

**Opening Statement of Chair Richard Blumenthal**  
**“Examining Health Care Denials and Delays in Medicare Advantage”**  
**U.S. Senate Permanent Subcommittee on Investigations**  
**Homeland Security and Governmental Affairs Committee**  
**May 17, 2023**

I'd like to call to order the meeting of the Permanent Subcommittee on Investigation, our first hearing of this session. I want to recognize the extraordinary and distinguished history of this panel in rooting out waste and fraud and abuse in government, and thank my Ranking Member and partner in this effort, Senator Johnson. It has been a bipartisan effort in the history of this panel, and we are seeking to continue that tradition.

When I was appointed earlier this year, I pledged to continue the work of this committee in insisting on accountability. Our work is already under way, and we're meeting today to protect seniors who are enrolled in Medicare Advantage plans who face unacceptable barriers in accessing necessary care and treatment. Medicare is the safety net that ensures that all American seniors receive the health care they need. Medicare Advantage run by insurance companies is becoming an increasingly integral part of that program. As of 2023, more than 30 million Americans were enrolled in Medicare Advantage plans, representing more than half of Medicare-eligible Americans. This number is only continuing to grow.

And I want to be clear—I support Medicare Advantage programs, the flexibility that they provide for seniors across the country. Many seniors are very happy with Medicare Advantage and want to continue with them, but the reason we're here today is that all too often the big insurance companies that run Medicare Advantage plans have been failing seniors when they need treatment and care.

Medicare Advantage insurers are required to provide beneficiaries with the same minimum level of coverage as traditional Medicare, and yet we've seen evidence indicating that in many instances, they are failing to do so—in fact, failing entirely because they are denying or delaying care.

And, tragically, we've heard from many families who faced denials in the middle of major medical crises, forcing them and their loved ones to fight even as they are fighting for their lives. And the fight for insurance coverage is detracting from the fight for their health. And perhaps most troubling of all, there is growing evidence that insurance companies are relying on algorithms rather than doctors or other clinicians to make decisions to deny patient care.

In a report released last year, the Inspector General of the Department of Health and Human Services identified a large number of instances where Medicare Advantage companies refused to authorize treatment for care that clearly met Medicare coverage requirements. In one case, a cancer patient had a common scan needed to determine if the disease had spread delayed by their insurer for more than a month. In another, an insurer refused a walker to a 76-year-old patient. The insurance company argued that this patient had been provided a cane within the past 5 years and therefore didn't need a walker.

In each of these cases, the insurer's decision overlooked the treating physician's assessment of what their patient needed. Our subcommittee has been hearing from patients and providers alike who have stories of care being delayed or denied. And many of these stories are patients who have been hospitalized for serious medical issues and who need nursing home or rehabilitative care before they're ready to return home. These denials have become so routine that some patients can predict the day on which they will come.

Advocates who have helped patients appeal denials of medically necessary care have uncovered documents showing that these decisions are not being made by doctors or other trained professionals at all. Instead, companies are using algorithms that have been programmed to predict how much care a patient needs without ever meeting a patient or their doctor. Insurers may refer to these algorithms as tools used for guidance, but the denials they generate are too systematic to ignore. All too often, black-box AI and algorithms have become a blanket mechanism for denial. And the insurance companies insist that those AI mechanisms are proprietary. But part of what needs to happen is to make them more transparent so that patients and providers know along with the public how they are being used.

Major insurance companies who run Medicare Advantage plans are making record profits. Gross margins for Medicare Advantage enrollees are well over double those for individual market, group market, or Medicaid managed care enrollees. The largest Medicare Advantage provider even said in its most recent report that a major reason for their increase in revenue between 2021 and 2022 was in fact the growth of Medicare Advantage.

This chart speaks volumes about the burgeoning profits of Medicare Advantage plans, in part because of the denial or delay of care. Insurers are in effect denying Americans necessary care in order to fatten and pad their bottom lines. And that phenomenon is unacceptable.

The information that this subcommittee has uncovered so far and that we will hear today demonstrates the need for additional investigation into the practices of these powerful insurance companies. And I want to put these companies on notice. If you deny life-saving coverage to seniors, we are watching, we will expose you, we will demand better, we will pass legislation if necessary. But action will be forthcoming.

Today, we sent bipartisan letters to the nation's largest Medicare Advantage insurers: UnitedHealth, Humana, and CVS Aetna. They collectively cover more than 50 percent of Medicare Advantage beneficiaries. We are asking for internal documents that will show how decisions are made to grant or deny access to care, including how they are using AI. Our nation's seniors should not have to fight to receive medically necessary care.

I look forward to hearing from today's witnesses. I want to thank each of you for being here because each of you has an important aspect of this story to illuminate. And, again, I want to thank the Ranking Member for his involvement and contribution and turn to him now for his comments.