IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CAREFIRST ADVANTAGE PPO, INC. Plaintiff, v. DEPARTMENT OF HEALTH AND HUMAN SERVICES, *et al.*, Defendants.	Civil Action No. 26-cv-150-AHA

PLAINTIFF'S NOTICE OF SUPPLEMENTAL AUTHORITY

Plaintiff CareFirst Advantage PPO, Inc. ("CareFirst") respectfully submits this notice of supplemental authority to bring to this Court's attention the attached Centers for Medicare & Medicaid Services ("CMS") memorandum, dated April 22, 2026, titled "UPDATES – 2026 Medicare Part D Patient Safety Reports" ("April 2026 Guidance") ("Exhibit 1"). In their respective briefs, the parties dispute whether, in its April *2023* Guidance (A.R. 1-6), Defendant CMS failed to provide CareFirst with sufficient notice that the year-of-service ("YOS") 2023 patient safety data that would be reported at the end of July 2024 ("July 2024 Report") would not necessarily be the final data used to calculate CareFirst's 2025 Star Ratings. Compare, *e.g.*, Dkt. 10-1 at 28-29, with Dkt. 11 at 31. Plaintiff respectfully submits that the April 2026 Guidance—which is the current-year iteration of CMS's annual April guidance, *see* Dkt. 10-1 at 28 (pointing out the April 2023 Guidance was part of "CMS's standard annual practice")—is relevant to the Court's resolution of this dispute because it contains certain cautionary text that CMS did *not* include in the annual guidance in earlier years, including the April 2023 Guidance:

> The last monthly YOS 2026 reports released in July 2027 refers to the Patient Safety Reports which are inclusive of all the 2026 PDE and is to differentiate it from the monthly, incomplete patient safety reports which included partial 2026 PDE data. *We remind all contracts that the data made available to sponsors as part of the last YOS 2026 July 2027 report is not final until the public release of Star Ratings. Therefore, Star Ratings rates shared in the monthly Patient Safety Reports and during plan previews, which is prior to the release of the Final Star Ratings in October, are preliminary and subject to change*.

Exhibit 1 at 3 (emphasis added).

Dated: April 28, 2026

Respectfully submitted,

By: /s/ Daniel W. Wolff

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EXHIBIT 1

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850

CENTER FOR MEDICARE

DATE: April 22, 2026

TO: All Prescription Drug Plans, Medicare Advantage-Prescription Drug Plans, Section 1876 Cost Plans, and PACE plans

FROM: Vanessa S. Duran
Director, Medicare Drug Benefit and C & D Data Group

SUBJECT: UPDATES - 2026 Medicare Part D Patient Safety Reports

The purpose of this memorandum is to announce the availability of the 2026 Patient Safety Reports on the Patient Safety Analysis Web Portal on April 30, 2026, updates to measures and reports, and archiving of older reports.

To access the Patient Safety Reports, you must be an authorized user of the Patient Safety Analysis Web Portal. The access authorization process is described later in this memo. Instructions can be found in the "Access to the Patient Safety Analysis Web Portal" section of this memorandum.

Medicare Part D Patient Safety Measures

For measurement year 2026, CMS will report and update monthly 12 Patient Safety measures through the Patient Safety Analysis Web Portal. Each month, Part D sponsors may download and review their measure packages. These measure packages include a summary contract-level report for each measure and additional beneficiary-level files. Part D sponsors can use the Patient Safety Reports to compare their performance to overall averages, monitor their progress in improving their measure rates, or identify individualized interventions.

Several measures are displayed on the Medicare.gov Plan Finder as Part D Star Rating measures or on CMS.gov as display page measures. Medicare beneficiaries can use this information to make informed enrollment decisions about available health and prescription drug plans.

The Patient Safety measures include:

- Medication Adherence for Diabetes Medications (ADH-Diabetes)
- Medication Adherence for Hypertension (RAS Antagonists) (ADH-RAS)
- Medication Adherence for Cholesterol (Statins) (ADH-Statins)

- Medication Adherence for HIV/AIDS (Antiretrovirals) (ADH-ARV)
- Statin Use in Persons with Diabetes (SUPD)
- Use of Opioids at High Dosage in Persons without Cancer (OHD)
- Antipsychotic Use in Persons with Dementia (APD)
- Concurrent Use of Opioids and Benzodiazepines (COB)
- Polypharmacy: Use of Multiple Anticholinergic (ACH) Medications in Older Adults (Poly-ACH)
- Polypharmacy: Use of Multiple Central Nervous System (CNS)-Active Medications in Older Adults (Poly-CNS)
- Initial Opioid Prescribing for Long Duration (IOP-LD)
- Persistence to Basal Insulin (PST-INS)

The Patient Safety Analysis Web Portal facilitates communication between CMS, Part D sponsors, and our contractor, Acumen, LLC. Sponsors can view "at-a-glance" Rate Summary and Performance Graphs for each measure and respond directly to outlier notices. CMS encourages sponsors to review the outlier notices; however, it is optional for Part D sponsors to respond. Sponsors may review their underlying measure data in the reports and alert CMS if potential errors or anomalies are identified in the rate calculations per the measure specifications.

If you have questions regarding your rate calculations, diagnosis codes or exclusions, or underlying data, submit your question via the New Request tool under the "Requests" section in the left-hand navigation pane for Part D sponsors with access to the Patient Safety Analysis Web Portal. Provide detailed information about the potential issue or question. Your request will be reviewed, and if appropriate, a secure submission window will be opened in the Patient Safety Analysis Web Portal for you to submit a small, demonstrative sample of beneficiaries (i.e., claims for no more than one or two beneficiaries per Part D contract and measure that demonstrate the potential issue) for a review of the administrative data. We may request a larger sample based on the review results.

The New Request tool is the preferred method of communicating with the CMS and Acumen Patient Safety teams regarding the measures and reports. Instructions regarding the New Request tool can be found in Section 8 'Request Tracking' in the Part D Patient Safety Web Portal User Guide available in the "Help Documents" page of the Patient Safety Analysis Web Portal.

The 16 measure reports for year of service (YOS) 2025[1] will be produced until July 2026 using 2025 data submitted by the annual prescription drug event (PDE) submission deadline for the annual Part D payment reconciliation. **For measurement year 2025 (for the 2027 Star Ratings), the deadline for all contracts to request review of their administrative data used for the Part D Patient Safety measures is May 18, 2026.**

The Part D Patient Safety Analysis Web Portal User Guide is located under the Web Portal's navigation menu Help Documents web page link. Other information provided on the Help

[1] See HPMS memorandum, "UPDATES - 2025 Medicare Part D Patient Safety Reports, April 24, 2025."

Documents web page includes links to each measure's Patient Safety Report User Guide, diagnosis codes, and the National Drug Code (NDC) medication lists used to calculate the measures.

Patient Safety Report Updates

CMS will release monthly Patient Safety Reports using 2026 PDE data starting with the April 2026 report release. The measures in these reports are calculated using 2026 PDE, fee-for-service claims, and encounter data processed up until one month before the release of the report. For example, the 2026 reports released on April 30, 2026, will contain PDE data for dates of service between January 1, 2026, and March 31, 2026, submitted by March 31, 2026. Each monthly report is updated as more complete 2026 data are submitted and processed.

The Patient Safety Reports and User Guides include the following updates:

- The Measure Summary Reports for Medicare Advantage Prescription Drug Plan (MA-PD) monthly reports will no longer include a breakout for MA-PDs (which excluded Medicare Medicaid Plans (MMP)) and only include breakouts for All Contracts and MA-PDs contract type.
- The SUPD Exclusions file has been renamed SUPD Exclusions and Exceptions file. There are two additional columns in the file to account for the new exceptions added to the SUPD measure for YOS 2026.

All measures are calculated based on Pharmacy Quality Alliance (PQA) measure specifications and Value Sets, which include NDCs. The PQA comprehensively produces three Value Sets for a given measurement year: the first version is published in February of the measurement year, then updated in July of the measurement year, and typically finalized in February of the subsequent year. Therefore, for a given measurement year, three PQA Value Sets are used to calculate the Patient Safety measure rates. Between NDC list updates, sponsors may observe differences between their internal monitoring reports and the Patient Safety Reports, especially if applying more real-time NDC changes or capturing PDE data not yet submitted to or processed by CMS. After the Value Sets are finalized by the PQA, the updated PQA Value Sets are incorporated into the Patient Safety Reports in approximately 1-2 monthly reporting cycles.

The April 2026 reports use the most recent updated February 2026 PQA Value Sets for both YOS 2025 and 2026. The last monthly YOS 2026 Patient Safety Reports, released in July 2027 are based on the February 2027 PQA Value Set. July 2027 is one month after the annual PDE submission deadline for 2026, and the July 2027 monthly rates will be used to calculate 2028 Part D Star Ratings and/or display page measures. The last monthly YOS 2026 reports released in July 2027 refers to the Patient Safety Reports which are inclusive of all the 2026 PDE and is to differentiate it from the monthly, incomplete patient safety reports which included partial 2026 PDE data. We remind all contracts that the data made available to sponsors as part of the last YOS 2026 July 2027 report is not final until the public release of Star Ratings. Therefore, Star Ratings rates shared in the monthly Patient Safety Reports and during plan previews, which is prior to the release of the Final Star Ratings in October, are preliminary and subject to change.

The deadline for all contracts to request a review of their administrative data used for the Part D Patient Safety Star Ratings measures for the 2026 measurement year for the 2028 Star Ratings is May 18, 2027. We also encourage sponsors to submit requests for review of their administrative data for the Part D Patient Safety display measures on the 2028 display page (2026 measurement year) by May 18, 2027.

Patient Safety Measure Updates

As finalized in the April 12, 2023 final rule, "Medicare Program; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly" (88 FR 22265 through 22270) and April 23, 2024 final rule, "Medicare Program; Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Program for Contract Year 2024 – Remaining Provisions and Contract Year 2025 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly (PACE)" (89 FR 30632 through 30637), and consistent with the Announcements of Calendar Years (CYs) 2026 and 2027 Medicare Advantage (MA) Capitation Rates and Part C and Part D Payment Policies published on April 7, 2025 and April 6, 2026 respectively,[2,3] the following changes are implemented with the release of the YOS 2026 April 2026 reports data unless otherwise specified.

New Part D Patient Safety Star Ratings Measures for YOS 2025

COB/Poly-ACH: These two measures will be added to the 2027 Star Ratings based on measurement year 2025, with a weight of 1.

New Part D Patient Safety Star Ratings Measures for YOS 2026

ADH-Diabetes/ADH-RAS/ADH-Statins. The existing medication adherence measures on the Star Ratings will be replaced with the three risk adjusted medication adherence measures for measurement year 2026 (2028 Star Ratings). Additional information was added to the Medication Adherence Measures Risk Adjusted Rates Worksheet and Report User Guide regarding risk adjustment. The risk adjusted medication adherence measures are not adjusted for inpatient (IP) and skilled nursing facility (SNF) stays. As a reminder, because the measures are based on continuous enrollment (CE), beneficiaries in the ADH-Diabetes measure with one or more prescription claim(s) for insulin in the treatment period are excluded. Similarly, for the ADH-RAS measure, beneficiaries with one or more claim(s) for sacubitril/valsartan in the treatment period are excluded.

Retired Measures for YOS 2026

[2] Referred to the 2026 Rate Announcement and available at: https://www.cms.gov/medicare/payment/medicare-advantage-rates-statistics/announcements-and-documents

[3] Referred to the 2027 Rate Announcement and available at: https://www.cms.gov/medicare/payment/medicare-advantage-rates-statistics/announcements-and-documents

Antipsychotic Use in Persons with Dementia for Long-Term Nursing Home Residents (APD-LTNH): The APD-LTNH measure will be retired from the 2028 display page (measurement year 2026).

Measure Specification Updates for YOS 2026

SUPD: CMS will add a denominator exception for those beneficiaries with diabetes who do not have a prescription claim for a statin but do have one or more prescription claim(s) for either a proprotein convertase subtilisin/Kexin type 9 (PCSK9) inhibitor or bempedoic acid. The SUPD denominator exception was added by the measure steward, PQA, to align with the 2024 American Diabetes Association (ADA) Standards of Care in Diabetes.[4]

Poly-ACH: The PQA added clarity for identifying beneficiaries in the eligible population with two or more prescription claims for the same target medication on different dates of service during the measurement period. The same target medication refers to medications with the same anticholinergic active ingredient.

APD: The FDA approved a new indication for brexpiprazole, an atypical antipsychotic, for treatment of agitation associated with dementia due to Alzheimer's disease. The PQA removed brexpiprazole from the PQA Value Set for the APD measure. Therefore, CMS will remove brexpiprazole from the medication list for the APD measure. Brexpiprazole will also be removed from the measure algorithm for determining whether a beneficiary is taking an antipsychotic medication indicated for the treatment of major depression.

OHD: CMS will update the daily morphine milligram equivalent (MME) calculation and use the updated MME conversion factors to align with the PQA's update. The updated conversion factors are included in the PQA's Opioid NDC Value Set. The daily MME is calculated for each opioid prescription claim with a date of service during each opioid episode for the OHD measure. The updated equation for calculating the daily MME is the following:

> *MME/day = (# of opioid dosage units per day) × (opioid strength per unit) × (MME conversion factor)*

The opioid strength per unit and MME conversion factor are provided for each NDC in the PQA Opioid Value Set. When applying this updated formula to transdermal fentanyl patches, the opioid dosage units per day should always be 1, regardless of the claim's quantity dispensed or days' supply. As a reminder, the PQA Opioid Value Set expresses weight-based strengths in milligrams. Thus, the PQA Opioid Value Set uses an adjusted MME conversion factor of 2,400 for transdermal fentanyl patches. This conversion factor accounts for the change in unit compared to the Centers for Disease Control (CDC) MME conversion factors (expressed in micrograms) and should be applied directly in the PQA's formula for calculating the daily MME.

Removal of Older Patient Safety Reports

As of April 30, 2026, the Patient Safety Analysis Web Portal will no longer display Performance Graph or Rate Summary pages for 2023 Patient Safety Reports.

[4] ADA Standards of Care in Diabetes – 2024 https://diabetesjournals.org/care/issue/47/Supplement_1.

The reports will be archived and available only by request. Sponsors that currently have access to these reports may use the following Web Portal features to download this data before it is permanently archived:

- Use the Download Files feature to download 2023 contract-level and detail-level reports.
- Use the Export All Rate Measures feature on the Rate Summary page to download the final summary contract-level data for all 2023 measures.

Access to the Patient Safety Analysis Web Portal

To access the Patient Safety Reports, you will need to be an authorized user of the Patient Safety Analysis Web Portal. CMS' contractor, Acumen, LLC, currently manages the Patient Safety Analysis Web Portal. The Web Portal is accessible only to authorized participants, with each sponsor utilizing a secure space on the site that is separate from all other sponsors.

Only the Medicare Compliance Officer (MCO) for a given contract may authorize user access to Acumen's Patient Safety Web Portal for that contract. To streamline this process, Acumen has developed the User Security Web Portal – a web tool that allows MCOs to manage their users on the Acumen web portals.

To complete User Authorization, the MCO will need to:

1. Identify individuals who require access to the Patient Safety Analysis Web Portal for each contract.
    a. Contracts are limited to **five** authorized users.
    b. All authorized Web Portal users will have the ability to view all contract-specific portal content and transfer data for their designated contract and permission level.
    c. All authorized Web Portal users will also be able to discuss any data concerns with Acumen and CMS through contract-specific Requests functionality.
2. Log on to the User Security Web Portal.
3. Complete the Add User steps to designate users and authorize access permissions.

Accessing the User Security Web Portal

Access to the Patient Safety Analysis Web Portal is managed by each contract's MCO through Acumen's User Security Web Portal. The latest MCO on record for each contract in HPMS has been granted access to the User Security Web Portal.

- **If your MCO already has an Acumen ProgramInfo Web Portal account**, they may log in to the User Security Web Portal using the same username and password.
- **If your MCO does not have an Acumen ProgramInfo Web Portal account**, your contract must update your MCO's contact information in HPMS to reflect the appropriate individual. Acumen will then disseminate login credentials to the updated MCO.

To access the User Security Web Portal:

1. Navigate to the Patient Safety Analysis Web Portal.
2. Agree to the Warning Notice.
3. Enter your username and login password.

Designating Users and Authorizing Access Permissions

After your organization's MCO logs in to the User Security Web Portal, they may review and/or update the current user access settings or authorize access permissions for new users. Each contract is limited to a maximum of five users on the Patient Safety Analysis Web Portal.

- **If your contract is continuing from CY 2025**, your MCO may log in to the User Security Web Portal to review the list of individuals currently authorized to access your contract's information on the Patient Safety Analysis Web Portal. Your MCO may choose to keep the same user access settings or modify access as necessary.
- **If your contract is new in CY 2026**, your MCO may log in to the User Security Web Portal to add new users and authorize access permissions or choose to authorize existing users to access your contract's information.

To designate users and authorize access permissions, MCOs may complete the following steps through the User Security Web Portal:

1. Add an existing and/or new user.
2. Select the Web Portal and contract(s) for each user.
3. Authorize access permissions for each user.

MCOs may also designate themselves as one of the five authorized users on the Patient Safety Analysis Monitoring Web Portal.

All authorized users can log on to navigate the Web Portal and receive email notifications regarding report releases. However, access to the Patient Safety Analysis Web Portal can vary according to two possible access levels for each user:

- *Summary Report Only*: User can access a version of the Patient Safety Reports with summary information on contract-level data for each Patient Safety measure. Users will not be able to access beneficiary-level data.
- *Summary and Confidential Beneficiary Reports:* User can access confidential beneficiary-level information in the detail version of the Patient Safety Reports, in addition to the summary versions of the Patient Safety Reports.

At least one user from each contract must have access to Summary and Confidential Beneficiary Reports in order to view and respond to beneficiary-level issues.

Following the user authorization process, Acumen will send the following to each newly authorized Patient Safety Analysis Web Portal user:

- A Welcome Email with the Patient Safety Analysis Web Portal User Guide and Web Portal URL.
- A Credential Email with a unique One-Time Password Link and login username.

Additional Resources

Part D sponsors can refer to the Part C&D Performance Data website.

Any general questions related to the Patient Safety Analysis project should be sent via email to PartCandDStarRatings@cms.hhs.gov.

For technical questions, Part D sponsors should submit questions using the New Request tool under the "Requests" section in the left-hand navigation pane of Patient Safety Analysis Web Portal. With this New Request tool, Part D sponsors with access to the Web Portal will be able to create requests to communicate directly with CMS and/or Acumen to resolve technical issues, ask Patient Safety measure content questions, and initiate a review of their administrative data used for the Patient Safety measures.

For questions related to the user authorization process or access to the Web Portal or reports, Part D sponsors should contact Acumen at PatientSafety@AcumenLLC.com or by phone at (650) 558-8006.

Thank you for your continued dedication to helping Medicare beneficiaries.