



March 7, 2022

Re: Medicare Program; Contract Year 2023 Policy and Technical Changes to the Medicare Advantage and Medicare Prescription Drug Benefit Programs Proposed Rule (“Proposed Rule”)

Dear Administrator Brooks-LaSure:

The Regulatory Relief Coalition (RRC) appreciates the opportunity to comment on the above-referenced Proposed Rule. The RRC is a group of national physician specialty organizations advocating for regulatory burden reduction in Medicare so that physicians can spend more time treating patients. We aim to ensure that prior authorization (PA) is not a barrier to timely access to care for the patients we serve.

The RRC is pleased that the Proposed Rule includes a Request for Information requesting comments on the impact of PA requirements that mandate prior approval of post-acute services. We understand that these requirements are currently causing delays in the discharge of patients from hospitals and thereby exacerbating the bed shortages caused by COVID-19. We welcome CMS’ focus on this issue as a positive step in addressing the multiple barriers to access to care caused by ubiquitous PA requirements, especially in the light of the unique challenges posed by the pandemic.

In light of the burden on the health care system resulting from the spread of the Omicron variant of the virus, we urge CMS to broaden its scrutiny of the impact of PA requirements beyond the effects of these requirements on hospital overcrowding. In May 2020, the RRC issued an Open Letter to all health plans detailing the need to waive all PA requirements during this crisis, to facilitate timely access to care. (*See Attachment A*). All of the circumstances supporting waiving these requirements in May of 2020 continue to apply. We, therefore, strongly urge CMS to consider these factors in addressing the MA plans’ use of all PA during the continuing pandemic.

In fact, as stated in numerous comments filed by the RRC over the years, we strongly believe that there is an ongoing need for CMS to closely monitor MA plans’ use of PA beyond the expiration of the public health emergency. Moreover, in a bipartisan letter dated October 28, 2021, spearheaded by Senators Sherrod Brown (D-OH) and John Thune (R-SD), 29 Senators from both sides of the aisle urged CMS to use its regulatory authority to improve the PA process across health plans, in line with the *Improving Seniors’ Timely Access to Care Act*, by:

- establishing an electronic, “real-time” prior authorization process across federal programs, including MA plans;
- reducing administrative burden for both providers and health plans;
- minimizing the use of prior authorization for routinely approved items and services;
- increasing transparency around prior authorization requirements and clinical information needed to support decisions; and
- expanding beneficiary protections.

The RRC strongly urges CMS to continue to focus on the impact of PA requirements on patient access, both during the pandemic and beyond, and we look forward to working with you to improve the process to remove unnecessary barriers to care while ensuring appropriate utilization of health care services to MA enrollees.

Sincerely yours,

American Academy of Family Physicians
American Academy of Neurology
American Academy of Ophthalmology
American Association of Neurological Surgeons
American Association of Orthopaedic Surgeons
American College of Cardiology
American College of Rheumatology
American College of Surgeons
American Gastroenterological Association
American Osteopathic Association
Association for Clinical Oncology
Congress of Neurological Surgeons
Medical Group Management Association
Society for Cardiovascular Angiography and Interventions



Open Letter to All Health Plans May 2020

The Regulatory Relief Coalition (RRC) calls on all health plans **to suspend prior authorization and similar utilization review requirements for both COVID-19 and non-COVID-19-related services until normalcy in the health care delivery system is restored.**

- Providers in many densely populated areas continue to provide only the most urgent and critical non-COVID services. Removing barriers to patients in need of vital medical, surgical and biopharmaceutical treatments — whether COVID-19-treatment related or not — is more important now than ever before.
- Throughout the country, practices continue to operate on significantly reduced staff. Dedicating precious resources to the task of seeking prior authorization of urgently needed or long-delayed services is not in the interests of the patients we serve.
- In areas where the healthcare system is beginning to recover from the crisis sufficiently to treat non-emergent cases, providers are faced with the challenge of providing long-delayed medically necessary services to patients whose health care needs were postponed during the crisis. Prior authorization burdens would only further delay this care.
- Medicaid plans have already eliminated many prior authorization requirements, and CMS has urged Medicare Advantage Plans to exercise flexibility regarding prior authorization “to facilitate access to services with less burden on beneficiaries, plans, and providers.”
- While some health plans have lessened barriers to care through suspension of some prior authorization, others are planning to *increase* prior authorization requirements. In many instances, major health plans’ responses to prior authorization requests have been significantly delayed throughout the country due to COVID-19.
- Examples of patients who are still being required to have prior authorization for necessary treatment include patients with Diabetic Retinopathy and Macular Degeneration who are at immediate risk of losing vision; patients who require immediate spinal surgery to prevent irreversible damage and who have failed conservative therapy; rheumatoid arthritis patients who require biologic therapy that is consistent with national guidelines and who cannot ambulate due to swollen joints; and existing cardiac patients with new chest pain who require prior authorization for stress tests provided in physicians’ offices, but not in hospitals.

During this time of national emergency and its immediate aftermath, we strongly encourage all health plans to waive all prior authorization requirements. By taking this action, health plans will play their part in ensuring that Americans' access to critical health services is not delayed or denied during the current crisis and its immediate aftermath.

The Regulatory Relief Coalition (RRC) is a group of national physician specialty organizations advocating for regulatory burden reduction in Medicare so that physicians can spend more time treating patients. For further information on RRC, visit our [WEBSITE](#).

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American Urological Association
Association for Clinical Oncology
Congress of Neurological Surgeons
National Association of Spine Specialists
Society for Cardiovascular Angiography and Interventions