CMS Response to Public Comments for CMS-10718, OMB 0938-1378

The Centers for Medicare and Medicaid Services (CMS) received comments on the "Model Medicare Advantage and Medicare Prescription Drug Plan Individual Enrollment Request Form" (CMS–10718, OMB 0938-1378), as outlined in the *Federal Register* (87 FR 26759) dated May 5, 2022 from Medicare Advantage (MA) and Prescription Drug Plan (PDP) Organizations and other essential stakeholders. This is the reconciliation of the comments from the 30-day public comment period.

Comment: A commenter expressed support of CMS' efforts to collect race and ethnicity data directly from enrollees as the collection and analysis of this information would aid plans' efforts to identify and address health care disparities. The commenter appreciates and acknowledges CMS' extension of the implementation date to January 1, 2023, but recommends implementation be further delayed until the October 2023 Annual Enrollment Period (AEP).

Response: Thank you for your comments. We appreciate your support for CMS' efforts to collect voluntary, granular, and self-reported race and ethnicity information. We believe, based on feedback from the industry, that a January 1, 2023 implementation date provides plans at least six months to implement the new race and ethnicity data fields.

In accordance with the Biden Administration's priorities (see Executive Order 13985 (*Advancing Racial Equity and Support for Underserved Communities Through the Federal Government*[1])) as well as CMS' Strategic Plan (specifically the Plan's first pillar, Health Equity)[2] and CMS' Framework for Health Equity 2022-2032,[3] CMS is prioritizing the collection of **accurate and reliable** (both granular and self-reported) race and ethnicity data, which are necessary to perform robust health equity-oriented analytic investigations to identify and understand – and then act upon – health and health care inequities in Medicare. As Drs. Meena Seshamani (Director of the Center for Medicare) and Douglas Jacobs (Chief Transformation Officer) wrote in their recently published *JAMA* article,[4] "A recommitment toward addressing equity cannot wait."

Comment: A commenter asked if plans can update the MA and Part D enrollment form with the new race and ethnicity data fields for use during the upcoming 2022 Annual Enrollment Period (AEP) in order to meet the January 1, 2023 deadline. If so, will CMS request to see the Ethnicity and Race data? In addition, the commenter asked whether plans should submit that data to CMS?

[1] https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/
[2] https://www.cms.gov/files/document/health-equity-fact-sheet.pdf
[3] https://www.cms.gov/About-CMS/Agency-Information/OMH/equity-initiatives/framework-for-health-equity
[4] https://jamanetwork.com/journals/jama/fullarticle/2791648?widget=personalizedcontent&previousarticle=2785966

Response: We appreciate your comments. The enrollment form is considered a "model" under Medicare regulations for purposes of communication and marketing review and approval; therefore, MA and Part D plans are able to modify the language, content, format, or order of the enrollment form. Plans have the flexibility to add/collect data (i.e. race and ethnicity) as needed but CMS can't request this information be collected until we receive OMB approval under the Paperwork Reduction Act (PRA) for a January 1, 2023 implementation date. At that time, when an enrollee provides a response to the race and/or ethnicity data elements on the enrollment form, the plan must submit this data with the enrollment transaction (TC 61). Medicare Advantage Prescription Drug (MARx) users will be able to see this data on the M259 screen.

However, during the upcoming AEP, CMS will not request to see race and ethnicity data as part of the enrollment transaction.

Comment: A commenter reiterated support for CMS' proposal to add race and ethnicity data fields to the MA and Part D enrollment request form. The commenter, however, suggested improvements to instructional language for the new race and ethnicity questions to maximize enrollee response. The commenter suggests the instructions be revised to read, "Answering these questions is your choice. Your coverage will not be impacted by your response." The commenter further suggests more granular response options in future proposals for public comment. For example, CMS consider proposing the addition of "Arab, Middle Eastern, North African" and "I only identify as Hispanic/LatinX" as response options to the question on race. These additions could help reduce the number of responses stating "other", making the data more actionable as recommended by the U.S. Census Bureau to improve accuracy and completeness of demographic data. [5] Additionally, the commenter encourages CMS to work with stakeholders to standardize and align data collection efforts on race and ethnicity via the enrollment form across federal programs. The commenter believes this approach would increase transparency on beneficiary sociodemographic characteristics, including race and ethnicity under Original Medicare and enable comparisons between MA and Original Medicare serving beneficiaries with similar characteristics.

Response: We greatly appreciate your comments and suggestions. At this time, CMS will not make any changes to the instructional language as we believe it clearly informs enrollees that providing a response will not impact coverage. For this iteration of including race and ethnicity on the Medicare Part C and D enrollment form, we plan to comply with the 2011 Department of Health and Human Services (HHS) Implementation Guidance on Data collection Standards for Race, Ethnicity, Sex, Primary Language, and Disability Status,[6] as those are the most well-established and most granular race and ethnicity standards currently available. If and when these standards are updated, CMS will explore updating the race and ethnicity data elements on the Medicare Part C and D enrollment form to align with the new standards, which may include

[5] Collecting and Tabulating Ethnicity and Race Responses in the 2020 Census

[6] https://aspe.hhs.gov/reports/hhs-implementation-guidance-data-collection-standards-race-ethnicity-sex-primary-language-disability-0

some of the recommendations the commenter suggested (e.g. the inclusion of Arab, Middle Eastern, and North African categories).

Comment: A commenter questioned whether the model enrollment form should include the "Don't enter a PO Box" language under the permanent residence street address field since it was not included in the crosswalk document.

Response: Thank you for your comment. As noted in the CMS-10718 CY2022 -CY 2023 crosswalk, the permanent residence street address field which included the language ("Don't enter a PO Box") was revised to "Permanent Residence street address". This change was made to align with guidance (which is included in the instructions on the cover page of the form) and ensures – from a health equity lens – that individuals experiencing homelessness or housing instability can list a Post Office Box, an address of a shelter or a clinic, or the address where the individual receives mail (e.g., social security checks) and that this address may be considered the individual's place of permanent residence. In terms of MA and Part D eligibility, what remains unchanged is that an individual must reside in the service area of the plan. A permanent residence is normally established by the address of an individual's primary residence