



December 17, 2025

The Honorable Bill Cassidy  
455 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Jeff Merkley  
531 Hart Senate Office Building  
Washington, DC 20510

Dear Senator Cassidy and Senator Merkley,

On behalf of National Taxpayers Union, the nation's oldest taxpayer advocacy organization, I write to express our strong support for S. 1105, the No Unreasonable Payments, Coding, Or Diagnoses for the Elderly (No UPCODE) Act. This bipartisan legislation would lower the federal deficit by removing incentives for private insurance companies participating in Medicare Advantage to overcharge the Centers for Medicare and Medicaid Services (CMS). NTU is proud to support this common sense measure, which strengthens the long-term sustainability of a key entitlement program while safeguarding taxpayer dollars.

Medicare Advantage allows seniors to receive their Medicare benefits through private insurance plans. Under this system, insurers receive fixed monthly payments from the government based on the reported health risks of their enrollees. While this program was created to offer seniors flexibility and additional benefits, it also incentivizes insurance companies to overstate patient diagnoses to secure higher reimbursements from Medicare. Known as "upcoding," this tactic inflates federal health spending even though no additional care is actually delivered to beneficiaries.

The implications of this scheme are significant. With more than half of Medicare's 68 million beneficiaries now enrolled in Medicare Advantage plans, even small payment distortions can carry profound fiscal consequences. Congress's independent Medicare advisory commission estimates that, because of upcoding, Medicare Advantage will [cost](#) roughly \$40 billion more this year than traditional Medicare would for the same population. This extra spending provides no value for patients and only accelerates the depletion of Medicare's Hospital Insurance Trust Fund, which is currently projected to run out of money by 2033 if no reforms are enacted.

Federal watchdogs have repeatedly flagged the problem of upcoding in Medicare Advantage. The Department of Health and Human Services's Office of Inspector General warns that many inflated payments stem from chart reviews and in-home health assessments that aren't supported by doctor visits or treatment. The Department of Justice has also pursued cases under the False Claims Act against Medicare Advantage plans that deliberately overstate diagnoses to receive higher payments. This pattern clearly reveals a perverse incentive structure in the program.

The No UPCODE Act directly addresses these concerns by ensuring that Medicare Advantage payments reflect the actual underlying health status of seniors, not exaggerated claims. Currently, Medicare Advantage payments are based on just one year of patient diagnoses, which makes it

easy for plans to quickly exaggerate medical risks. By mandating the use of two years of diagnostic data instead of one, this legislation provides a more accurate way to assess the efficacy of diagnoses and subsequent treatments. This legislation also excludes diagnoses that come solely from chart reviews or in-home health assessments without supporting doctor visits. Finally, this bill aligns diagnoses with traditional Medicare and applies a coding adjustment to correct any remaining differences, further limiting opportunities to inflate payments.

These practical reforms represent a balanced and fiscally responsible approach to cracking down on inflated reimbursements without limiting access to care for beneficiaries. Curbing improper payments will generate savings that can strengthen this key entitlement program for current and future beneficiaries. The No UPCODE Act ensures that Medicare delivers for patients, not insurance companies.

Sincerely,

Alexander Ciccone  
Policy and Government Affairs Manager  
National Taxpayers Union