

December 4, 2023

VIA ELECTRONIC TRANSMISSION

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services

Dear Secretary Becerra and Administrator Brooks-LaSure:

Medicare and Medicaid certified nursing homes provide services to approximately 1.4 million vulnerable individuals. The Centers for Medicare & Medicaid Services' (CMS) is responsible for ensuring that these nursing homes meet federal standards. CMS is also responsible for collecting and releasing accurate nursing home quality information through the Care Compare website and the Five-Star Quality Ratings System.¹ The Care Compare website is intended to provide our nation's seniors and their families with clear, concise and publicly available information about the quality of care in our nation's more than 15,000 nursing homes. Individuals and families rely on this important information to make informed decisions for themselves and their loved ones when they make life-changing care decisions.

I've long been committed to policy and oversight work that protects and preserves the dignity of our most vulnerable Americans, including older Americans who reside in our nation's nursing homes. My decades-long work has been inspired through letters, phone calls, and at my annual 99 county meetings, where Iowans have approached me with concerns about the treatment their family members have received in these facilities. Their concerns have ranged from lackluster facility conditions to claims of negligence and abuse.

My oversight work has covered critical issues across the nursing home industry, including scrutinizing the state survey inspection process, raising the alarm about over prescribing of psychotropic medications, and authoring a law that requires nursing homes to disclose their

¹ The Care Compare website is a key mechanism for providing nursing home information through tools such as the Five-Star Rating which rate nursing homes on several dimensions of nursing home quality. The measure includes an overall "star" rating for each nursing home which is calculated using a process that combines the ratings for three separate components—health inspection, staffing, and quality measures. Each of the three component ratings are calculated with information and collected by nursing homes or state survey agencies to CMS. CMS conducts oversight of nursing homes through a shared federal-state responsibility with state survey agencies. CMS is responsible for overseeing and establishing the responsibilities of state survey agencies, which assess whether nursing homes meet CMS' standards through nursing home health inspections, known as standard surveys, and report performance on those inspections to CMS. CMS is responsible for assessing the performance of state surveyors. Summary of information from: GAO. *Nursing Homes: CMS Offers Useful Information on Website and Is Considering Additional Steps to Assess Underlying Data*. GAO-23-105312. See: <https://www.gao.gov/products/gao-23-105312>

ownership and management structure.² This work has increased the information on Care Compare and directly supports individuals and families as they make these care decisions.³

For example, in March of 2019, as then Chairman of the Senate Finance Committee, I held a hearing on abuse and neglect occurring in America's nursing homes. At that hearing, an Iowan testified about her mother's death due to alleged neglect by staff members at a nursing home that held a five-star rating on Nursing Home Compare, a predecessor to Care Compare. That same facility had also been the subject of multiple investigations in recent years.⁴ Following the hearing, CMS announced an enhanced five-part approach to guide its work to ensure safety and quality in America's nursing homes,⁵ which resulted in improvements and updates to what is now the Care Compare website.⁶

However, additional work is required to safeguard vulnerable Americans who reside in these facilities and to ensure that Care Compare and the Five Star Quality Ratings System provide

² July 27, 2023 letter from Senators Grassley, Casey and Wyden to CMS re Nursing Home Oversight (State Survey), available at https://www.grassley.senate.gov/imo/media/doc/casey_wyden_grassley_to_cms_-_nursing_home_oversight.pdf; March 16, 2023 letter from Senator Grassley to HHS CMS (OIG Psychotropic Drug Use Nursing Home), available at https://www.grassley.senate.gov/imo/media/doc/grassley_to_hhs_cms_-_oig_psychotropic_drug_use_nursing_home.pdf; March 3, 2023 Grassley to CMS Proposed PE Nursing Home Ownership Rule, available at https://www.grassley.senate.gov/imo/media/doc/grassley_to_hhs_cms_-_proposed_pe_nursing_home_ownership_rule.pdf; March 17, 2023 Senators Grassley, Warren et al to CMS re Proposed Rule On Nursing Home Ownership Transparency, available at https://www.grassley.senate.gov/imo/media/doc/warren_grassley_casey_to_cms_-_proposed_rule_on_nursing_home_ownership_transparency.pdf

³ Part of those oversight efforts have included numerous letters to CMS requesting information on how the agency is working with facilities to keep these standards high and take action when they fall short. GAO has completed multiple studies at my request that identified serious quality of care problems in nursing homes. These deficiencies were exacerbated by highly predictable annual inspections and few citations for serious deficiencies. See: GAO. *Nursing Homes: CMS's Special Focus Facility Methodology Should Better Target the Most Poorly Performing Homes, Which Tended to Be Chain Affiliated and For-Profit*. GAO-09-689. (August 28, 2009). <https://www.gao.gov/products/gao-09-689>. Also see: GAO. *CALIFORNIA NURSING HOMES Care Problems Persist Despite Federal and State Oversight*. HEHS-98-202. (July 27, 1998). <https://www.gao.gov/assets/hehs-98-202.pdf>.

⁴ See *Not Forgotten: Protecting Older Americans from Abuse and Neglect in Nursing Homes*, Hearing before the Senate Committee on Finance, 116th Cong. (Mar. 6, 2019); Transcript available at <https://www.congress.gov/116/chrg/CHRG-116shrg41968/CHRG-116shrg41968.pdf>.

⁵ In April 2019, CMS A published a five-part approach guiding the agency as it ensures safety and quality in LTC facilities. Administrator Verma noted that all facility residents have the right to be treated with dignity and respect. See: CMS. *Medicare & Medicaid Programs; Requirements for Long-Term Care Facilities: Regulatory Provisions to Promote Efficiency and Transparency*. (July 16, 2019). <https://www.cms.gov/newsroom/fact-sheets/medicare-medicaid-programs-requirements-long-term-care-facilities-regulatory-provisions-promote>

⁶ For example, in October 2019 CMS reported that it would “display a consumer alert icon next to nursing homes that have been cited for incidents of abuse, neglect, or exploitation. By making this information accessible and understandable CMS is empowering consumers ... This critical move toward improved transparency is yet another way CMS is delivering on the Agency’s five-part approach to ensuring safety and quality in nursing homes, which Administrator Seema Verma announced in April 2019.” See: CMS. Press release. *Trump Administration Empowers Nursing Home Patients, Residents, Families, and Caregivers by Enhancing Transparency about Abuse and Neglect*. (October 7, 2019). <https://www.cms.gov/newsroom/press-releases/trump-administration-empowers-nursing-home-patients-residents-families-and-caregivers-enhancing>

accurate, timely and meaningful data about the quality of care in nursing homes. Unfortunately, news reports continue to paint a disturbing picture of the Five Star Quality Ratings System.

On February 16 2023, I wrote to the Department of Health and Human Services (HHS) and CMS with concerns about the agency's ongoing failure to fully address the inappropriate and unnecessary use of psychotropic drugs in nursing homes.⁷ My letter highlighted a 2021 New York Times article which found that, "[n]ursing homes for years have underreported the number of residents on opiates and antipsychotics,"⁸ and "[f]rom 2017 to 2019 health inspectors wrote up about 5,700 nursing homes, more than one out of every three in the country, for misreporting data about residents' well-being. That included nearly 800 homes with top ratings."⁹

Furthermore, reports issued at my request by the Government Accountability Office (GAO) and HHS Office of Inspector General (HHS OIG) underscore the urgent need for CMS to implement long-overdue improvements to Care Compare that are intended to provide timely information about a nursing home's performance.¹⁰ I urge HHS and CMS to address the outstanding deficiencies and findings outlined below in order to improve Care Compare and the Five-Star Quality Rating System.

Five-Star Quality Ratings System

CMS must limit the use of unverified self-reported data points in the three components that comprise the overall star rating: health inspections, staffing and quality measures.¹¹ CMS' reliance on nursing homes' self-reported, unaudited Minimum Data Set (MDS) data to calculate quality measures in the agency's Care Compare tool raises serious questions about its accuracy and completeness. The National Academies of Sciences reported concerns about the self-reported nature of MDS data, including opportunities for nursing homes to falsify their data or

⁷ Senator Grassley Letter to HHS and CMS on OIG Report Psychotropic Drug Use Nursing Home. See: https://www.grassley.senate.gov/imo/media/doc/grassley_to_hhs_cms_-_oig_psychotropic_drug_use_nursing_home.pdf

⁸ Silver-Greenberg, Jessica and Gebeloff, Robert, Maggots, Rape and Yet Five Stars: How U.S. Ratings of Nursing Homes Mislead the Public, (Mar. 31, 2021, updated Aug. 4, 2021), The New York Times, available at <https://www.nytimes.com/2021/03/13/business/nursing-homes-ratings-medicarecovid.html?action=click&module=RelatedLinks&pgtype=Article>

⁹ *Id.*; In a March 2023 response, CMS Administrator Brooks-LaSure acknowledged that inappropriate diagnosis and prescribing continues at too many nursing homes and outlined a number of steps the agency is taking to help stem the tide of dangerous overprescribing (March 16, 2023 letter from CMS Administrator Brooks-LaSure to Senator Grassley – on file with the committee)

¹⁰ GAO. *Nursing Homes: CMS Offers Useful Information on Website and Is Considering Additional Steps to Assess Underlying Data*. GAO-23-105312, pg. 2 (GAO stated that it has made several recommendations dating back to 2014 that "if implemented, could improve consumers' ability to compare nursing homes' costs and quality on Care Compare.", available at <https://www.gao.gov/products/gao-23-105312>; HHS Office of Inspector General, *CMS Could Improve the Data It Uses To Monitor Antipsychotic Drugs in Nursing Homes*, OEI-07-19-00490 (May 2021).

¹¹ GAO. *Nursing Homes: CMS Offers Useful Information on Website and Is Considering Additional Steps to Assess Underlying Data*. GAO-23-105312, pg. 8 ("The overall star rating is based on a combination of ratings for three separate components: health inspections, staffing, and quality measures, with the greatest weight given to the health inspection rating"), available at <https://www.gao.gov/products/gao-23-105312>

use questionable strategies to improve their scores.¹² Furthermore, because more weight is placed on health inspections in the overall star rating, timely and complete state survey inspections combined with robust audit processes are critical to ensuring high quality patient care and a reliable ratings system.¹³

With respect to MDS data, CMS has only recently begun auditing MDS data on the percentage of nursing home residents who are prescribed antipsychotic medication used to inform the quality measures component. I have long raised concerns about the inappropriate and unnecessary use of psychotropic medications in our nation's nursing homes without the requisite diagnosis or oversight.¹⁴ CMS' ongoing failure to fully address this potentially lethal practice is unacceptable and requires continued oversight. I've asked CMS tough questions about the agency's quality control efforts following a 2021 HHS OIG report which found that CMS relied on nursing homes' MDS as the sole data source to count the number of residents who are receiving antipsychotic medications, resulting in incomplete and inaccurate information.¹⁵ While CMS took some action in response to the OIG's findings, such as announcing offsite audits of MDS schizophrenia coding and adjustment of the star ratings for nursing homes with inaccurate coding, the agency also provided "an out" for bad actors by allowing nursing homes identified as high-prescribers "the opportunity to forego the audit by admitting they have errors and

¹² As reported in: GAO. *Nursing Homes: CMS Offers Useful Information on Website and Is Considering Additional Steps to Assess Underlying Data*. GAO-23-105312, pg. 29 ("In 2022, the National Academies of Sciences reported concerns that have been raised about the self-reported nature of MDS data, including the opportunities for nursing homes to falsify their data or use questionable strategies to improve scores. The report recommended CMS enhance quality measures by "improving the validity of Minimum Data Set-based measures of clinical quality (e.g., better risk adjustment, auditing for accuracy, and inclusion of resident preferences."): available at <https://www.gao.gov/products/gao-23-105312>

¹³ GAO. *Nursing Homes: CMS Offers Useful Information on Website and Is Considering Additional Steps to Assess Underlying Data*. GAO-23-105312. See: <https://www.gao.gov/products/gao-23-105312>

¹⁴ In November 2011, I called on the HHS OIG to further investigate the widespread use of psychotropic medications in nursing homes, <https://www.grassley.senate.gov/news/news-releases/hhs-watchdog-explores-widespread-use-of-psychotropic-drugs-in-nursing-homes>; In November 2022, based on my oversight, the HHS OIG issued a report which found that roughly 80 percent of nursing home residents on Medicare received psychotropic drugs between 2011 and 2019. The OIG also found that 14 percent of our nation's 2.1 million nursing home residents had Medicare claims for atypical antipsychotic drugs in a six-month period and that these drugs often were inappropriately prescribed to manage behavioral symptoms of patients with dementia. HHS Office of Inspector General, *Long-Term Trends of Psychotropic Drug Use in Nursing Homes*, OEI-07-20-00500 (November 2022), available at <https://oig.hhs.gov/oei/reports/OEI-07-20-00500.pdf>.

¹⁵ HHS Office of Inspector General, *CMS Could Improve the Data It Uses To Monitor Antipsychotic Drugs in Nursing Homes*, OEI-07-19-00490 (May 2021). HHS OIG recommended that CMS take additional steps to validate the information reported in MDS assessments and to supplement the data it uses to monitor antipsychotic medication use. The February 2023 letter I sent to HHS and CMS requests an update on the implementation of these recommendations and to provide information about their quality control efforts of key data Senator Grassley Letter to HHS and CMS on OIG Report Psychotropic Drug Use in Nursing Homes. [https://www.grassley.senate.gov/imo/media/doc/grassley to hhs cms oig psychotropic drug use nursing home.pdf](https://www.grassley.senate.gov/imo/media/doc/grassley%20to%20hhs%20cms%20oig%20psychotropic%20drug%20use%20nursing%20home.pdf)

committing to correct the issue.”¹⁶ CMS must take immediate corrective action and implement robust oversight to put an end to this dangerous practice.

Regarding state survey backlogs, Care Compare also does not provide timely information due to state survey backlogs and CMS’ failure to ensure timely nursing home inspections. GAO reported instances where Care Compare data was over two years old because nursing homes had not been inspected by state survey agencies within the statutorily required timeframes. This has significant negative impacts on the reliability of the Five-Star Quality Rating System because greater weight is placed on health inspections in the overall ratings system. In April 2023, the HHS OIG also reported issues with the completeness and accuracy of inspection information reported on Care Compare. The OIG found that from a sample of nursing homes reviewed, about two thirds of nursing home information was not accurately reported.¹⁷

To address these concerns, in July 2023, I joined my colleagues in a letter to CMS urging the agency to take immediate steps to strengthen our nation’s nursing home oversight system by increasing transparency and improving monitoring of state survey agencies, which are charged with ensuring the health and safety of 1.4 million residents.¹⁸ Our letter reinforced the following: “CMS has an integral role to play in addressing many of the current failures of the nursing home oversight system, especially to improve monitoring and reporting on the capacity of state survey agencies to carry out statutorily required inspections in mandated timeframes.”¹⁹

The nation’s 1.4 million nursing home residents should receive high quality care in an environment that prioritizes health, safety, and human dignity. To ensure these goals are met, CMS must require state survey agencies to conduct thorough and timely nursing home inspections.

Other Improvements to Increase Care Compare’s transparency and usefulness

¹⁶ U.S. Dept. of Health and Human Servs., Dir. Quality, Safety & Oversight Group, QSO-23-05-NH: *Updates to the Nursing Homes Care Compare Website and Five Star Quality Rating System: Adjusting Quality Measure Ratings Based on Erroneous Schizophrenia Coding, and Posting Citations Under Dispute*, (January 18, 2023), available at <https://www.cms.gov/files/document/qso-23-05-nh.pdf>.

¹⁷ HHS Office of Inspector General, *CMS Did not Accurately Report on Care Compare One or More Deficiencies Related to Health, Fire Safety, and Emergency Preparedness for an Estimated Two-Thirds of Nursing Homes*, A-09-20-02007, April 2023. See: <https://oig.hhs.gov/oas/reports/region9/92002007.asp>, Pg. 4 (“For 67 of the 100 sampled nursing homes, CMS did not accurately report on Care Compare 1 or more deficiencies that surveyors identified during yearly and complaint inspections. The deficiencies consisted of health deficiencies for 34 nursing homes, fire safety deficiencies for 52 nursing homes, and emergency preparedness deficiencies for 2 nursing homes.”)

¹⁸ Ranking Member Charles E. Grassley, Chairman Robert P. Casey, and Chairman Ron Wyden July 27, 2023 letter to the Honorable Chiquita Brooks-LaSure on Nursing Home Oversight. See:

https://www.grassley.senate.gov/imo/media/doc/casey_wyden_grassley_to_cms_-_nursing_home_oversight.pdf

¹⁹ *Id.* (Our letter further noted that “As of May 2023, federal data showed that 28 percent of the Nation’s 15,000 nursing homes have not received a comprehensive annual inspection for 16 months or more, placing them behind on statutorily mandated annual inspection schedules. One in nine nursing homes have not received an annual inspection in at least two years.”).

GAO's report found that some of the information on Care Compare did not fully align with characteristics consistent with an effective transparency tool.²⁰ For example, Care Compare could do more to include readily-available cost information to inform the public.²¹ The report reiterated that CMS has failed to fully implement a 2014 recommendation to include information that can help consumers understand out-of-pocket costs.²²

GAO did report that CMS has made some changes to improve Care Compare's information. For example, in September 2022, CMS announced that it had made additional nursing home ownership information available on Care Compare.²³ These changes reflect a November 2023 final rule²⁴ that is based on a law I authored which requires nursing homes to disclose any person or entity who exerts control over it, leases property to it, or offers administrative services to it.²⁵ It also required facilities to provide the organizational structure of all these entities and a description of the relationships between them. As CMS implements the new rule, I've urged the agency to implement stakeholder comments "...to make parent company and related party data for each nursing home available on its Care Compare website, including information indicating whether a facility is part of a chain."²⁶ Increased transparency will empower older adults, their families, researchers, and health care providers to identify nursing homes that provide excellent care, while at the same time hold bad actors accountable.²⁷

Notably, Care Compare can also be difficult to understand, does not enable consumers to customize information or compare multiple nursing homes. Stakeholders interviewed by GAO noted limitations with the Five Star Rating System and their ability to understand the relationship between component and overall ratings, interpret ratings, and make distinctions between nursing homes. These same stakeholders highlighted limitations of the staffing rating system, including

²⁰ GAO. *Nursing Homes: CMS Offers Useful Information on Website and Is Considering Additional Steps to Assess Underlying Data*. GAO-23-105312. See: <https://www.gao.gov/products/gao-23-105312>

²¹ *Id.* GAO. *Nursing Homes: CMS Offers Useful Information on Website and Is Considering Additional Steps to Assess Underlying Data*. GAO-23-105312. See: <https://www.gao.gov/products/gao-23-105312>

²² *Id.* GAO. *Nursing Homes: CMS Offers Useful Information on Website and Is Considering Additional Steps to Assess Underlying Data*. GAO-23-105312. See: <https://www.gao.gov/products/gao-23-105312>. Also see: GAO. *Health Care Transparency: Actions Needed to Improve Cost and Quality Information for Consumers*. GAO-15-11. (October 18, 2014). See: <https://www.gao.gov/products/gao-15-11>.

²³ GAO. *Health Care Transparency: Actions Needed to Improve Cost and Quality Information for Consumers*. GAO-15-11. (October 18, 2014), available at <https://www.gao.gov/products/gao-15-11>.

²⁴ CMS Final Rule, Medicare and Medicaid Programs; Disclosures of Ownership and Additional Disclosable Parties Information for Skilled Nursing Facilities and Nursing Facilities; Medicare Providers' and Suppliers' Disclosure of Private Equity Companies and Real Estate Investment Trusts (Nov. 17, 2023), available at <https://public-inspection.federalregister.gov/2023-25408.pdf>

²⁵ *Id.* at 29, 30

²⁶ *Id.* at 29, 30 (These same commenters stated "...that the data must be organized to enable stakeholders to detect patterns in quality, ownership, management, etc. to transparently disclose new information to Care Compare.")

²⁷ See letter from Senators Elizabeth Warren, Charles E. Grassley, Robert P. Casey, Jr. and Members of Congress Katie Porter and Lloyd Doggett to HHS Secretary Xavier Becerra and CMS Administrator Chiquita Brooks-LaSure on Proposed Rule on Nursing Home Ownership Transparency. (May 17, 2023). Available at: <https://www.warren.senate.gov/imo/media/doc/Letter%20to%20CMS%20re%20Proposed%20Rule%20on%20Nursing%20Home%20Ownership%20Transparency.pdf>

the exclusion of some types of staff, whether staff are providing direct care, the use of staffing agencies, and the application of evidence-based staffing requirements.

Further, CMS has not implemented 2016 GAO recommendations to add information to the Five-Star Rating System for consumers to compare nursing homes nationally even though this would help consumers to understand nursing home quality information and make a distinction between high and low performing homes. This type of information can be especially important to families who live near state borders or have multistate options.

We have an obligation to vulnerable and elderly Americans to protect their dignity and ensure that they live in safe, caring environments during their final years. Oversight of nursing homes and the federal agencies that police them is essential to ensuring that happens. As part of my continuing oversight, please provide responses to the following questions no later than December 20, 2023.

- 1) Please provide an update to GAO's 2014 recommendation for CMS to include additional information on estimated out-of-pocket costs for Medicare beneficiaries in what is now referred to as the CMS Compare website.²⁸
- 2) In 2016 GAO found that the Care Compare website lacked explanatory information about the Five-Star Rating System and recommended that CMS add information to the Five-Star Rating System that allows consumers to compare nursing homes nationally.²⁹ HHS did not concur with the recommendation and indicated that state variations on the standard surveys make it difficult to compare nursing homes nationally and that the five-Star system is one of many factors consumers can use when selecting a home. Please describe efforts that have been and should continue to be made to reduce state variation in standard surveys. For example, CMS regional offices tracking of state differences in deficiency citations should be included. In addition, do HHS and CMS plan to take any additional actions to implement this recommendation? Please describe. If not, please describe why not.
- 3) In 2021 GAO found that while CMS had taken steps to improve the staffing information on Care Compare, it still provided limited information about staffing in nursing homes. GAO recommended that CMS report minimum nurse staffing thresholds on Care Compare. Does CMS continue to non-concur with this recommendation, or did its position change? Please discuss and describe any steps that CMS has taken or plans to take to address this recommendation.

²⁸ GAO, *Health Care Transparency: Actions Needed to Improve Cost and Quality Information for Consumers*, GAO-15-11 (Oct. 20, 2014). See: <https://www.gao.gov/products/gao-15-11>

²⁹ GAO recommended that CMS add information to the Five-Star Rating System that allows consumers to compare nursing homes nationally. CMS did not concur with this recommendation and has not taken steps to address the recommendation. Although CMS did not concur and CMS officials told GAO they do not plan to implement this recommendation. GAO, *Nursing Homes: Consumers Could Benefit from Improvements to the Nursing Home Compare Website and Five-Star Quality Rating System*, GAO-17-61 (Nov. 18, 2016). See: <https://www.gao.gov/products/gao-17-61>

- 4) Please provide updates with respect to HHS OIG's recommendations from its November 2022 report *Long-Term Trends of Psychotropic Drug Use in Nursing Homes*.³⁰
- 5) Administrator Brooks La-Sure's March 15, 2023, letter to me states that "CMS is pursuing...ways to effectively monitor nursing home compliance regarding the prescription of psychotropic medications, including OIG's recommendations to use data to identify trends or characteristics associated with a higher use of psychotropic drugs and to continue evaluating whether additional action is needed."³¹ Please describe and provide an update to any mechanisms as well as an update to the implementation status of this HHS OIG recommendation, which HHS OIG continues to urge CMS to implement.
- 6) Provide an update on the implementation status of CMS audits to identify facilities with patterns of erroneous MDS coding of residents with a diagnosis of schizophrenia. Please include a list of all facilities that have been selected for an audit and all records related to each audit.³²
 - a) For all audits, please provide details on whether the facilities' Nursing Home Care Compare Five Star Quality Measure Ratings were adjusted as a result of the findings.
 - b) Please describe and provide plans for CMS MDS audits in calendar year 2024.
- 7) For each facility that admitted misconduct after receiving a notification of an upcoming CMS audit, please provide the following: a) a full list of facilities that admitted misconduct, b) a description of the admitted misconduct, c) describe actions taken by CMS as a result. If a "lesser action related to their star ratings" was taken by CMS as a result of the disclosure, please describe and provide details on how this action differed from the originally planned action.

³⁰ See question 7 for additional questions related to HHS' OIG recommendation on Medicare Part D. HHS Office of Inspector General, *Long-Term Trends of Psychotropic Drug Use in Nursing Homes*, OEI-07-20-00500 (November 2022). see: <https://oig.hhs.gov/oei/reports/OEI-07-20-00500.pdf>. The open recommendations are as follows: 1) CMS should expand the required data elements on Medicare Part D claims to include a diagnosis code; 2) CMS should use data to identify nursing homes or nursing home characteristics that are associated with a higher use of psychotropic drugs and focus oversight on nursing homes in which trends may signal inappropriate use; 3) CMS should evaluate the use of psychotropic drugs among nursing home residents to determine whether additional action is needed to ensure that use among residents is appropriate.

³¹ March 16, 2023 response letter from CMS Administrator Brooks-LaSure letter to Senator Grassley regarding concerns about the inappropriate use of psychotropic medications in nursing homes. Letter is on file with committee staff. Also see 03/15/23 letter and DHS OIG report *Long-Term Trends of Psychotropic Drug Use in Nursing Homes* <https://oig.hhs.gov/oei/reports/OEI-07-20-00500.pdf>

³² March 16, 2023 response letter from CMS Administrator Brooks-LaSure letter to Senator Grassley regarding concerns about the inappropriate use of psychotropic medications in nursing homes. Letter is on file with committee staff.

- 8) Please provide an update to CMS' plans to convene a Technical Expert Panel (TEP) to examine current and future quality measurements and the appropriateness of the exclusions for certain conditions, including whether schizophrenia should no longer be excluded.³³

Specifically:

- a) has this TEP convened? If not, why not?
- b) if so, please provide an update on findings and any proposed changes to quality measurements that CMS is reviewing as a result along with timelines. Please include any considerations related to schizophrenia as a quality measure.
- c) has CMS taken any other actions to consider excluding certain conditions, such as schizophrenia, from calculations in future quality measures? If so, please discuss and provide details on the specific circumstances.

Thank you for your cooperation and attention to this matter. If you have any questions, please contact my Committee staff at (202) 224-0642.

Sincerely,



Charles E. Grassley
Ranking Member
Senate Committee on the Budget

³³ *Id.*