



Filed Electronically

January 5, 2024

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare and Medicaid Services
200 Independence Avenue, S.W.
Washington, DC 20201

Re: [CMS-4205-P]; RIN 0938-AV24; Medicare Program; Contract Year 2025 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; Health Information Technology Standards and Implementation Specifications (2025 MA Proposed Rule)

Dear Administrator Chiquita Brooks-LaSure:

The Regulatory Relief Coalition (RRC) is pleased to have the opportunity to comment on the 2025 Medicare Advantage (MA) Proposed Rule. The RRC is a coalition of national physician specialty organizations seeking to reduce regulatory burdens that interfere with patient care. Our recent activities focus on ensuring that utilization review policies are not a barrier to timely and equitable access to care for the patients we serve. The 2025 MA Proposed Rule includes several provisions related to prior authorization (PA) of interest to the RRC.

First, the Centers for Medicare and Medicaid Services (CMS) is proposing regulatory changes to the composition and responsibilities of MA plans' Utilization Management (UM) committees, which are charged with reviewing all of the MA plans' PA policies. CMS proposes to require that a member of the UM committee have expertise in health equity and that the UM committee conduct an annual health equity analysis of the use of PA. These annual analyses would examine the impact of PA on dual eligible and disabled enrollees and must include a comparison of PA data (e.g., the aggregate number of denials, appeals, etc.) for disabled and dual eligible enrollees with PA data for other enrollees. MA plans would be required to make the results of these analyses publicly available on their websites in a manner that is easily accessible.

RRC Recommendation: The RRC recommends that CMS finalize its proposal to require MA plans' UM committees to include a member with expertise in health equity and its proposal to conduct and make public an annual health equity analysis analyzing the impact of PA on disabled and dual eligible enrollees. We support CMS' proposal to

require these analyses to include the data elements described in the 2025 MA Proposed Rule and to make this data easily accessible on their websites. We believe that the entire UM committee—not just the UM committee member with health equity expertise—should be made responsible for ensuring that the health equity analysis is comprehensive and complete.

The 2025 MA Plan Proposed Rule specifically solicits comments on whether MA plans should be required to make the PA equity analysis data available in disaggregated format. In addition, the 2025 MA Proposed Rule solicits comments on how this data should be made public.

RRC Recommendation: The RRC urges CMS to require MA plans to disaggregate all PA data that is required to be public under Medicare rules, including, but not limited to, the PA data comprising the proposed annual equity analyses. As indicated in our comments on the 2024 MA Proposed Rule, the RRC believes that PA data must be disclosed on an individual service basis since disclosure on an aggregate basis will likely be virtually meaningless to both providers and patients. Moreover, we believe that, unless PA data is available on a service level, it will not be possible to focus efforts to reduce the potential disproportionate impact of PA on disabled and dual eligible enrollees to target the particular service lines requiring priority attention.

RRC Recommendation: The RRC urges CMS to obtain from MA plans and to publish on the CMS website the complete PA and other data that MA plans are required to make public, including, but not limited to, PA equity analysis data. Publishing this data on a single governmental website will facilitate public access and enable Medicare beneficiaries, providers, and researchers to easily compare MA plans' PA practices.

Second, the RRC is pleased that the 2025 MA Proposed Rule clearly and unequivocally affirms CMS' authority to collect detailed information from MA organizations and Part D plan sponsors under current regulations. CMS cites the following as an example of increased MA plan data collection that may be required:

...service level data for all initial coverage decisions and plan level appeals, such as decision rationales for items, services, or diagnosis codes to have better line of sight on utilization management and PA practices, among many other issues.

(Emphasis added.)

RRC Recommendation: The RRC urges CMS to propose new service-level reporting requirements as described in the Proposed Rule as soon as practicable.

Third, we note that CMS is modifying provisions of the Star Rating system to strongly encourage MA plans to submit data related to the “appeals measures” (ie. Plan makes Timely Decision About Appeals and Reviewing Appeals Decisions). Under the 2025 MA Proposed Rule, CMS would reduce the measure rating to one (1) star for the applicable appeals measure(s) if the MA Plan does not submit accurate, complete, and unbiased data to validate the completeness of the Part C appeals measures.

RRC Recommendation: The RRC supports CMS’ proposal to identify data completeness issues and calculate scaled reductions for the Part C appeals measures.

Finally, the 2025 MA Proposed Rule would include changes to the technical standards applicable to drug PA and other transactions. For example, the 2025 MA Proposed Rule proposes to adopt NCPDP SCRIPT standard version 2023011, replacing version 2017071 on and after January 1, 2027. The updated NCPDP SCRIPT standard version 2023011 includes important enhancements relative to NCPDP SCRIPT standard version 2017071, which supports electronic PA functions and electronic transfer of prescriptions between pharmacies.

RRC Recommendation: The RRC appreciates CMS’ efforts to streamline PA for prescription drugs by ensuring that MA plans institute the most advanced e-PA technology available.

The RRC appreciates the opportunity to comment on the 2025 MA Proposed Rule. If you have any questions or need any further information regarding these comments, please do not hesitate to contact RRC’s Regulatory Counsel, Diane Millman at Diane.Millman@PowersLaw.com or the RRC’s Washington Counsel, Peggy Tighe at Peggy.Tighe@PowersLaw.com.

Respectfully submitted,

American Academy of Family Physicians
American Academy of Neurology
American Academy of Ophthalmology
American Academy of Physical Medicine and Rehabilitation
American Association of Neurological Surgeons
American Association of Orthopaedic Surgeons
American College of Rheumatology
American College of Surgeons
American Gastroenterological Association
American Medical Rehabilitation Providers Association
American Osteopathic Association
Association for Clinical Oncology
Congress of Neurological Surgeons
Medical Group Management Association
North American Spine Society