

January 27, 2025

Submitted electronically via <https://www.regulations.gov/document/CMS-2024-0345-0006>.

Jeff Wu  
Acting Administrator  
Centers for Medicare and Medicaid Services  
7500 Security Boulevard  
Baltimore, MD 21244

**RE: Proposed Rule — Medicare and Medicaid Programs: Contract Year 2026 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 (CMS-2024-0345-0006)**

Dear Mr. Wu:

Thank you for the opportunity to comment on the rapidly growing and changing special supplement benefit for the chronically ill (SSBCI) program in Medicare Advantage. NGA has been heavily engaged on this issue for the past several years as our members, independent grocers, have been unable to accept the debit cards used to provide food benefits for this program. Thank you for listening to many of our concerns and for proposing program improvements. We have several suggestions to improve your proposal to ensure all SSBCI participants can use their benefits where they choose and to improve program integrity.

**About NGA**

NGA is the national trade association representing retail and wholesale grocers that comprise the \$253 billion independent sector of the food retail and distribution industry, accounting for 1/3 of all supermarket sales. An independent community grocer is a privately owned or controlled food retail company operating in a variety of formats. Much of NGA's membership is comprised of family-owned and family-operated small businesses. Nearly half of NGA's members are single-store operators, and another quarter operate less than five stores. Independent grocers, like our members, operate nationwide, and can be found in areas ranging from urban centers to suburban and rural areas. In many cases, our members provide critical food access for low-income Americans in underserved areas with limited access to grocery stores. Having often been in the business for generations, independent grocers are dedicated to their customers, associates, and communities.

**Comments on Provision 9. Administration of Supplemental Benefits Coverage Through Debit Cards**

Since the creation of the Special Supplemental Benefits for the Chronically Ill (SSBCI) program, supplemental benefits have grown exponentially. It is growing by billions in retail sales every year. Our members are losing out on not only the business from these cards but customers that

change stores permanently, so they do not have to shop at multiple places. This can have a devastating impact on supermarkets, especially those in small and rural communities.

Plan participants are led to believe their healthy benefit cards can be used at any grocery store, and they are often left embarrassed at the register when their card is declined. Some customers must drive 50 miles to go to the closest grocery store that accepts their card. This situation is causing disruptions in the checkout line and putting some of our members' businesses in jeopardy.

NGA supports the SSBCI program and wants to ensure that independent grocers are a part of the solution to help individuals live vibrant and productive lives by eating healthy. Our members offer a wide variety of foods to cater to all the different dietary needs of their community. The use of debit cards to make healthy purchases strongly aligns with our efforts to support the health of our customers. The requirement that debit cards can only be used on plan-covered items is critical to ensure that the cards are used properly, and taxpayer funds are spent with integrity.

We support the requirement for plan participant education and ask that you provide additional education on the CMS website for businesses, like grocers, that are expected to accept these debit cards. Because of the "exclusively linked" requirement, these debit cards do not function like a normal bank debit cards and have caused great confusion for customers and grocers. They are not true debit cards in both the way they are processed and what the experience is for both the enrollee and the merchant that accepts them.

There are several types of debit cards that are popping up to support these new Medicare Advantage benefits and they mostly fall into two categories: open and closed loop.

- Closed loop cards allow the basket details to be sent to a processor for both adjudication of the eligible items and the processing of the payment total of eligible items. An authentication message and credit amount are returned to the merchant. This adjudication and payment processing is all done as one closed loop direct process.
- Open loop cards are sometimes referred to as PINLess debit cards. With open loop cards, basket details are sent just for adjudication to the enrollee plan processor and the adjudication approval and subsequent total is returned and processed over a merchants' existing merchant payment rail (MasterCard/Visa). This is a two-step process and relies on the retailers' existing merchant processing capabilities.

Many of the debit cards used to administer the benefits of SSBCI rely on track2 magnetic data contained within the magnetic stripe on the actual debit card. Due to high levels of fraud, magnetic stripe cards were removed from circulation a decade ago as there is a high risk of fraud from card skimming. Due to the high value of transactions, grocery stores have systems that are configured to process EMV chip and pin cards. So, the reintroduction of magnetic stripe cards is one of the many significant problems grocers have faced when working to accept these cards. Magnetic stripe transactions also increase the risk of fraud by skimming SSBCI benefits on debit cards.

There are significant differences between closed and open loop as they pertain to the section titled, "3. New Guardrails for Plan Debit Cards," and providing alternative processing methods.

Here are several suggestions for additional methods to allow independent grocers to accept SSBCI debit cards.

- Closed loop cards are a direct account card, where the card is the identifier which accesses a data service where the stored account details, available balance and approved products that the account holder is eligible to purchase. It is directly communicating via the retailer to the plan processor either via an application programming interface (API) or direct call and not via the payment rails. Therefore, as long as there is an ability to reference the enrollee's account, any number of other identification methods could be used. These could include:
  - QR code or barcode displayed on enrollee's phone. The QR code/barcode could be a representation of the enrollee's card number or a tokenized reference that could access the enrollee's plan and other benefits.
  - A voucher that could be emailed, downloaded and printed off by the enrollee.
  - An in-store kiosk where an enrollee could enter their details and have a voucher issued then and there.

Closed loop cards support tokenization which provides a higher degree of security and fraud reduction as well as flexibility to add additional features and benefits (e.g. ePurses) to a single card.

- Open loop PINLess debit cards are extremely limited in their functionality. They cannot support tokenization as referenced above. Therefore, to provide an alternative process if there is an issue with an open loop PINLess debit card, would be limited to just another representation of the PINLess debit card (16-digit card number) rather than another processing method altogether, that could be processed through the current payment methods at merchants' checkouts.
  - A QR code/barcode displayed on the enrollee's phone. This is a digital form of barcodes were eliminated from the current issued PINLess debit cards. The QR/barcode would only contain the enrollee's card number, which is what currently what gets sent along with the enrollee's basket details for adjudication and processing. To ensure security, each QR/Barcode would be serialized and thus only usable once. The enrollee would need to request and activate a new one barcode for their next purchase.
  - The same method could be used for printing at home codes.
  - Another method that could be presented would be a serialized voucher with a barcode that represents the enrollee's 16-digit card number that an enrollee could print off at home. Again, with the voucher being serialized it would be unusable once scanned.

While the transaction processing has been the major limitation for independent grocers, we have also struggled to find a universal system for ensuring only approved products are purchased. When it comes to adjudication, most MA plans rely on Approved Product Lists (APL) that were built using national retailer product data. National retail chain data is very different from independent and ethnic grocery product data. National chains are in direct control of their supply chains. When it comes to variable products such as produce and meat, the product codes (PLU's) are uniform across a national chain. For example, a T-bone steak sold at a national chain, whether it is in Virginia or California, will have the same PLU. But for an independent and/or ethnic grocer that runs their own butcher shop, their T-Bone will be assigned a PLU from the

independent and/or ethnic grocers' own product file. These local product files are not incorporated into the APL's that MA card processors administer and as a result, fresh items including both produce and meat get declined. Not because they are ineligible, but because the local PLU that was scanned at the checkout does not match the PLU contained within the card processors APL.

Independent grocers work hard to ensure that healthy, local options are available for their customers and should be allowed flexibility within product categories to sell their products to MA enrollees with SSCBI debit cards. We propose using a mapping capability that can be incorporated into a debit card transaction that contains a set of PLUs that covers the range of local naming PLU categories that independent and/or ethnic grocers manage that can be mapped to the processors APL's and during the transaction substituted in real time. This would replace the current offering from processors, which is a limited (e.g. 10-20) range of substitution PLU codes that can be applied at a category level (e.g. produce, meat, etc.). Since substitution codes are not product PLU codes, transactions are often declined even though plan participants are often purchasing healthy food like local produce.

As for the desire by CMS to expand personalized APLs for specific health issues, (e.g. diabetes, hypertension, etc), the need for a PLU mapping capability becomes even more critical to ensuring that merchants can accept and correctly process cards, as the rate of declines will grow exponentially without this flexibility.

Finally, we ask that CMS ensure that grocer data is protected at CMS and by any health plan required to collect that data. Product purchasing data is considered confidential business information and grocers have gone to great lengths to protect it, including winning a supreme court case (FMI v. Argus). It should be considered that the MA card processors do not directly manage the APLs as evidenced above, but instead just facilitate the processing of the debit cards. Grocers should be allowed to choose a trusted partner to manage sensitive retail data as opposed to being forced to work with MA contractors who may use this data for their own financial gain.

Expanding access to healthy foods is an important step toward reducing health care costs, but healthy benefit cards must be implemented in a way that does not burden participants and supports vibrant local economies. We stand ready to work with you to make healthy food and food is medicine programs a success.

Sincerely,



Stephanie Johnson, RDN  
Group Vice President, Government Relations  
National Grocers Association

*Payment and technical guidance provided by Judd Ferrer of Fincretive LLC.*