

May XX, 2023

The Honorable Xavier Becerra
Secretary
U.S. Department of Health and Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

The Honorable Chiquita Brooks-LaSure
Administrator
U.S. Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, M.D. 21244

Dear Secretary Becerra and Administrator Brooks-LaSure:

We write to thank the U.S. Centers for Medicare & Medicaid Services (CMS) for taking action toward ensuring timely access to health care by proposing rules to streamline prior authorization (PA) protocols for individuals enrolled in federally-sponsored health insurance programs, including Medicare Advantage (MA) plans.^{1, 2, 3} We urge CMS to promptly finalize and implement these changes to increase transparency and improve the prior authorization process for patients, providers, and health plans. We also urge CMS to expand on these proposed rules by: (1) establishing a mechanism for real-time electronic prior authorization (e-PA) decisions for routinely approved items and services; (2) requiring that plans respond to PA requests within 24 hours for urgently needed care; and (3) requiring detailed transparency metrics.

We appreciate that the rules CMS proposed in December 2022 concerning PA attempt to strike a balance between program integrity and patient access to care. While we agree that PA, when used appropriately, is an important tool for payers to manage costs and ensure program integrity,

¹ U.S. Centers for Medicare and Medicaid Services (CMS), Advancing Interoperability and Improving Prior Authorization Processes for MA Organizations and Medicaid Managed Care Plans, State Medicaid Agencies, State CHIP Agencies, CHIP Managed Care Entities, and Issuers of QHPs in the Federally-Facilitated Exchanges (CMS-0057-P), December 13, 2022, <https://www.federalregister.gov/documents/2022/12/13/2022-26479/medicare-and-medicare-programs-patient-protection-and-affordable-care-act-advancing-interoperability>.

² CMS, Changes to the Medicare Advantage and the Medicare Prescription Drug Benefit Program for Contract Year 2024 (CMS-2022-0191), December 27, 2022, <https://www.federalregister.gov/documents/2022/12/27/2022-26956/medicare-program-contract-year-2024-policy-and-technical-changes-to-the-medicare-advantage-program>.

³ CMS, Adoption of Standards for Health Care Attachment Transactions and Electronic Signatures, and Modification to Referral Certification and Authorization Standard (CMS-0053-P), December 21, 2022, <https://www.federalregister.gov/documents/2022/12/21/2022-27437/administrative-simplification-adoption-of-standards-for-health-care-attachments-transactions-and>.

we support CMS's efforts to protect beneficiaries, increase transparency around PA requirements, and streamline this process for patients, providers, and health plans.

We are pleased that these proposed rules align with the bipartisan, bicameral *Improving Seniors' Timely Access to Care Act*, which proposes a balanced approach to prior authorization in the MA program that would remove barriers to patients' timely access to care and allow providers to spend more time treating patients and less time on paperwork. Specifically, both the legislation and CMS's recent proposals would:

- establish an e-PA process for MA plans;
- accelerate PA decision time frames;
- reduce the administrative burden for both providers and health plans;
- increase transparency around PA requirements and clinical information needed to support decisions; and
- expand beneficiary protections to improve patient experiences and outcomes.

We encourage CMS to build on the e-PA proposal in the final rule by incorporating a mechanism for real-time decisions for routinely approved items and services. This mechanism would improve patient care and reduce provider burden while avoiding unnecessary delays. Hundreds of organizations representing patients, physicians, hospitals, and other health care experts have put their support behind an e-PA proposal that *includes* a real-time process for items and services that are routinely approved.

As you know, the health insurance industry has been actively working towards real-time decisions through automation and artificial intelligence from end-to-end.⁴ The software market for providing these services is competitive, offering several platforms for health care providers and payers where a real-time decisions tool is available today. Based on industry growth (due to market demand), robust evidence continues to demonstrate that implementing real-time decisions produces cost savings for health care providers and health plans.⁵

We also encourage you to build on the proposed rule's goal of shortening decision timeframes by reducing the deadline for responding to expedited prior authorization requests from 72 hours to 24 hours to ensure urgently needed care is not delayed. We are concerned that delaying care for up to three days could jeopardize a patient's life, health, or ability to regain maximum function. Further, we ask that you build upon the goal of increasing transparency by aligning the final rule's data collection requirements with the information reporting requirements outlined in *Section 2 of the Improving Seniors' Timely Access to Care Act*.

⁴ CAQH, Working Together: Advances in Automation During Unprecedented Times, 2021, <https://www.caqh.org/sites/default/files/explorations/index/2021-caqh-index.pdf>.

⁵ Global Market Estimates, Global Prior Authorization Software Market Size, Trends & Analysis - Forecasts to 2028, April 13, 2023, <https://www.globalmarketestimates.com/market-report/prior-authorization-software-market-3904>.

These policies: (1) a mechanism for real-time prior authorization decisions for routinely approved services, (2) a deadline of 24 hours for MA plans to respond to prior authorization requests for urgently needed care, and (3) requiring detailed transparency metrics are in line with the *Improving Seniors' Timely Access to Care Act*, which has received significant bipartisan support from members of Congress and endorsements from more than 500 organizations engaged in this work.⁶

We urge you to finalize these important updates to prior authorization processes in a manner that reflects the *Improving Seniors' Timely Access to Care Act* as quickly as possible in order to improve access to health care for patients. We appreciate your engagement on these policies and encourage you to continue working on policies that increase the efficiency and transparency of the process for patients to receive care.

Thank you again for your dedication to this matter.

Sincerely,

⁶ Regulatory Relief Coalition, Supporters, accessed April 20, 2023, <https://www.regrelief.org/support/>.