

CANCER LEADERSHIP COUNCIL

A PATIENT-CENTERED FORUM OF NATIONAL ADVOCACY ORGANIZATIONS
ADDRESSING PUBLIC POLICY ISSUES IN CANCER

February 13, 2023

Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
200 Independence Avenue, SW
Washington, DC 20201

Re: CMS-4201-P, Medicare Program Contract Year 2024 Proposed Rule

Dear Administrator Brooks-LaSure:

The undersigned organizations representing cancer patients, physicians and other health care providers, researchers, and caregivers appreciate the opportunity to comment on the proposed rule related to the Medicare Program Contract Year 2024 Policy and Technical Changes. Our comments below focus on utilization management requirements in Medicare Advantage (MA) plans and include recommendations to strengthen care coordination in MA plans for all enrollees and to address issues of health equity.

Health Equity in Medicare Advantage

We commend the proposal by the Centers for Medicare & Medicaid Services (CMS) to specify that the requirement that MA plans provide services in a culturally competent manner should go beyond linguistically and culturally diverse populations. The expanded list of populations who should receive culturally competent care better reflects those who might be medically underserved and who need this care. The action by CMS is an important step in addressing inequalities in the health care system.

We recommend several actions to strengthen the care coordination programs that MA plans identify as one of their benefits over traditional Medicare. Our suggestion would apply to all MA enrollees, but we think that the MA service improvements we propose would help to address health care disparities and would have a positive impact on cancer care quality. These enhancements in MA plan services are of special interest to us as advocates for cancer patients, but these enhancements will benefit many MA plan enrollees.

Our recommendation is consistent with efforts of the Biden Administration to improve cancer patients' access to navigation services and to design and implement alternative payment models that emphasize navigation and care coordination.

We propose these services be offered by MA plans:

- For each patient, development of a care plan that includes information about diagnosis, treatment, and supportive care and that will facilitate coordination of care among all of the patient's providers. This plan should also identify the patient's nutrition, transportation, lodging needs, family and community support, and any other barriers to obtaining treatment and complying with the outlined care.
- For each patient, navigation through treatment, supportive care, and financial toxicities related to cancer care.
- Communication among the patient's providers to foster coordination of care.

The American Society of Radiation Oncology, in its comments on this proposed rule, has recommended an additional payment to practices based on social determinants of health (SDOH) data scoring that would support services akin to those we describe above. We see the benefits of this approach. We recommend that CMS consider that proposal and also an adjustment to MA payments that would support the services we recommend for all MA beneficiaries diagnosed with a serious or chronic disease. These services will be of benefit to cancer patients, but we believe other MA enrollees will benefit, too.

Utilization Management Requirements

All of our organizations – those representing patients and those representing health care providers – have experienced the burdens and negative consequences of prior authorization as practiced by MA plans.

Two of our member organizations – American Society for Radiation Oncology and the Association for Clinical Oncology – have conducted surveys that confirm the adverse impact of prior authorization on access to cancer care and quality of cancer care.¹ These surveys are specific to cancer, confirming and underscoring for cancer patients and providers the findings of a prior authorization survey conducted by the American Medical Association and an April 2022 report by the Office of Inspector General (IG).

¹ Association for Clinical Oncology press release, "Nearly All Oncology Providers Report Prior Authorization Causing Delayed Care, Other Patient Harms, November 22, 2022. Accessed on February 13, 2023, at <https://old-prod.asco.org/about-asco/press-center/news-releases/nearly-all-oncology-providers-report-prior-authorization>. American Society for Radiation Oncology press release published April 25, 2019, Prior authorization obstacles unnecessarily delay patient access to cancer treatments, physician survey finds.

Prior authorization results in delays in cancer treatment; for some the delays are more than five days, which is a full week of standard radiation treatments. Physicians report that some of their patients have had serious adverse events as a result of prior authorization.

The IG report found that 13% of the prior authorization requests denied by MA plans met coverage rules in traditional Medicare. MA enrollees are being denied care that is covered by traditional Medicare.²

A recent Kaiser Family Foundation (KFF) report concluded that 2 million MA prior authorization requests were denied in 2021 and that only 11% of the denials were appealed. Of those denials that WERE appealed, 82% were overturned upon appeal.³

The prior authorization process as practiced by MA plans burdens patients and providers at the very least but often also delays or denies them care that is covered by traditional Medicare. We are pleased that CMS has outlined a number of requirements for MA plans that will alleviate the prior authorization burden and increase transparency of the process. We urge CMS to implement in 2024 the actions it has included in the proposed rule, including:

- Requiring MA plans to comply with national coverage decisions, local coverage decisions, and general coverage and benefit conditions included in regulations governing traditional Medicare.
- Prohibiting MA plans from denying coverage of a Medicare covered item or service based on clinical criteria not found in coverage policies of traditional Medicare.
- Requiring MA plans to establish a Utilization Management (UM) committee to review all UM policies annually to assure consistency with guidelines for traditional Medicare.
- Preventing MS plans from retroactively denying coverage after approval of a prior authorization request.
- Mandating that the health care professional conducting a medical necessity review have expertise in the field of medicine that is appropriate for the item or service being requested.
- Requiring MA plans to provide a 90-day transition period for beneficiaries switching MA plans and to ensure that authorizations remain valid for ongoing courses of treatment.

We are pleased that the agency responded to stakeholder concerns regarding MA plans' use of prior authorization with standards that those plans must meet.

² U.S. Department of Health and Human Services, Some Medicare Advantage Organization Denials of Prior Authorization Requests Raise Concerns about Beneficiary Access to Medically Necessary Care, April 2022, accessed on February 13, 2023, at <https://oig.hhs.gov/oei/reports/OEI-09-18-00260.pdf>.

³ Kaiser Family Foundation, Over 35 Million Prior Authorization Requests Were Submitted to Medicare Advantage Plans in 2021, accessed on February 13, 2023, at <https://www.kff.org/medicare/issue-brief/over-35-million-prior-authorization-requests-were-submitted-to-medicare-advantage-plans-in-2021/>.

We appreciate the opportunity to comment on the proposed rule. We are available to provide additional information about the potential to improve access to quality cancer care for cancer patients who are MA enrollees.

Sincerely,

Cancer Leadership Council

Academy of Oncology Nurse & Patient Navigators
American Society for Radiation Oncology
Association for Clinical Oncology
Association of Oncology Social Work
CancerCare
Cancer Support Community
Children's Cancer Cause
International Myeloma Foundation
LUNgevity Foundation
Lymphoma Research Foundation
National Coalition for Cancer Survivorship
Ovarian Cancer Research Alliance