

Congress of the United States

Washington, DC 20515

December 8, 2022

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
7500 Security Boulevard
Baltimore, MD 21244

Dear Administrator Brooks-LaSure:

We write today regarding our concerns that the Centers for Medicare and Medicaid Services' (CMS) Accountable Care Organization Realizing Equity, Access, and Community Health (ACO REACH) model provides an opportunity for health care insurers with a history of defrauding and abusing Medicare and ripping off taxpayers to further encroach on the Medicare system.

The ACO REACH program, a CMS redesign of the Trump-era Global and Professional Direct Contracting Model (GPDC) program, is scheduled to start in January 2023.¹ CMS is allowing participants in the GPDC program to enroll as Accountable Care Organizations (ACOs) "provided they maintain a strong compliance record and agree to meet the requirements of the ACO REACH Model by January 1, 2023."² However, a preliminary review of these Direct Contracting Entities (DCEs) participating in the GPDC found that at least 10 of these organizations have records – in some cases, extensive records – of health care fraud, abuse, and violations of health care laws prior to 2021. These entities were accepted into the GPDC program in 2021, and have continued to operate in the program even as CMS pushes for additional oversight, vetting, and transparency.

On January 1, 2023, the ACO REACH program is set to begin.³ The transition to ACO REACH includes the addition of up to 103 new entities into the program, more than doubling the number of participants in the pilot program.⁴ In its three-year history, the Medicare Direct Contracting program, now ACO REACH, has roughly doubled in size each year: it had 53 participants in its first year, 99 in the second year and as many as 202 participants planned for 2023.⁵ The exponential growth of the program heightens our concerns about the potential for fraud and abuse of taxpayer Medicare dollars.

¹ Centers for Medicare & Medicaid Services, "Accountable Care Organization (ACO) Realizing Equity, Access, and Community Health (REACH) Model," press release, February 24, 2022, <https://www.cms.gov/newsroom/fact-sheets/accountable-care-organization-aco-realizing-equity-access-and-community-health-reach-model>.

² Centers for Medicare & Medicaid Services, "ACO REACH," <https://innovation.cms.gov/innovation-models/aco-reach>.

³ Centers for Medicare & Medicaid Services, "Accountable Care Organization (ACO) Realizing Equity, Access, and Community Health (REACH) Model," press release, February 24, 2022, <https://www.cms.gov/newsroom/fact-sheets/accountable-care-organization-aco-realizing-equity-access-and-community-health-reach-model>.

⁴ *Note: the provisionally accepted ACOs may differ from the final participants in the program*; Centers for Medicare & Medicaid Services, "Provisionally Accepted ACOs and Implementation Period 3 Participant List," press release, August 15, 2022, <https://innovation.cms.gov/media/document/aco-reach-provisional-applicants-aug2022>.

⁵ Center for Medicare & Medicaid Services, "Notice of Direct Contracting Entities Participating in Performance Year 2021 of the Global and Professional Direct Contracting (GPDC) Model," press release, April 8, 2021, <https://innovation.cms.gov/media/document/gpdc-model-participant-announcement>; Center for Medicare & Medicaid Services, "Global and Professional Direct Contracting (GPDC) Model Participant Overview," February 24, 2022, <https://innovation.cms.gov/media/document/gpdc-model-participant-summary>.

Given our concerns, **we ask that CMS closely examine the participants in the ACO REACH program, including those transitioning from the GPDC program, and take action to prevent those with histories of fraud and abuse from participating in the newly designed program in 2023.** In addition, we ask CMS to immediately clarify whether entities accepted into the GPDC Model program will be automatically grandfathered into ACO REACH, even if the companies fail to meet the stated standards of the program.

ACO REACH and the Global and Professional Direct Contracting Model

Medicare's ACO REACH is a redesign of the Global and Professional Direct Contracting Model (GPDC), a Trump-era program that allowed a for-profit model and privatized health care plans into traditional Medicare.⁶ The Direct Contracting model posed a significant threat to traditional Medicare, extending the reach of many of the same bad actors that have driven tens of billions in excess costs in Medicare Advantage (MA).⁷ We have long been concerned about ensuring this model does not give corporate profiteers yet another opportunity to take a chunk out of traditional Medicare.⁸ Over 50 of our colleagues in the House of Representatives expressed the same concerns.⁹

CMS responded to our concerns, announcing a transition from the Direct Contracting model to ACO REACH in February 2022.¹⁰ The continued participation of corporate actors with a history of fraud and abuse threatens the integrity of the program.

As of February 2022, there were 99 organizations participating in the Direct Contracting model.¹¹ In 2021, private equity and investor-controlled DCEs made up a majority of the program,¹² and we are concerned that many of these providers view Direct Contracting as a back door to higher profits via privatizing traditional Medicare. For example, Clover Health, in its 2021 prospectus, wrote that, with its participation in the Direct Contracting model, it was "well positioned to ... further capture Medicare market share through emerging payment models."¹³

Participating Organizations with Documented Cases of Fraud and Abuse

We are particularly alarmed by the findings of a preliminary review of the DCEs conducted by Physicians for a National Health Program (PNHP), which identified at least 10 participating organizations that have documented cases of defrauding Medicare and other government health programs. The organizations identified in this

⁶ Healthcare Dive, "CMS redesigns controversial Medicare direct contracting model," Rebecca Pifer, February 28, 2022, <https://www.healthcaredive.com/news/cms-direct-contracting-medicare-biden-value/619507/>.

⁷ NPR, "Medicare Advantage's cost to taxpayers has soared in recent years, research finds," Fred Schulte, November 11, 2021, <https://www.npr.org/sections/health-shots/2021/11/11/1054281885/medicare-advantage-overcharges-exploding>.

⁸ Senate Committee on Finance, Subcommittee on Fiscal Responsibility and Economic Growth, "The Hospital Insurance Trust Fund and the Future of Medicare Financing," February 2, 2022, <https://www.finance.senate.gov/hearings/the-hospital-insurance-trust-fund-and-the-future-of-medicare-financing>.

⁹ Letter from Representative Pramila Jayapal et al. to Secretary Xavier Becerra, January 5, 2022, <https://jayapal.house.gov/wp-content/uploads/2022/01/Medicare-DCE-Letter.pdf>.

¹⁰ Centers for Medicare & Medicaid Services, "Accountable Care Organization (ACO) Realizing Equity, Access, and Community Health (REACH) Model," press release, February 24, 2022, <https://www.cms.gov/newsroom/fact-sheets/accountable-care-organization-aco-realizing-equity-access-and-community-health-reach-model>.

¹¹ Center for Medicare & Medicaid Services, "Global and Professional Direct Contracting (GPDC) Model Participant Overview," February 24, 2022, <https://innovation.cms.gov/media/document/gpdc-model-participant-summary>.

¹² Senate Committee on Finance, Subcommittee on Fiscal Responsibility and Economic Growth, "The Hospital Insurance Trust Fund and the Future of Medicare Financing," February 2, 2022, <https://www.finance.senate.gov/hearings/the-hospital-insurance-trust-fund-and-the-future-of-medicare-financing>.

¹³ Securities and Exchange Commission, Form S-1, Clover Health Investments, Corp., January 13, 2021, <https://sec.report/Document/0001193125-21-007853/>.

investigation were accepted into the Direct Contracting Model despite CMS screening requirements that included a “[r]eview of billing history and any administrative audits, investigations, or other activities conducted regarding suspicious billing or other potential program fraud and abuse; and . . . Review of any civil or criminal actions related to participation in a federal health care program.”¹⁴

The inclusion of these DCEs in the Global and Professional Direct Contracting Model is a significant concern after these companies’ previous failures to follow the law. The ability of organizations with known histories of fraud and abuse to take part in the program increases the risks for Medicare beneficiaries, and raises concerns that CMS screening procedures for participants are inadequate, putting taxpayer dollars at risk. We respectfully ask the agency to reevaluate the decision to allow these DCEs to participate in the program.

PNHP’s preliminary review identified the following current Global and Professional Direct Contracting Model participants with documented cases of fraud and abuse:

Centene: Centene, the parent company to three DCEs that operate in 27 states,¹⁵ paid over \$97 million in 2021 to settle allegations of “duplicate and inflated claims submitted to the Department of Veterans Affairs” (VA) that occurred while its subsidiary, Health Net, was acting as a third-party administrator for VA medical care.¹⁶ In addition, Centene’s pharmacy benefit managers allegedly overcharged state Medicaid programs on prescription drugs, leading to settlements last year with Ohio,¹⁷ Illinois,¹⁸ Mississippi,¹⁹ Kansas,²⁰ New Hampshire,²¹ Arkansas,²² and New Mexico²³ totaling more than \$260 million.

¹⁴ Center for Medicare & Medicaid Services, “Direct Contracting Model: Global and Professional Options Request for Applications,” November 25, 2019, <https://innovation.cms.gov/files/x/dc-rfa.pdf>.

¹⁵ Center for Medicare & Medicaid Services, “Global and Professional Direct Contracting (GPDC) Model Participant Overview,” February 24, 2022, <https://innovation.cms.gov/media/document/gpdc-model-participant-summary>; Centene Corporation, Form 10-K, February 22, 2022, <https://investors.centene.com/sec-filings/all-sec-filings/content/0001071739-22-000071/a2021123110-kexhibit21.htm>.

¹⁶ United States Department of Justice, “Health Net Federal Services Pays over \$97M for Overstated Billings to the VA,” press release, April 6, 2021, <https://www.justice.gov/usao-edca/pr/health-net-federal-services-pays-over-97m-overstated-billings-va>.

¹⁷ Ohio Attorney General, “Centene Agrees to Pay a Record \$88.3 Million to Settle Ohio PBM Case Brought by AG Yost,” press release, June 14, 2021, [https://www.ohioattorneygeneral.gov/Media/News-Releases/June-2021/Centene-Agrees-to-Pay-a-Record-\\$88-3-Million-to-Se](https://www.ohioattorneygeneral.gov/Media/News-Releases/June-2021/Centene-Agrees-to-Pay-a-Record-$88-3-Million-to-Se).

¹⁸ Illinois Attorney General, “ATTORNEY GENERAL RAOUL ANNOUNCES \$56 MILLION SETTLEMENT WITH PHARMACY BENEFIT MANAGER,” press release, September 30, 2021, https://illinoisattorneygeneral.gov/pressroom/2021_09/20210930c.html.

¹⁹ Mississippi Attorney General, “AG Lynn Fitch, Auditor Shad White Announce \$55.5 Million Settlement with Centene,” press release, June 14, 2021, <https://www.ago.state.ms.us/2021/06/14/ag-lynn-fitch-auditor-shad-white-announce-55-5-million-settlement-with-centene/>.

²⁰ Kansas Attorney General, “AG Derek Schmidt recovers nearly \$27.6 million from Centene Corp. over pharmacy benefit management practices in Kansas,” press release, December 6, 2021, <https://ag.ks.gov/media-center/news-releases/2021/12/06/ag-derek-schmidt-recovers-nearly-27.6-million-from-centene-corp.-over-pharmacy-benefit-management-practices-in-kansas>.

²¹ New Hampshire Attorney General, Settlement Agreement and Release, January 6, 2022, <https://www.doj.nh.gov/news/2022/documents/20220106-new-hampshire-settlement-agreement-with-centene.pdf>.

²² Arkansas Attorney General, “AG RUTLEDGE ANNOUNCES \$15.2 MILLION SETTLEMENT WITH CENTENE CORPORATION,” press release, September 30, 2021, https://arkansasag.gov/news_releases/ag-rutledge-announces-15-2-million-settlement-with-centene-corporation/.

²³ New Mexico Attorney General, “AG Balderas Announces \$13.7 Million Settlement with Centene Corporation Over Investigation of PBM Claims; Ongoing Investigation of remaining PBMs in NM in Partnership with Superintendent of Insurance,” press release, June 13, 2022, https://www.nmag.gov/uploads/PressRelease/48737699ae174b30ac51a7eb286e661f/AG_Balderas_Announces_%2413.7_Million_Settlement_with_Centene_Corporation_Over_Investigation_of_PBM_Claims_1.pdf.

Sutter Health: Sutter Preferred Direct Contracting was also a participant in the Direct Contracting Model.²⁴ But Sutter’s parent company, Sutter Health,²⁵ settled with the Department of Justice (DOJ) for \$90 million in 2021 for mischarging MA and “knowingly submitt[ing] unsupported diagnosis codes for certain patient encounters for beneficiaries under its care” to receive “inflated payments” from the MA program.²⁶ The settlement was the largest *False Claims Act* settlement ever paid by a health care provider for MA fraud,²⁷ and the wrongdoing was only revealed after a whistleblower identified false diagnoses in “thousands of elderly Medicare patients.”²⁸ In 2019, Sutter Health also settled allegations of price-gouging and anti-competitive practices in the Medicare program for \$575 million.²⁹

Clover Health: Clover Health, the parent company of the multi-state DCE Clover Health Partners,³⁰ is a MA provider that was previously investigated by several of our offices for giving Wall Street insiders opportunities to make millions while retail investors lost over 65 percent of their stock value.³¹ Reports indicate that the company was under investigation by the DOJ for its use of false marketing, kickbacks, and undisclosed third-party deals.³² Clover failed to disclose the investigation to regulators and its shareholders, leading to an investigation by the Securities and Exchange Commission (SEC) and a lawsuit from shareholders.³³ Clover was previously fined by CMS in 2016 for the use of marketing activities that “misled or confused potential enrollees” about the extent of their benefits.³⁴

AdventHealth: AdventHealth, which operates a DCE in Florida,³⁵ was the subject of one of the largest health care fraud settlements in 2015, paying \$115 million to settle allegations that the organization “submitted false claims to the Medicare and Medicaid programs” by improperly compensating physicians who referred patients to Adventist hospitals, despite federal law restricting financial relationships between hospitals and doctors who refer patients to them. .”³⁶ Acting U.S. Attorney Jill

²⁴ Center for Medicare & Medicaid Services, “Global and Professional Direct Contracting (GPDC) Model Participant Overview,” February 24, 2022, <https://innovation.cms.gov/media/document/gpdc-model-participant-summary>.

²⁵ Sutter Health, “Sutter Medicare Direct,” <https://www.sutterhealth.org/for-patients/medicare/direct-contracting-entity>.

²⁶ Department of Justice, press release, August 30, 2021, <https://www.justice.gov/opa/pr/sutter-health-and-affiliates-pay-90-million-settle-false-claims-act-allegations-mischarging>.

²⁷ National Law Review, “Sutter Health Settles Medicare Fraud Case For \$90 Million: The Largest Settlement For Medicare Advantage Fraud,” Michael J. Gilbert and Danielle Vrabie, September 13, 2021, <https://www.natlawreview.com/article/sutter-health-settles-medicare-fraud-case-90-million-largest-settlement-medicare>.

²⁸ Washington Post, “Beat cancer? Your Medicare Advantage plan might still be billing for it.,” Christopher Rowland, June 5, 2022, <https://www.washingtonpost.com/business/2022/06/05/medicare-advantage-records-fraud/>.

²⁹ Fierce Healthcare, “Federal judge grants final approval of \$575M settlement against Sutter Health,” Robert King, August 30, 2021, <https://www.fiercehealthcare.com/hospitals/federal-judge-grants-final-approval-575m-settlement-against-sutter-health>.

³⁰ Securities and Exchange Commission, Form S-1, Clover Health Investments, Corp., January 13, 2021, <https://sec.report/Document/0001193125-21-007853/>.

³¹ Senator Elizabeth Warren, “The SPAC Hack: How SPACs Tilt the Playing Field and Enrich Wall Street Insiders,” May 2022, p.7, <https://www.warren.senate.gov/imo/media/doc/SPACS.pdf>.

³² Hindenburg Research, “Clover Health: How the “King of SPACs” Lured Retail Investors Into a Broken Business Facing an Active, Undisclosed DOJ Investigation,” February 4, 2022, <https://hindenburesearch.com/clover/>.

³³ CNBC, “Chamath Palihapitiya-backed Clover Health gets notice of SEC investigation,” Steve Kovach, February 5, 2021, <https://www.cnbc.com/2021/02/05/chamath-palihapitiya-backed-clover-health-gets-notice-of-sec-investigation.html>; Reuters, “U.S. judge says Palihapitiya must face Clover shareholders’ lawsuit,” Jody Godoy, March 1, 2022, <https://www.reuters.com/legal/litigation/us-judge-says-palihapitiya-must-face-clover-shareholders-lawsuit-2022-03-01/>.

³⁴ Center for Medicare & Medicaid Services, “Notice of Imposition of Civil Money Penalty for Medicare Prescription Drug Contract Number H5141, May 26, 2016, https://www.cms.gov/Medicare/Compliance-and-Audits/Part-C-and-Part-D-Compliance-and-Audits/Downloads/Clover_CMP_05_26_16.pdf.

³⁵ Center for Medicare & Medicaid Services, “Global and Professional Direct Contracting (GPDC) Model Participant Overview,” February 24, 2022, <https://innovation.cms.gov/media/document/gpdc-model-participant-summary>.

³⁶ Department of Justice, “Adventist Health System Agrees to Pay \$115 Million to Settle False Claims Act Allegations,” press release, September 21, 2015, <https://www.justice.gov/opa/pr/adventist-health-system-agrees-pay-115-million-settle-false-claims-act-allegations>.

Westmoreland Rose warned that “this type of financial incentive is not only prohibited by law, but can undermine patients’ medical care.”³⁷

Humana: An audit by the Department of Health and Human Services Office of Inspector General found that Humana, which operates a DCE in 13 states,³⁸ improperly collected nearly \$200 million in 2015 through upcoding and “overstating how sick some patients were.”³⁹

Vively Health: Vively Health, previously DaVita Medical Holdings, operates a DCE with locations in more than two dozen states.⁴⁰ In 2015, DaVita agreed to pay \$450 million to resolve allegations that the company violated the False Claims Act by “knowingly creating unnecessary waste in administering the drugs Zemiplar and Venofer to dialysis patients, and then billing the federal government for such avoidable waste.”⁴¹ DaVita Rx paid \$63.7 million to settle another allegation of False Claims Act violations, in which the DOJ in 2017 alleged that DaVita Rx “billed federal healthcare programs for prescription medications that were never shipped, that were shipped but subsequently returned, and that did not comply with requirements for documentation of proof of delivery, refill requests, or patient consent.”⁴² DaVita’s subsidiary Healthcare Partners settled allegations that it “provid[ed] inaccurate information that caused Medicare Advantage Plans to receive inflated Medicare payments” of \$270 million in 2018.⁴³ DOJ filings alleged that DaVita Medical Holdings LLC⁴⁴ used rampant fraudulent practices while operating in MA, including “one-way” chart reviews to add on unnecessary diagnoses – practices that could be used in the ACO REACH program to inflate risk scores and drive up costs.⁴⁵ Vively Health has since withdrawn from the ACO REACH program.

Cigna: Cigna, a major insurance and health care company, is the parent company of CareAllies Accountable Care Solutions,⁴⁶ which operates in two states,⁴⁷ and is an investor in several other DCEs.⁴⁸ Cigna’s participation in MA came under scrutiny in 2020, when the Department of Justice sued the

³⁷ *Id.*

³⁸ Center for Medicare & Medicaid Services, “Global and Professional Direct Contracting (GPDC) Model Participant Overview,” February 24, 2022, <https://innovation.cms.gov/media/document/gpdc-model-participant-summary>.

³⁹ NPR, “Humana Inc. Overcharged Medicare Nearly \$200 Million, Federal Audit Finds,” Fred Schulte, April 20, 2021, <https://www.npr.org/sections/health-shots/2021/04/20/988817003/humana-inc-overcharged-medicare-nearly-200-million-federal-audit-finds>.

⁴⁰ Center for Medicare & Medicaid Services, “Global and Professional Direct Contracting (GPDC) Model Participant Overview,” February 24, 2022, <https://innovation.cms.gov/media/document/gpdc-model-participant-summary>.

⁴¹ Department of Justice, “DaVita to Pay \$450 Million to Resolve Allegations That it Sought Reimbursement for Unnecessary Drug Wastage,” press release, June 24, 2015 <https://www.justice.gov/opa/pr/davita-pay-450-million-resolve-allegations-it-sought-reimbursement-unnecessary-drug-wastage>.

⁴² Department of Justice, “DaVita Rx Agrees to Pay \$63.7 Million to Resolve False Claims Act Allegations,” press release, December 14, 2017, <https://www.justice.gov/opa/pr/davita-rx-agrees-pay-637-million-resolve-false-claims-act-allegations>.

⁴³ Department of Justice, “Medicare Advantage Provider to Pay \$270 Million to Settle False Claims Act Liabilities,” press release, October 1, 2018, <https://www.justice.gov/opa/pr/medicare-advantage-provider-pay-270-million-settle-false-claims-act-liabilities>.

⁴⁴ Denver Business Journal, “DaVita Health Solutions rebrands as Vively Health, partners with Cerner,” Jensen Werley, October 29, 2019, <https://www.bizjournals.com/denver/news/2019/10/29/davita-health-solutions-vively-health.html>.

⁴⁵ Department of Justice, “Medicare Advantage Provider to Pay \$270 Million to Settle False Claims Act Liabilities,” press release, October 1, 2018, <https://www.justice.gov/opa/pr/medicare-advantage-provider-pay-270-million-settle-false-claims-act-liabilities>.

⁴⁶ CareAllies, “CareAllies’ ACO Clients Demonstrate Exceptional Performance in 2020,” press release, <https://www.careallies.com/about-us/news/aco-clients-demonstrate-exceptional-performance-in-2020>.

⁴⁷ Center for Medicare & Medicaid Services, “Global and Professional Direct Contracting (GPDC) Model Participant Overview,” February 24, 2022, <https://innovation.cms.gov/media/document/gpdc-model-participant-summary>.

⁴⁸ HealthAffairs, “Medicare Advantage, Direct Contracting, And The Medicare ‘Money Machine,’ Part 2: Building On The ACO Model,” Richard Gilfillan and Donald M. Berwick, September 30, 2021, <https://www.healthaffairs.org/doi/10.1377/forefront.20210928.795755/full/>.

company for establishing a new “360 Program” not to increase patients’ health, but to raise risk scores and game the MA system.⁴⁹ As of Cigna Corp.’s most recent SEC filing for the quarter ending in June 2022, the litigation was ongoing.⁵⁰

Bright Health: Bright Health, the parent company to multiple DCEs,⁵¹ described the Medicare fee-for-service market as a “\$430 billion opportunity” in a 2021 regulatory filing.⁵² The Colorado Division of Insurance received over 100 consumer and health care provider complaints regarding Bright Health since 2021, leading to a \$1 million fine and a formal agreement with the company to address operational improvements.⁵³

Nivano Physicians: Nivano Physicians, which operates a DCE in California and Washington,⁵⁴ went through a widely-publicized power struggle in 2017 resulting in “a surge in complaints” against the company alleging delays in authorizations and unpaid claims.⁵⁵ The Department of Managed Health Care initiated a corrective action plan with the company, and multiple major health care plans terminated their contracts with Nivano.⁵⁶

The ongoing participation in the DCE program of organizations with documented cases of health care fraud and abuse reveals ongoing threats to Medicare, raising concerns that the ACO REACH model could allow bad corporate actors into Medicare, putting patients and taxpayer dollars at risk.

The ACO REACH model’s 2022 request for applications includes required disclosures of any sanctions, corrective actions, and fraud investigations faced by the organization or any individuals with ownership interests,⁵⁷ but similar requirements did not appear to be able to keep these organizations out of the predecessor Direct Contracting program. In addition, if these organizations are automatically included in the ACO REACH program without further review of their histories of fraud and abuse will further undercut these requirements. These Direct Contractors operate in dozens of states and pose a serious waste, fraud, and abuse risk. **CMS must act quickly to address these risks and protect patients before the new ACO REACH program begins operations by at the very least (1) halting participation by any organizations that have committed health care fraud and (2) terminating DCEs that do not meet the new standards for the ACO REACH program.**

The inclusion of organizations in the ACO REACH model that have records of fraud and abuse within the Medicare and Medicaid programs creates a risk for Medicare beneficiaries. Given our concerns about the

⁴⁹ Fierce Healthcare, “DOJ files suit against Cigna over allegations of Medicare Advantage fraud,” Paige Minemyer, August 5, 2020, <https://www.fiercehealthcare.com/payer/doj-files-suit-against-cigna-over-allegations-medicare-advantage-fraud>.

⁵⁰ Securities and Exchange Commission, “Cigna Corporation Form 10-Q,” August 4, 2022, <https://www.sec.gov/ix?doc=/Archives/edgar/data/1739940/000173994022000019/ci-20220630.htm>.

⁵¹ NeueHealth, “NeueHealth Announces Participation in Innovative Medicare Model in Six States,” press release, April 7, 2022, <https://www.businesswire.com/news/home/20220407005181/en/NeueHealth-Announces-Participation-in-Innovative-Medicare-Model-in-Six-States>.

⁵² Securities and Exchange Commission, “Bright Health Group Form S-1,” May 19, 2021, https://www.sec.gov/Archives/edgar/data/1671284/000110465921069324/tm217793-7_s1.htm.

⁵³ Colorado Department of Regulatory Agencies, “Division of Insurance Fines Bright Health \$1M,” press release, April 8, 2022, <https://doi.colorado.gov/news-releases-consumer-advisories/division-of-insurance-fines-bright-health-1m>.

⁵⁴ Center for Medicare & Medicaid Services, “Global and Professional Direct Contracting (GPDC) Model Participant Overview,” February 24, 2022, <https://innovation.cms.gov/media/document/gpdc-model-participant-summary>.

⁵⁵ Sacramento Business Journal, “UnitedHealthcare, Blue Shield terminate contracts with Nivano Physicians,” Scott Rodd, August 8, 2017, <https://www.bizjournals.com/sacramento/news/2017/08/08/unitedhealthcare-blue-shield-terminate-contracts.html>.

⁵⁶ *Id.*

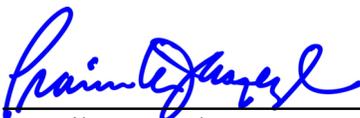
⁵⁷ Center for Medicare & Medicaid Services, “ACO Realizing Equity, Access, and Community Health (REACH) Model Request for Applications,” February 24, 2022, p. 11, <https://innovation.cms.gov/media/document/aco-reach-rfa>.

participation of these companies, we respectfully request that you provide written responses to these questions no later than January 16, 2023:

1. How have organizations that have already been accepted into the Global and Professional Direct Contracting Model been screened for acceptance into the ACO REACH program beginning January 2023?
 - a. What mechanisms exist to ensure DCEs that do not meet the standards of ACO REACH will not continue into the program?
 - b. Does CMS have the statutory authority to remove DCEs from the ACO REACH program prior to January 1, 2023?
2. What specific methods will CMS use to screen ACO REACH participants?
 - a. Will companies with a record of having committed fraud or abuse under any Federal or state health care program be allowed to participate?
 - b. Will companies that have reached fraud and abuse settlements with DOJ or state authorities – even if they include no admission of wrongdoing – be allowed to participate in the ACO REACH program?
3. Please provide the most up-to-date list of all ACO REACH participating organizations.
 - a. Please identify which of these organizations has a “billing history and any administrative audits, investigations, or other activities conducted” that identified “suspicious billing or other potential program fraud and abuse.”⁵⁸
 - b. Please identify which of these organizations have been the subject of “any civil or criminal actions related to participation in a federal health care program.”⁵⁹
4. What other protections will CMS include in the ACO REACH program to protect taxpayers and Medicare beneficiaries from upcoding and other forms of waste, fraud, and abuse?
5. Since the launch of the Global and Professional Direct Contracting Model, has CMS found evidence of fraud and upcoding from any DCE with a history of these practices? If not, did CMS have access to adequate data from DCEs to make this determination?

Thank you for your prompt attention to this important matter.

Sincerely,



Pramila Jayapal
Member of Congress



Elizabeth Warren
United States Senator

⁵⁸ Center for Medicare & Medicaid Services, “Direct Contracting Model: Global and Professional Options Request for Applications,” November 25, 2019, <https://innovation.cms.gov/files/x/dc-rfa.pdf>.

⁵⁹ *Id.*



Jamaal Bowman, Ed.D.
Member of Congress



Cory A. Booker
United States Senator



Cori Bush
Member of Congress



Bernard Sanders
United States Senator



Salud Carbajal
Member of Congress



Peter A. DeFazio
Member of Congress



Rosa L. DeLauro
Member of Congress



Debbie Dingell
Member of Congress



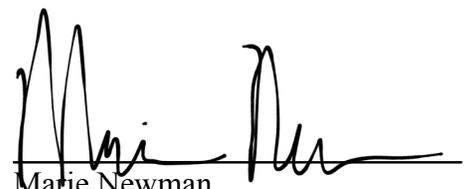
Lloyd Doggett
Member of Congress



Raúl M. Grijalva
Member of Congress



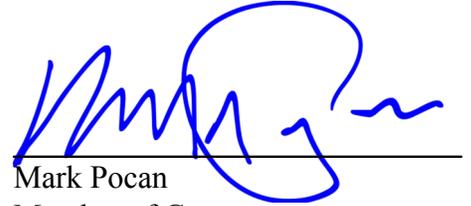
James P. McGovern
Member of Congress



Marie Newman
Member of Congress



Alexandria Ocasio-Cortez
Member of Congress



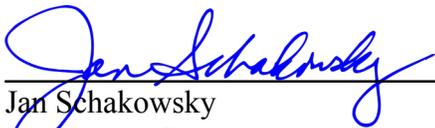
Mark Pocan
Member of Congress



Katie Porter
Member of Congress



Ayanna Pressley
Member of Congress



Jan Schakowsky
Member of Congress



Mark Takano
Member of Congress



Rashida Tlaib
Member of Congress