1 **Resolution Concerning the Medicare Advantage Program**

2 **Submitted by Marvin Malek, MD**

3 **Submitted: October 24, 2022**

4 Whereas, the Medicare Payment Advisory Commission has found that the Center for Medicare
5 and Medicaid Services (CMS) has been overpaying the Medicare Advantage insurers and
6 thereby depleting the Medicare Trust Fund every year since at least 2004 with excessive
7 "benchmark payments" to Medicare Advantage plans, [1] such that Medicare spending would have
8 been $321 less per MA enrollee had those enrollees remained in traditional Medicare, ,[2] and

9 Whereas, CMS has taken no remedial action while the Medicare Advantage companies are
10 rampantly abusing the diagnostic coding system used to predicate monthly capitated payments,
11 adding further to Medicare Advantage overpayments,[3] [4] [5] and

12 Whereas, CMS has exempted Medicare Advantage insurers from having to pay for hospice care,
13 resulting in simultaneous double payments from the Medicare Trust Fund to both the MA plan
14 and the hospice provider, so long as MA patients are enrolled in a hospice program, and

15 Whereas, some of the MA overpayments allow for enhanced benefits (lower premiums, dental,
16 optical, and hearing aid subsidies) in most zip codes, thereby luring additional Medicare
17 enrollees to sign on to a MA plan, the overpayments have also resulted in lavish profits for the
18 Medicare Advantage insurers[6] [7] and a flurry of deceptive media advertising, and

19 Whereas, the Medicare Advantage plans continue to impose tremendous cost and administrative
20 burden on physicians and other health care providers, requiring time consuming pre-
21 authorization procedures and appeals of MA plan denials of payment for care already provided,
22 with over 30% of MA enrollees experiencing at least one payment denial annually, [8] and

23 Whereas, the Office of the Inspector General of the Department of Health and Human Services
24 found that 13% of preauthorization denials and 18% of denials of payment were inappropriate, [9]

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[1] Medicare Payment Advisory Commission; Report to Congress: Medicare and the Health Care Delivery System, June 2021: Chapter 1: Rebalancing Medicare Advantage Benchmark Policy. June, 2021.

[2] March 2021 Report to the: Medicare Payment Policy. Chapter 12 Status Report: The Medicare Advantage Program. Medicare Payment Advisory Commission, March 2021, Chapter 12, pp 1- 54.

[3] Livingston, S; Insurers profit from Medicare Advantage's incentive to add coding that boosts reimbursement. Modern Healthcare Sept 1, 2018

[4] Rowland,C; Beat Cancer? Your Medicare Advantage plan might still be billing for it. Washington Post, June 5, 2022.

[5] Abelson, R & Sanger-Katz, M;' The Cash Monster was Insatiable': How Insurers Exploited Medicare for Billions. New York Times, October 8, 2022.

[6] Christ,G; Humana records $930 M Quarterly profit as Medicare Advantage rolls grows 5%. Modern Healthcare, April 27, 2022. https://www.modernhealthcare.com/finance/humana-records-930m-quarterly-profit-medicare-advantage-rolls-grow-5

[7] Publication of United Health Group, July 16, 2022. https://www.unitedhealthgroup.com/content/dam/UHG/PDF/investors/2022/UNH-Q2-2022-Release.pdf

[8] Schwartz AL, Chen Y, et al: Coverage Denials: Government and Private Insurer Policies for Medical Necessity in Medicare. Health Affairs 41(1) January, 2022.

[9] Grimm CA, Some Medicare Advantage Organization Denials of Prior Authorization requests raise concerns about beneficiary access to medically necessary care. US Department of Health and Human Services Office of the Inspector General Report OEI-09-18-00260, April 2022.

1 denying or truncating post-hospitalization rehabilitation care, [10] inpatient care, imaging, and
2 many other services; therefore be it:

3 **RESOLVED that the Vermont Medical Society will advocate to the Center for Medicare**
4 **and Medicaid Services to discontinue overpayments to Medicare Advantage plans and to**
5 **use those funds to improve traditional Medicare and bolster the Medicare Trust Fund; and**
6 **be it further**
7
8 **RESOLVED that the Vermont Medical Society will advocate to Vermont's Congressional**
9 **delegation to improve the benefit package in traditional Medicare**
10 **-by reducing deductibles and copays, and capping annual out-of-pocket spending**
11 **-and by adding dental, hearing, and vision coverage; and be it further**
12
13 **RESOLVED that the Vermont Medical Society will advocate to the Center for Medicare**
14 **and Medicaid Services to improve and stabilize physician payment, including an increase**
15 **in reimbursement for mental health and primary care services within the traditional**
16 **Medicare program.**
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[10] Medicare Advantage plans telling rehab patients to go home early. Kaiser Health News reprint of Long Beach Press-Telegram expose, October 17, 2022