**California Public Employees' Retirement System**
**Executive Office**
400 Q Street, Sacramento, CA 95811 |Phone: (916) 795-3829 | Fax: (916) 795-3410
**888 CalPERS** (or **888**-225-7377) | TTY: (877) 249-7442 | **www.calpers.ca.gov**

Centers for Medicare & Medicaid Services
Department of Health and Human Services
P.O. Box 8013
Baltimore, MD 21244-8013

***Attn: CMS-4208-P***

January 27, 2025

**Subject: Contract Year 2026 Policy and Technical Changes to the Medicare Advantage Program and Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly**

To Whom It May Concern,

On behalf of the California Public Employees' Retirement System (CalPERS), I am writing in response to the Contract Year 2026 Policy and Technical Changes to the Medicare Advantage (MA) Program and Medicare Prescription Drug Benefit Program (Part D) proposed rule.

With more than 1.5 million members, CalPERS is the largest commercial health benefits purchaser in California and the second largest commercial purchaser in the nation after the federal government. In 2023, we spent over $11.3 billion to purchase health benefits for active and retired members and their families on behalf of the State of California (including the California State University) and nearly 1,200 public agencies and schools. Of this $11.3 billion spend, approximately 21 percent was spent on outpatient prescription drugs alone.

We commend CMS for taking steps to increase access to generic and biosimilar prescription drugs by addressing formulary design. CalPERS supports the proposal to expand the Annual Health Equity Analysis reporting to allow data to be reported at the item and service level, rather than in aggregate, and recommend that CMS further expand its supplemental benefits reporting requirements to reflect quality and beneficiary experience. Additionally, CalPERS supports ensuring that artificial intelligence (AI) is used in a way that maintains equitable access to care. We are also encouraged by the proposal to align MA cost sharing to traditional Medicare amounts for behavioral health services. Our full comments follow.

## Formulary Inclusion and Placement of Generics and Biosimilars

Prescription drugs play an important role in the health and well-being of our members and their families. Rising costs of drugs are driven largely by the growing number and increasing launch

prices of specialty drugs, which represent a small fraction of drugs prescribed and dispensed, but account for more than half of the overall CalPERS drug spend. Our experience has found that the use of generics, biosimilars, and evidence-based pharmacy benefit management strategies are critical to controlling increasing prescription drug cost trends.

We support CMS reminding Part D sponsors that they are required to have in place a cost-effective drug utilization management program, including incentives to reduce costs when medically appropriate, such as through the use of generics and biosimilars, and must provide beneficiaries with broad access to such products. CalPERS' current benefit design has low copays for generic drugs ($5 for Tier 1 medications), and we believe that increasing access to low-cost products has direct implications for medication adherence and outcomes.[1]

Additionally, starting in 2021, CalPERS worked with our Anthem PPO Basic Plan on Biosimilars First, a program that requires the use of biosimilars for new adult patients when a biosimilar is available and clinically appropriate. Anthem's results from this initial study included widespread patient and provider acceptance, and the program was subsequently expanded. Studies have found that substituting biosimilar drugs for biologics could drive down the price of expensive medicines, with savings estimated to be $38.4 billion, or 5.9 percent, of projected total U.S. spending on biologics from 2021 to 2025, according to the American Journal of Managed Care.[2]

**Ensuring Equitable Access – Enhancing Health Equity Analyses: Annual Health Equity Analysis of Utilization Management Policies and Procedures**

CalPERS supports the proposal to revise the required metrics for the annual health equity analysis of the use of prior authorization to include information at the item and service level. We believe that not only will this provide additional insight into the prior authorization process and how it impacts individuals with social risk factors, but it will also improve data on the use of supplemental benefits for such individuals and the prior authorization barriers faced.

We also believe CMS could further enhance its supplemental benefit reporting requirements and enhance the utility of such data by establishing uniform reporting requirements that include quality metrics and beneficiary experience for all MA benefits. This data, coupled with the existing reporting requirements, would inform our analyses to better identify the most valuable and cost-effective supplemental benefits for our Medicare members. Further, collecting this information nationwide would provide national benchmarks for every MA supplemental benefit.

**Ensuring Equitable Access to MA Services – Guardrails for Artificial Intelligence**

AI is an important tool with the potential to improve efficiency and reduce the administrative burden associated with prior authorization. However, it should be implemented with clear guardrails to ensure transparency, accountability, and to mitigate bias. Most importantly, AI should supplement decision making, not replace it, and clinicians must remain central to all

[1] See CalPERS, 2025 Health Benefit Summary, available at: https://www.calpers.ca.gov/docs/forms publications/2025-health-benefit-summary.pdf
[2] See CalPERS Health Team Pushes for Broader Acceptance of Biosimilars, available at https://news.calpers.ca.gov/calpers-health-team-pushes-for-broader-acceptance-of-biosimilars/

patient care determinations. To this end, we support CMS ensuring that AI and automated systems, if utilized, are used in a manner that preserves equitable access to MA services, including compliance with existing rules prohibiting discrimination based on health status.

As CMS continues to address the role of AI in the MA program and considers regulatory modifications, we recommend that any CMS action taken supports the standardization and equitable use of prior authorization, whether manually or through AI.

**Ensuring Equitable Access to Behavioral Health Benefits Through Section 1876 Cost Plan and MA Cost Sharing Limits**

The burden of untreated and undertreated behavioral health conditions is both a major population health problem and a delivery system challenge. CalPERS supports CMS' proposal to align cost sharing between traditional Medicare and MA by requiring that in-network cost sharing for behavioral health services be no greater than the traditional Medicare amounts, including 20 percent coinsurance for mental health specialty services and zero cost sharing for opioid treatment program services. If finalized, this change will not only increase access to behavioral health services in the MA program, but will also improve health outcomes, and potentially reduce the stigma associated with accessing mental health services.

While this is a beneficial first step, CalPERS also recommends that CMS pursue policies to further bolster behavioral health resources, particularly the behavioral health workforce, and take steps to improve the accuracy of health care provider directories.

We thank you for your consideration and we welcome the opportunity to work with you on our shared goals of improving health care affordability, clinical quality, and equity. Please do not hesitate to contact Donald Moulds, Chief Health Director, at (916) 795-0404, or Danny Brown, Chief of our Legislative Affairs Division, at (916) 795-2565, if we can be of any assistance.

Sincerely,

Marcie Frost
Chief Executive Officer