



## The Time is Now for Administrative Action to Improve Medicare Dental Coverage

With millions of older adults and people with disabilities unable to afford the dental care they need to stay healthy, adding oral health coverage to Medicare is both much needed<sup>1</sup> and in high demand. Over 80% of voters in America support such policies, including a majority of Republicans, Democrats and Independents.<sup>2</sup> The inclusion of Medicare dental coverage in the Build Back Better agenda brought the issue to the political foreground. However, Congress did not ultimately enact legislation that included the comprehensive dental benefit.

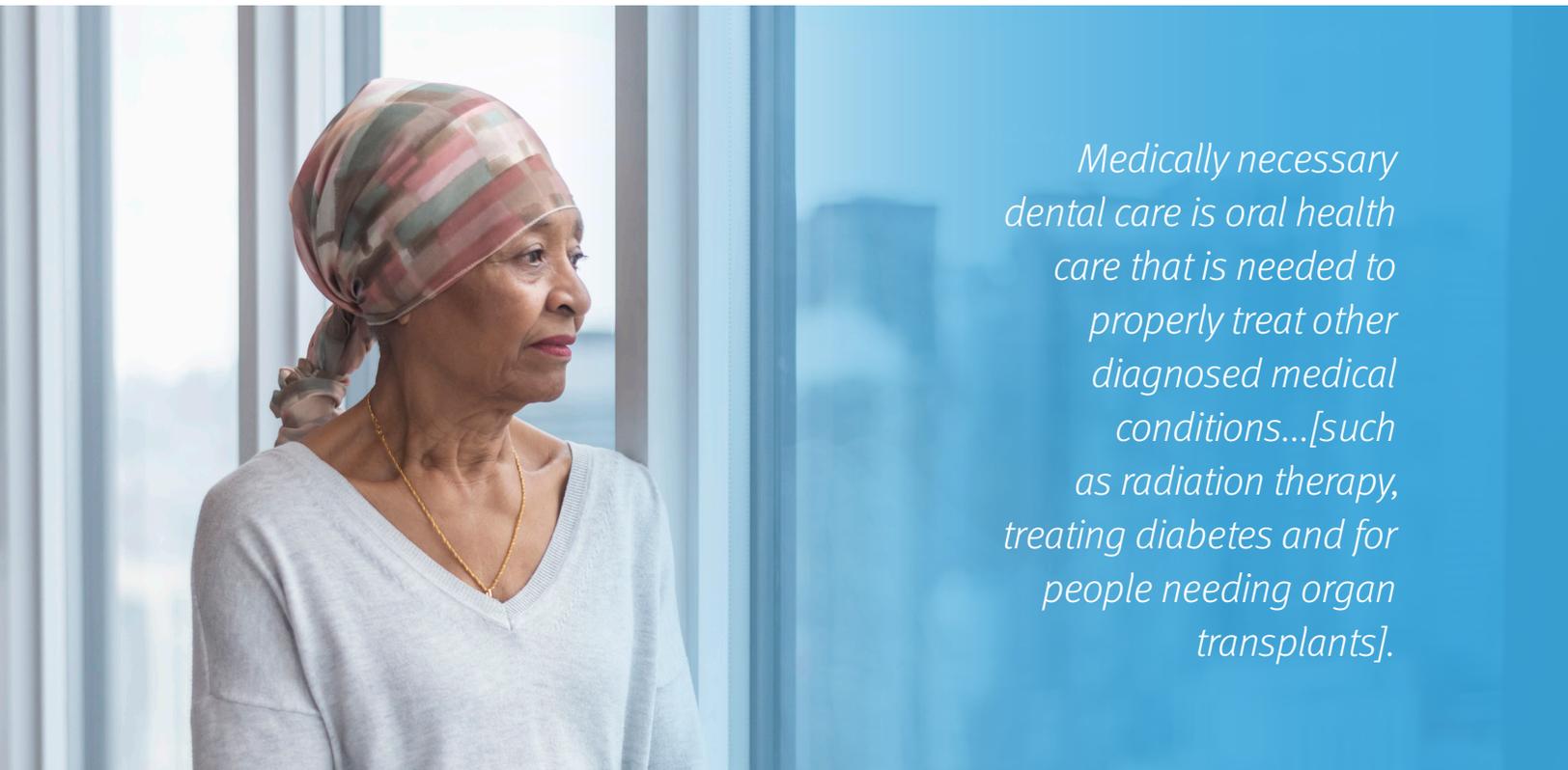
Now the Biden Administration has an opportunity to deliver an important piece of this much sought-after benefit to older adults and people with disabilities. The Centers for Medicare and Medicaid Services (CMS) has authority under current law to cover “medically necessary” dental care through Medicare.<sup>3</sup> Acting to maximize this authority would help many of the people who need dental coverage the most.

## What is “Medically Necessary” Dental Care, and Why Does It Matter?

Medically necessary dental care is oral health care that is needed to properly treat other diagnosed medical conditions. For instance, oral health care can be vital to ensuring that a person can receive a transplant, move forward with radiation therapy, get their diabetes under control, and much more. Yet, for too many Medicare enrollees, this care is unaffordable and out of reach, delaying medical care and making them even sicker.

CMS currently exercises its authority to cover medically necessary dental care in a very limited way, providing coverage in only a few specific instances.<sup>4</sup> For example, Medicare covers a dental examination to identify infection prior to a kidney transplant, and tooth extractions needed prior to undergoing cancer radiation directed at the jaw. Under this interpretation, however, Medicare does not cover much of the more comprehensive and necessary dental treatment that would meaningfully improve outcomes in those cases. Nor does it provide any support for people in similar medical situations whose dental care does not fall in this extremely narrow scope.

Medicare’s lack of dental coverage exacerbates underlying racial, geographic and disability-related health and wealth disparities.<sup>5</sup> Improved Medicare coverage for medically necessary dental care would mitigate some of these disparities by ensuring that Medicare enrollees who need dental treatment as part of their covered medical care can get the full scope of care they need to get healthy without having to make impossible financial tradeoffs. By maximizing its existing authority, CMS could ensure “medically necessary” dental care includes a more complete scope of oral health services for people undergoing transplants, cancer therapies and other critical medical treatments.<sup>6</sup>

A photograph of an elderly woman with a headscarf, looking out a window. The image is partially obscured by a blue gradient on the right side, which contains text.

*Medically necessary dental care is oral health care that is needed to properly treat other diagnosed medical conditions...[such as radiation therapy, treating diabetes and for people needing organ transplants].*

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## How Administrative Action Could Help

CMS has the legal authority to broaden the scope of its medically necessary dental coverage policy. The Medicare statute does not bar payment for dental services needed in connection with the covered treatment of a major medical condition.<sup>7</sup> In fact, CMS recognizes a similar “medically necessary” exemption with respect to the statutory exclusion of payment for foot care.<sup>8</sup> In determining the ultimate scope and clinical implications of improving this coverage, CMS could consider including dental care that is incident and integral to certain surgical procedures, transplants, cancer treatments, diabetes care, immunosuppression, heart disease treatments and other circumstances. There is clinical consensus from many leading medical experts and professional associations about the importance of dental care in these and other treatments.<sup>9</sup> After extensive legal analysis,<sup>10</sup> experts and stakeholders proposed the following coverage standard for CMS’ consideration:

*A noncovered dental procedure or service is eligible for coverage in certain instances wherein, but for the provision of the dental procedure or service, a covered medical procedure or service cannot proceed or would be delayed, or, in the opinion of the treating medical provider, the patient’s care would be otherwise negatively compromised.*

## Voters, Stakeholders and Other Policymakers Want Action Now

**Improving Medicare’s coverage of dental care is urgent and timely.** America’s population is aging at a record pace, while inflation is the highest it has been in decades. Now more than ever, families face difficult decisions that pit gaining access to needed health care against putting food on the table.

**Improving Medicare’s coverage of dental care is wildly popular.** It has broad, bipartisan support from voters, as well as widespread community support for expanding the definition of “medically necessary” care. Roughly 240 organizations declared their support in a publicly issued community statement.<sup>11</sup> The signers include consumer advocates; groups that represent older adults, people with disabilities and rural health communities; dozens of health care provider and disease-specific associations; insurers; and many others. Most recently, dozens of Members of Congress indicated their interest in this policy through letters to CMS, with 22 Senators and 112 House members signing on in support.<sup>12</sup>

**The evidence is clear:** The Biden Administration should take prompt action to expand the coverage definition for medically necessary dental care. The Medicare statute clearly creates room for this determination, and the impact for millions of older adults and individuals with disabilities that rely on Medicare for their health coverage would be immense.

## Endnotes

<sup>1</sup> Burroughs, M., E. Fishman and G. Hall. “What’s At Stake for America’s Families: Why Congress Must Go Big and Bold in Reconciliation to Improve Health and Health Care for Millions of People.” Families USA. September 10, 2021. <https://familiesusa.org/resources/whats-at-stake-for-americas-families-why-congress-must-go-big-and-bold-in-reconciliation-to-improve-health-and-health-care-for-millions-of-people/>.

<sup>2</sup> Sainato, M. “Millions in US hope plan to expand dental care survives cuts to Biden’s bill” The Guardian. October 20, 2021. <https://www.theguardian.com/us-news/2021/oct/20/us-healthcare-millions-americans-medicare-dental-care#:~:text=The%20majority%20of%20Americans%20support,dental%2C%20vision%20and%20hearing%20coverage.>

<sup>3</sup> 42 C.F.R. § 411.15(i).

<sup>4</sup> Center for Medicare and Medicaid Services. Medicare dental coverage. Medicare Dental Coverage. <https://www.cms.gov/Medicare/Coverage/MedicareDentalCoverage>.

<sup>5</sup> Christ, A., G. Burke and J. Goldberg. Adding a Dental Benefit to Medicare: Addressing Racial Disparities. Justice in Aging. October 2019. <https://www.justiceinaging.org/wp-content/uploads/2019/10/Addressing-Oral-Health-Equity-by-Adding-a-Dental-Benefit-to-Medicare.pdf>.

<sup>6</sup> Medicare Benefit Policy Manual, Chapter 15, § 150. See also Medicare Benefit Policy Manual, Chapter 16, § 140.

<sup>7</sup> 42 U.S.C. Section 1395y (a) (12).

<sup>8</sup> Medicare Benefit Policy Manual, Ch. 15, § 290.

<sup>9</sup> Clinical Consensus on Medically Necessary Dental Care. Santa Fe Group. Accessed June 30, 2022. <https://santafegroup.org/wp-content/uploads/2020/08/clinical-consensus-on-medically-necessary-dental-care.pdf>.

<sup>10</sup> “Medicare Coverage of Certain Dental Diseases.” King and Spalding LLP. July 30, 2020. Available upon request. See also “Legal Memorandum: Statutory Authority Exists for Medicare to Cover Medically Necessary Oral Health Care.” Center for Medicare Advocacy. January 3, 2019. <https://medicareadvocacy.org/medicare-info/dental-coverage-under-medicare/#legal-memorandum-statutory-authority-exists-for-medicare-to-cover-medically-necessary-oral-health-care>.

<sup>11</sup> “Community Statement on Medicare Coverage for Medically Necessary Oral and Dental Health Therapies.” Families USA. June 15, 2022. <https://familiesusa.org/resources/community-statement-on-medicare-coverage-for-medically-necessary-oral-and-dental-health-therapies/>.

<sup>12</sup> Senator Debbie Stabenow and Senator Benjamin L. Cardin. “Letter to CMS on Medically Necessary Dental Coverage.” June 21, 2022. <https://www.cardin.senate.gov/wp-content/uploads/2022/06/Letter-to-CMS-on-Medically-Necessary-Dental-Coverage.pdf>; Representative Lloyd Doggett and Representative Nannette Barragan. “Letter to CMS on Medically Necessary Dental Coverage”. June 29, 2022. <https://doggett.house.gov/sites/evo-subsites/doggett.house.gov/files/evo-media-document/Expand%20Medically%20Necessary%20Dental%20Coverage.pdf>.

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