January 27, 2025

SUBMITTED ELECTRONICALLY

The Honorable Jeff Wu
Acting Administrator
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244

RE: CCD Health Task Force Support for Proposed Coverage Expansion of Anti-Obesity Medications

Dear Acting Administrator Wu:

On behalf of the undersigned members of the Consortium for Constituents with Disabilities (CCD) Health Task Force, we write to thank you for the opportunity to submit comments to the Centers for Medicare and Medicaid Services (CMS) in response to the Medicare Advantage and Medicare Part D proposed rule for 2026. Included in the proposed rule is a proposal to expand coverage under the Medicare and Medicaid programs of anti-obesity medications (AOMs) for the treatment of obesity, and CCD's support for this proposal is the central focus of these comments.

CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance. The Health Task Force works to ensure access to high quality, accessible, affordable health care for people with disabilities and complex conditions of all ages that meets their individual needs and enables them to be healthy, live as independently as possible, and participate in the community. Medicaid is a critical program for persons with disabilities as is Medicare, which covers approximately 8 million people under the age of 65 based on disability status.

Since 2006, the statutory definition of a covered Part D drug excludes certain drugs and uses—specifically those that may be excluded by Medicaid under section 1927(k)(2) of the Social Security Act, which references, "agents when used for…weight loss…". CMS has

interpreted this statutory exclusion to mean that when a drug is used for weight loss, even when not used for cosmetic purposes, it is excluded from the definition of a covered Part D drug.[1] This historical interpretation has meant that all drugs used for weight loss have been excluded from the definition of covered Part D drugs and considered to be an optional benefit under the Medicaid program, at the state's discretion, regardless of their use to treat the chronic disease of obesity, as defined by the Centers for Disease Control and Prevention.

In this proposed rule, CMS is seeking to reinterpret the current statute to permit coverage of anti-obesity medications under the Medicare and Medicaid programs for the treatment of obesity when such drugs are indicated to reduce excess body weight and maintain long-term weight reduction for individuals living with obesity. From a disability perspective, a lack of mobility often contributes to weight gain and obesity as well as the chronic illnesses that often accompany obesity at a much higher rate than the general population living without a disability. In fact, obesity estimates for adults with disabilities range from 25% to 31% compared to 15% to 19% for adults without disabilities.[2]

The undersigned CCD members believe that expansion of access to anti-obesity medications to treat obesity could lead to better weight management and reductions in obesity-related health conditions as well as health disparities, particularly in populations disproportionately affected by obesity. This would include people with disabilities, as noted above, lower income populations, and some racial/ethnic groups that experience higher rates of obesity than the general population.[3]

The expansion of coverage of AOMs under the Medicaid program, which is a primary payer for many individuals living with a disability, would not only address inequities in access to weight loss treatment compared to the non-Medicaid population, but also provide greater opportunities for people with disabilities to live more active and healthier lives. Most importantly, expanded coverage of AOMs for the treatment of obesity would improve health outcomes for Medicaid enrollees by lowering the chances of developing the chronic conditions associated with obesity, including type 2 diabetes, heart disease, and various types of cancer, the prevalence of which remains much higher in the Medicaid program. Current coverage of anti-obesity medications to treat chronic conditions like diabetes and heart disease under the Medicaid program remains limited, with only 13 state Medicaid

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[1] 73 FR 20489-20490 in "Medicare Program; Policy and Technical Changes to the Medicare Prescription Drug Benefit" published April 15, 2008 (73 FR 20486). However, CMS's longstanding interpretation of the phrase "[a]gents when used for…weight gain …" (emphasis added) in the same section of the Act has not included drugs used to treat acquired immunodeficiency syndrome (AIDS) wasting and cachexia (73 FR 20490).

[2] Weil E, Wachterman M, McCarthy EP, Davis RB, O'Day B, Iezzoni LI, et al. Obesity Among Adults with Disabling Conditions. JAMA. 2002; 288(10):1265-1268.

[3] Peterson, R., Racial and Ethnic Disparities in Adult Obesity in the United States: CDC's Tracking to Inform State and Local Action, Vol. 16. E46 (April 2019).

programs covering AOMs as of August 2024.[4] According to a recent study conducted by the Kaiser Family Foundation, expanding Medicaid coverage of these drugs could increase access for the almost 40% of adults and 26% of children with obesity in the Medicaid program. *Id.* Even with this increase in utilization, CCD believes that reduced obesity rates among Medicaid enrollees would result in reduced Medicaid spending longer-term on chronic diseases associated with obesity.

We support holistic approaches to weight loss and healthy lifestyles and view AOMs as one important tool that should be available to enable people with disabilities to maintain their weight. Proper dieting and exercise is not always feasible or effective for weight loss, especially for individuals living with a disability for a wide variety of reasons, including inaccessible fitness facilities and equipment and lack of access to assistive devices that enable participation in specific activities. We view coverage of these medications as adding an important tool to use along with proper dieting and exercise in the effort to assist in the reduction of body mass which, in turn, could lead to improvements in function and independence. As a result, this improved function and independence can help motivate individuals with disabilities to regulate their weight and achieve better health outcomes over time.

Given these reasons, the undersigned members of the CCD Health Task Force support this proposed coverage expansion for AOMs under the Medicare and Medicaid programs and urges CMS to move forward with finalizing this proposal as soon as possible. If you have any further questions, please contact the Health Task Force co-chairs: Caroline Bergner (cbergner@asha.org), David Machledt (machledt@healthlaw.org), Greg Robinson (grobinson@autisticadvocacy.org), and/or Michael Lewis (mlewis@aapd.com).

Sincerely,

American Association on Health and Disability
American Music Therapy Association
American Nurses Association
Amputee Coalition
National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)
National Health Law Program
Lakeshore Foundation
The Arc of the United States
World Institute on Disability

[4] Kaiser Family Foundation. "Medicaid Coverage of and Spending on GLP-1s." KFF, 2024, https://www.kff.org/medicaid/issue-brief/medicaid-coverage-of-and-spending-on-glp-1s/.