 five (5) years ago and will cost \$53 billion in 2022. The 2021 Medicare Trustee's report warned to expect annual rebate increases per enrollee, growing to \$100.8 billion by 2030. However, the current trend indicates we may reach that level by 2028.

The NRLN's Position Paper proposes:

- Rely on data from Medicare Trustee, MedPAC, GAO and CBO reports.
- Grandfather benefits for current MA Plan enrollees or grant MA enhanced benefits to all in Medicare.
- Use Quality Control and Innovation to reduce FFS costs.
- Eliminate the Capitation Model - focus on setting more relevant FFS Benchmarks and require all risk adjustments and expected payments be actuarially assumed in bidder pricing vs benchmarks.
- Eliminate QBP Bonuses and Rebates and FFS competitive barriers; create a Level Playing Field.

New Law Includes Medicare and Other Healthcare Benefits

The U.S. Senate and House cut short its usual month-long August recess to pass **H.R.5376, Inflation Reduction Act**. The Senate passed the bill on August 7 by a vote of 51-50 with Vice President Kamala Harris providing the deciding vote to break the Senate's tied vote. The House passed the bill on August 12 by a vote of 220-207. President Biden signed the sweeping climate, health care and tax legislation bill into law at a ceremony at the White House on August 16.

While it is controversial whether the legislation will reduce inflation, there are some important elements in the bill beneficial to Medicare participants that the NRLN supported.

Beginning in 2023, copays for a 30-day supply of any insulin that a Medicare drug plan covers will be capped at \$35. Part D plans will be required to adhere to the \$35 copay limit even if an enrollee has not met their annual deductible. As of Jan. 1, 2023, Medicare enrollees won't have any out-of-pocket costs for vaccines that the Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices recommends for adults.

Beginning in 2025, the amount of out-of-pocket money that Medicare Part D beneficiaries will have to pay each year for their prescriptions will be capped at \$2,000. This out-of-pocket limit will apply to prescription drugs through a stand-alone original Medicare Part D plan or a Medicare Advantage plan for prescription drugs. If a Part D plan or MA plan has a prescription drug deductible, that will count toward the cap. Also beginning in 2025 is the requirement that Part D plan offer the option for "smoothed cost-sharing". This means Part D participants can opt to have their out-of-pocket costs spread out over the year. This is designed to protect from being hit with a big drug bill at one time that it may discourage filling prescriptions.

In 2024, the year before the out-of-pocket cap takes effect, Medicare beneficiaries will no longer have any out-of-pocket costs if they reach Medicare's catastrophic coverage. The way catastrophic coverage works in 2022 is that once an enrollee's out-of-pocket costs reach \$7,050, they pay 5% of their prescription drug costs, with no limit. In 2024, the 5% coinsurance requirement will be gone, and enrollees won't have to pay anything for

their prescription drugs for the rest of the year. Also beginning in 2024 and continuing through 2029, Part D premiums cannot increase by more than 6% a year.

Although the NRLN would have preferred that **H.R.5376** require Medicare to use the competitive bidding (business) model that it had proposed to members of Congress, it is historic that the new law will allow Medicare to eventually negotiate the price on some expensive prescription drugs. However, Medicare will not begin negotiating drug prices until 2026. Even then, Medicare will only negotiate the price for 10 drugs that it spends the most on; that have been on the market for at least nine years, and that do not have generic equivalents. By 2028, the number of eligible drugs will increase to 20.

August Provided Possible Opportunity to Influence Members of Congress

Bill Kadereit, NRLN President, and Bob Martina, NRLN VP – Communications, emailed a message to all NRLN members on August 5 to encourage them to engage with Senators and Representatives when they are back in their home states and districts during the August Congressional Recess. With many seeking reelection town hall meetings were likely to be scheduled either in person or via telephone conferences.

NRLN members were asked to check with the offices of their Senators and Representative and if they are holding a town hall meeting, participate and ask them to support passage of retirement security legislation that includes the NRLN's proposals limiting retirees' exposure to pension recoupment and allowing excess pension funds to pay for retirees' healthcare and life insurance benefits.

The NRLN message also encouraged NRLN members to download the NRLN's Report Card to see whether their Senators and Representative are cosponsors of bills the NRLN supports or opposes. The NRLN's Report Card can be accessed by going to the NRLN website at: <https://nrln.org/congressional-report-card/>

FDA Issues "Final Rule" for Over-the-Counter Hearing Aids

While the NRLN continues to lobby to have hearing, vision and dental benefits included in original Medicare, the Federal Drug Administration (FDA) issued its "final rule" on August 16 that establishes a new category of over-the-counter (OTC) hearing aids. This action enables consumers with perceived mild to moderate hearing impairment to purchase hearing aids directly from stores or online retailers without a medical exam, prescription, or a fitting adjustment by an audiologist. The effective date for the "final rule" is October 17, 2022. Click this link to read on the FDA website, *Hearing Aids and Personal Sound Amplification Products: What to Know*. <https://www.fda.gov/consumers/consumer-updates/hearing-aids-and-personal-sound-amplification-products-what-know>

NRLN Legislative Committees' Work

The NRLN's Legislative Advisory Committee (LAC) composed of Judy Stenberg, Chairwoman, Deb Morrissett, Joe Mazzei, Al Duscher and Bob Martina did not submit bills in August for the Legislative Action Planning Committee (LAPC) to consider for actions since Congress was in recess much of the month. The LAPC includes Bill Kadereit, Chairman, Judy Stenberg, Alyson Parker, Bob Martina and Ed Beltram.

Key News Articles Posted in August

During August 67 links to news articles related to retirement issues were researched and posted daily IN THE NEWS on the NRLN website home page. The headlines below are links to the articles. Or, read the articles at www.nrln.org under IN THE NEWS in the right column. Scroll down the right column and click on the headline to access the article you want to read. Below are some of the headline links.

[A Birthday Wish For Medicare And Medicaid: Less Waste And Better Care](#) ~ Aug 01

[Part D premiums to decline by 2% in 2023: CMS](#) ~ Aug 01

[Inflation, Stock Market May Cause Retirees To Reconsider Using Their Home Equity](#) ~ Aug 03

[Cardin: The Time for Action on SECURE 2.0 Is Now](#) ~ Aug 03

[Health care costs are so high that 98 million Americans say they've had to cut spending on food and gas](#) ~ Aug 04

[NEW DETAILS: Delphi pensions bill stalls in Senate](#) ~ Aug 05

[Inflation Reduction Act Passes: Senate Approves \\$430 Billion Climate And Healthcare Bill](#) ~ Aug 07

[In a massive victory for Democrats, Medicare is poised to negotiate drug prices](#) ~ Aug 07

[The New Medicare Drug Bill Is Big, But Seniors Won't See Many Of Its Benefits For Years](#) ~ Aug 10

[Here's what you need to know about Medicare Part A's depletion date](#) ~ Aug 10

[Pharma Industry's Response Monitored To Drug Pricing Measures](#) ~ Aug 11

[Historic Day For Biden, Democrats As Flagship Health, Climate Bill Strides Toward Victory](#) ~ Aug 12

[Three At-Home COVID Tests Needed to Confirm Negative Result, FDA Says](#) ~ Aug 12

[Historic Drug Pricing Measures Head To Biden's Desk To Sign](#) ~ Aug 15

[Here are 4 key health policy items in the Inflation Reduction Act](#) ~ Aug 15

[Biden Signs Drug Pricing, ACA Premiums Measures Into Law](#) ~ Aug 16

[Yellen Directs I.R.S. to Embark on \\$80 Billion Overhaul Plan](#) ~ Aug 17

[Historic Medicare Drug Pricing Changes Signed Into Law](#) ~ Aug 17

[Medicare Beneficiaries Overwhelmingly Against Proposed Home Health Payment Cuts](#) ~ Aug 18

[The Coming Explosion Of Medicare Advantage Fraud And Penalties](#) ~ Aug 19

[Health Insurance Subsidies, Set To Expire At The End Of 2022, Extended Via The Inflation Reduction Act](#) ~ Aug 21

[Final Rule Issued On How Surprise Bill Disputes Should Be Settled](#) ~ Aug 22

[Pfizer Asks FDA For Updated Covid Booster OK Ahead Of Clinical Trials](#) ~ Aug 23

[Next-Gen Covid Booster Shots Expected In September](#) ~ Aug 24

[No, Not Over: Covid Has So Far Killed 1 Million Worldwide This Year](#) ~ Aug 26

[The Healthcare Industry Is Crumbling Due To Staffing Shortages](#) ~ Aug 26

[FDA will launch new COVID-19 booster without full human testing](#) ~ Aug 29