



October 18, 2022

The Honorable Ron Wyden
Chairman
Senate Finance Committee
United States Senate
Washington, DC 20510

Dear Chairman Wyden:

Thank you for your lifelong advocacy on behalf of America's seniors. The Alliance of Community Health Plans (ACHP) and our nonprofit member companies appreciate your dedication to protecting seniors enrolled in Medicare Advantage (MA) and support your inquiry into misleading and aggressive marketing tactics used by third-party marketing organizations. As you gather findings from your inquiry, we appreciate the opportunity to share the experience of ACHP member companies whose MA and/or Medicare Part D consumers have been switched into different health plans without their full knowledge or understanding.

ACHP is the only national organization promoting the unique payer-provider aligned model in health care, and our nonprofit member companies collaborate with their provider partners to deliver higher-quality coverage and care across all lines of business to tens of millions of Americans in 36 states and D.C.

In some areas of the country, confused and embarrassed seniors have fallen victim to improper marketing practices which need to be immediately addressed. ACHP member companies have experienced substantial involuntary disenrollment of their consumers due to these marketing practices and have taken extraordinary steps to ensure seniors stay in the plan they want and maintain the services and continuity of care to which they are accustomed.

Beginning in 2020, Security Health Plan in Marshfield, Wisconsin noticed that its decade-long member retention rate above 90 percent was dipping and seniors were disenrolling at higher-than-expected rates. Due to marketing tactics, including aggressive, unsolicited calls, Security experienced a disenrollment rate of about 27 percent above the historical average during the last annual enrollment period. Security found that the majority of the disenrollments were going to two competitors known to work with third party marketing organizations in numbers that are disproportionate to the typical and historical market share in the service area. To demonstrate the lengths some third-party marketers are willing to go to poach new enrollees for their clients, Security found that one Medicare beneficiary was disenrolled from its MA plan four times in the same annual enrollment period. Thankfully, Security was able to work with the member and reverse the involuntary disenrollment each time.



In 2021, Independent Health Plan in Buffalo, New York began observing surprising disenrollment rates which have continued throughout 2022. From January 1, 2021 to January 2, 2022, 20 percent of Independent Health’s members who disenrolled to one particular national plan could be attributed to misleading marketing tactics. Further, from February 1, 2022 to September 14, 2022, members who disenrolled to this same national plan spiked to 35 percent due to marketing tactics from one nationwide competitor. These numbers far exceeded any other disenrollment activity to any other local or national plan in the market.

The Health Alliance Plan of Michigan (HAP), based in Detroit, has also observed an increase in aggressive marketing strategies by national third-party marketing organizations. HAP analyzed top consumer complaints and identified that 12 percent of total receipts originated from beneficiaries who were unwittingly moved to national carriers. From January 1, 2022 to September 6, 2022, HAP assisted 809 Medicare beneficiaries in reinstating their enrollment and continues to assist more each day.

Medicare consumers have become an easy target for these high-pressure sales tactics whether it be a lonely widow who is excited by the prospect of someone to talk to or an aging senior who suffers from dementia. The following are examples of reports ACHP member companies received from consumers who were the victim of these deleterious tactics.

- Consumers were advised they could add the coverage for Part D and/or extra vision/dental to their existing MA health plan without switching.
- Third party marketing organizations do not identify which plan they represent and seniors believe that they are speaking to someone from their existing MA plan and that they are just “enhancing” their existing benefits.
- Consumers may not realize that they have been termed since their coverage remains until the end of the year. The disenrollment may not come to light until they attempt to use Part D coverage at the pharmacy or schedule a doctor’s appointment. Some of the targeted consumers have issues of capacity (e.g. dementia) resulting in the caregiver/personal representative not knowing they have made a change in coverage.
- These tactics affect many more consumers than have been identified thus far due to a hesitancy to file a complaint with 1-800 Medicare or other means due to distress, agitation and/or confusion.

One of the most disturbing trends observed by ACHP member companies is that third-party marketers have been accessing the Community Health Automated **Medicaid** Processing System (CHAMPS) and the **Medicare** Advantage Prescription Drug (**MARx**) systems at the same level as health plans. Access to these systems is limited to protect valuable access to seniors’ HIPAA protected personal information included in Medicare enrollment systems. With this access, third party marketers have personal information about the consumer at their fingertips, giving vulnerable seniors the unfounded assumption that they are speaking to someone from their existing health plan. CHAMPS and MARx should not be used as a marketing tool by third party marketing organizations. The trends that ACHP members have reported appear to be a national problem. Deft Research’s 2022 open enrollment study found that one in



five (20 percent) Medicare Advantage Part D (MAPD) members report receiving onboarding materials and outreach, including member cards, from a carrier with whom they didn't know they were enrolled.

ACHP appreciates the opportunity to share concerns about potentially misleading or aggressive marketing tactics employed by some MA and Medicare Part D plans that have harmed consumers. We look forward to continuing to work with you, your staff and CMS to develop policy to protect consumers from these tactics in the future.

Sincerely,

Ceci Connolly
President & CEO

Cc: The Honorable Michael Crapo