

*Administrator*

Washington, DC 20201

August 2, 2021

The Honorable Ron Wyden
Chairman
Senate Finance Committee
United States Senate
Washington, D.C. 20510

Dear Chairman Wyden:

Thank you for your letter concerning the extreme heat events in Oregon and inquiring about flexibilities available to Medicare Advantage (MA) plans under the CHRONIC Care Act and COVID-19 Public Health Emergency (PHE). I share your concern about this urgent situation and the serious health risks that seniors face from the combination of extreme heat events and COVID-19.

In your letter, you asked whether the Centers for Medicare & Medicaid Services (CMS) considers air conditioning and air filtration units to be permissible special supplemental benefits for the chronically ill (SSBCI). CMS considers air conditioning and air filtration units to be permissible SSBCI when such item has a reasonable expectation of improving or maintaining the health or overall function of the chronically ill enrollee. Specifically, in guidance, CMS has included the following as an example of SSBCI: equipment and services to improve indoor air quality, such as temporary or portable air conditioning units, humidifiers, dehumidifiers, High Efficiency Particulate Air filters, and carpet cleaning. CMS also has noted that MA plans may include installation and servicing of equipment as part of the benefit.¹ Also, as you know, in order to be eligible to receive an SSBCI, an individual must have one or more comorbid and medically complex chronic conditions that is life threatening or significantly limits their overall health or function, have a high risk of hospitalization or other adverse health outcomes, and require intensive care coordination. CMS adopted a regulation at 42 CFR § 422.102(f) to implement the statutory provisions authorizing SSBCI in a final rule published in the Federal Register last year (June 2020).

In addition, you asked whether CMS, under the PHE, will approve MA mid-year benefit changes to provide air conditioning and air filtration units to chronically ill members. CMS announced in December 2020 that it will continue its policy of relaxed enforcement in connection with the prohibition on mid-year benefit enhancements in CY 2021. As a result, under this COVID-19 PHE enforcement flexibility, MA plans may provide indoor air filtering/cooling devices as SSBCI, mid-year, when provided in connection with the COVID-19 outbreak, and when such devices have a reasonable expectation of improving or maintaining the health or overall function of the enrollee. The statutory amendments made by the CHRONIC Care Act authorize CMS to

¹ https://www.cms.gov/Medicare/Health-Plans/HealthPlansGenInfo/Downloads/Supplemental_Benefits_Chronically_Ill_HPMS_042419.pdf.

waive uniformity requirements so that MA plans do not have to provide these benefits uniformly to all chronically ill enrollees.

Lastly, you asked CMS to expedite the approval of any mid-year benefit changes requested by MA plans for Oregon and all states during this public health crisis. CMS has instructed MA organizations to continue to report their Mid-Year Benefit Enhancements to their account managers.

Again, thank you for your letter on this important issue and for your commitment to the health care of seniors and people with disabilities. I share this commitment with you and look forward to working together to ensure the needs of our Medicare beneficiaries are met. Should you have additional questions, please contact the Office of Legislation at (202) 690-8220.

Sincerely,



Chiquita Brooks-LaSure