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## How the insurance lobby got Congress to love Medicare Advantage

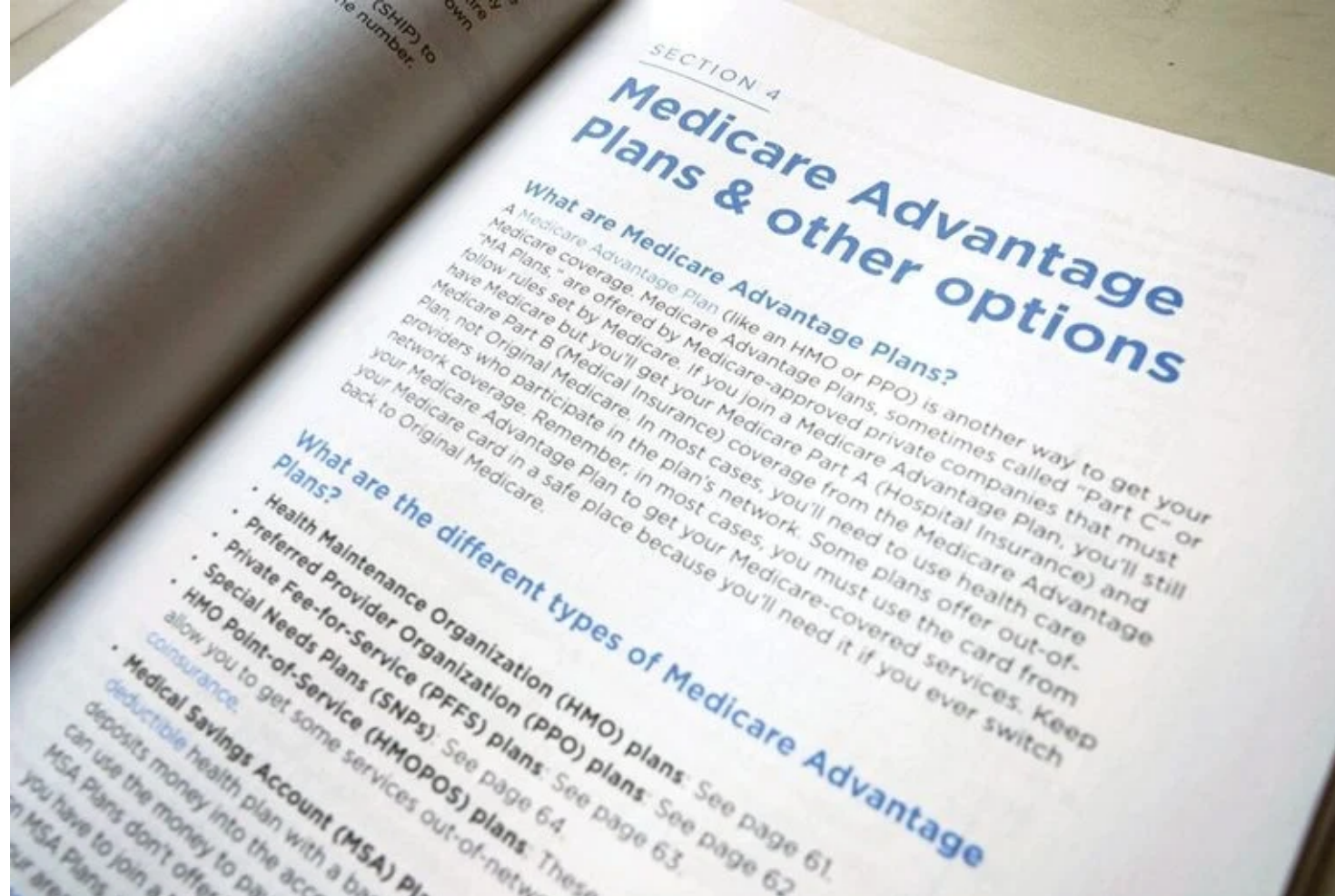
JESSIE HELLMANN

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This summer, some lawmakers and outside experts **floated** the idea of cutting Medicare Advantage funding to help cover the cost of adding dental, vision and hearing coverage to fee-for-service Medicare as part of President Joe Biden's sprawling multi-trillion dollar social spending **plan**.

Almost as soon as it came up, it was off the table. Industry groups aired millions of dollars in **television advertisements** warning seniors that Washington was "messing with" their healthcare and urging them to contact members and tell them "please don't cut Medicare Advantage."

Then Sen. Krysten Sinema (D-Ariz.), whose support is crucial to getting Biden's "Build Back Better" package through the Senate, penned a [letter](#) with Sen. Tim Scott (R-S.C.) touting Medicare Advantage plans and vowing to "protect MA from payment cuts."



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Eventually, those added benefits—except for hearing—got cut from the bill entirely due to [cost concerns](#) moderate members such as Sinema and Sen. Joe Manchin (D-W.Va.) expressed.

This is the power of the insurance industry in action. Medicare Advantage carriers especially have eluded scrutiny from Congress in recent years, even as government watchdogs, [Medicare experts](#) and the [Justice Department](#) have grown increasingly alarmed about problems they see with the program.

"The outpouring of lobbyist-driven pressure on Congress is really quite enormous, and that makes Medicare Advantage very politically difficult to change, even though this is money that could, if recovered, be used for many other purposes," said Donald Berwick, the co-founder of the Institute for

Healthcare Improvement who served as administrator of the Centers for Medicare and Medicaid Services under President Barack Obama.

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Medicare Advantage is a rapidly growing program the Republican-led Congress and Democratic President Bill Clinton created as Medicare+Choice in 1997. The goal was to offer beneficiaries an alternative to traditional fee-for-service Medicare in hopes private insurers could constrain program costs.

Half of Medicare beneficiaries are expected to be in private plans by 2030. Some experts, including the Medicare Payment Advisory Commission, have long raised questions about whether the program is a good value for taxpayers. In spite of Medicare Advantage's "relative efficiency," it's never saved the government money, MedPAC reported in June.

Indeed, Medicare spending continues to grow as more people age into benefits, prompting renewed anxiety about the program's fiscal footing. The Medicare trustees predict the Part A trust fund will be insolvent by 2026.

Still, Medicare Advantage plans have fought to keep things the way they are, mostly with success.

The industry frequently buffets lawmakers with advertising and lobbying campaigns that highlight the program's popularity among beneficiaries, in large part because the plans typically offer benefits not included in fee-for-service Medicare, including dental and vision coverage.

"They have become powerful because 40% of the Medicare population is enrolled in a managed care plan," said Mark Miller, who served as the executive director of the Medicare Payment Advisory Commission for 17 years and now works at Arnold Ventures. "To the extent that insurers are making money off of it, that's money that could be used for lobbying."

Experts **argue** Medicare Advantage plans can use risk adjustment to make patients look sicker than they are to collect larger payments while benefiting from base payments—called benchmarks—that Congress hasn't adjusted since 2010.

MedPAC says Congress should **lower benchmarks** to deliver savings, and that this can be done without affecting plan participation or beneficiary access to supplemental benefits if insurers accept smaller profits or become more efficient.

Plans that bid below the benchmark receive a rebate for a portion of the difference that is used for supplemental benefits. These rebates made up 14% of CMS payments to Medicare Advantage plans in 2021.

Separately, the Health and Human Services' Office of Inspector General **raised concerns** in September that some Medicare Advantage companies may have "inappropriately" leveraged chart reviews and health risk assessments to maximize risk-adjustment payments.

The OIG found that 20 of the 162 Medicare Advantage carriers drove a disproportionate share of the \$9.2 billion in payments from diagnoses that

were reported only on chart views and health risk assessments but not on other records.

MedPAC has advised Congress for several years now to crack down on "excess payments" to Medicare Advantage plans, especially as it relates to coding intensity, estimating it leads to \$6 billion in improper payments to plans a year.

Health insurance companies counter that they are more efficient at coding than the government and that their beneficiaries are actually sicker than fee-for-service enrollees. The industry also disputes MedPAC's conclusions.

"I don't see that there's bipartisan interest in taking on changes to the program next year," said Dan Jones, vice president of federal affairs for Alliance of Community Health Plans. Most Medicare Advantage plans are "good stewards of federal tax dollars" but there are some "bad actors," he said.

Instead of oversight, scores of lawmakers annually sign on to letters drafted by the industry praising Medicare Advantage.

Seventy members of Congress representing districts where a majority of Medicare beneficiaries have Medicare Advantage plans signed such a [letter](#) in May.

More than 400 lawmakers—or three-quarters of Congress—signed on to a [letter](#) to CMS in 2020 to "express strong bipartisan support" for Medicare Advantage but raised no questions about program integrity issues watchdogs have flagged.

"Part of the problem is the lack of education. These plans are privately run, and [lawmakers] think, 'That's all I need to know,'" said a congressional aide

whose boss has declined to sign similar letters. "We tend to stay off of a lot of those just because we can see the inside of what's happening."

The education members do get tends to come from groups like the Better Medicare Alliance and AHIP, insurance industry groups that lobby for Medicare Advantage carriers.

The Better Medicare Alliance, which was founded in 2014 and is funded by the insurers, raised more than \$6 million in 2020 to advocate for Medicare Advantage. About one-third of that went to communications including advertising, according to the organization's tax filings.

The alliance deployed a portion of its war chest this summer while congressional Democrats were eying programs to cut so they could use the funds on Biden's social spending agenda. Some ads specifically named senators who are key votes on the package, including Manchin and Sinema.

These kinds of tactics are effective, said Wendell Potter, a former Cigna executive who now advocates for health reform. "Members of Congress don't want to be accused of doing anything to harm senior benefits and that's why the industry is so careful in their advertising and everything they do to make people think there's no difference between Medicare and Medicare Advantage," he said.

The Better Medicare Alliance also works to get in members good graces by naming "**congressional champions**" who "stand up for Medicare Advantage." In 2021, more than 400 lawmakers received this designation as a reward for showing "extraordinary dedication" to legislation the alliance supports

Several of those "champions" are members of the House Ways and Means and Energy and Commerce committees, which share jurisdiction over Medicare policy.

Some are invited to speak at the group's annual conference. Rep. Brett Guthrie (R-Ky.), the top Republican on the Energy and Commerce Committee's health subcommittee, spoke at a conference in October, calling the private plans "superior" to fee-for-service.

Rep. Terri Sewell (D-Ala.), who serves on the Ways and Means Committee praised Medicare Advantage plans for being "more customized, more specific" and offering "more flexibility and benefits."

None of the issues raised by MedPAC or others were mentioned.

"They are not being good stewards of taxpayer dollars by ignoring this," Potter said.

This lobbying offensive became more aggressive after the changes Congress made in 2010 to generate Medicare savings.

Insurers argued then those changes would harm their businesses and negatively impact enrollees but the opposite happened: Medicare Advantage enrollment grew explosively and insurers found more ways to generate revenue from the federal government.

"The industry will always say if you do anything, it's nuclear winter. But that is often not the case," Miller said. "The industry could be more efficient, and should clearly not be engaging in practices like upcoding. To let that go on is poor public management."

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