

Statement for the Record

Subcommittee on Health of the Committee on Energy and Commerce Committee Markup: Improving Seniors' Timely Access to Care Act

September 14, 2022

The American Osteopathic Association (AOA) and the thirty-six undersigned state and specialty osteopathic associations, which collectively represent more than 178,000 osteopathic physicians (DOs) and medical students, enthusiastically support the bipartisan *Improving Seniors' Timely Access to Care Act* and encourages members of the subcommittee to favorably vote for this important legislation.

The legislation, championed by Representatives Suzan DelBene (D-WA), Mike Kelly (R-PA), Ami Bera, MD (D-CA), and Larry Bucshon, MD (R-IN), as amended by the House Ways and Means Committee on July 27, 2022, deserves immediate action. As originally introduced, the legislation garnered over 305 bipartisan cosponsors, and is supported by over 500 national and state physician, hospital, patient, and insurer organizations.^{1,2}

As you are aware, prior authorization requirements can drastically delay care for patients and impose significant administrative burdens on physicians. This legislation would allow physicians to spend more time treating patients and less time on bureaucratic hurdles. It does this by streamlining and standardizing the prior authorization process in the Medicare Advantage (MA) program, while also providing much needed transparency, whereby barriers that impede patients' timely access to care will be removed.

In April of this year, a pivotal study by the U.S. Department of Health and Human Services Office of Inspector General (HHS-OIG) raised concerns about access to necessary care for MA beneficiaries. It is also notable that the total MA enrollment has more than doubled since 2011. As of 2021, 42 percent, (26.4 million), of all Medicare beneficiaries were enrolled in a MA plan. The Congressional Budget Office projects that the share of all Medicare beneficiaries enrolled in MA plans will rise to roughly 51 percent by 2030. As enrollment in MA continues to grow, MA plans play an increasingly critical role in ensuring that Medicare beneficiaries have access to medically necessary covered services.³

The April 2022 HHS-OIG report titled "Some Medicare Advantage Organization Denials of Prior Authorization Requests Raise Concerns About Beneficiary Access to Medically Necessary Care," excerpted below concurs:

"[Medicare Advantage Organizations or] MAOs sometimes delayed or denied Medicare Advantage beneficiaries' access to services, even though the requests met Medicare coverage

¹ Congress.Gov, [Cosponsors: H.R.3173 — 117th Congress \(2021-2022\)](#), Update August 17, 2022.

² Regulatory Relief Coalition, [Endorsing Organizations](#), Update August 17, 2022.

³ Kaiser Family Foundation, [Medicare Advantage in 2021: Enrollment Update and Key Trends](#), Updated June 2021.

rules. MAOs also denied payments to providers for some services that met both Medicare coverage rules and MAO billing rules. Denying requests that meet Medicare coverage rules may prevent or delay beneficiaries from receiving medically necessary care and can burden providers.”⁴

The HHS-OIG report also found:

- Thirteen percent of prior authorization denials were for service requests that met Medicare coverage rules, likely preventing or delaying medically necessary care for [MA] beneficiaries.
- Eighteen percent of payment denials were for claims that met Medicare coverage rules and . . . MAO billing rules, which delayed or prevented payments for services that providers had already delivered.
- Imaging services, stays in post-acute facilities, and injections were three prominent service types among the denials that met Medicare coverage rules.
- Although MAOs approve the majority of requests for services and payment, MAOs issue millions of denials each year, and the Centers for Medicare & Medicaid Services’ (CMS) annual audits of MAOs have highlighted widespread and persistent problems related to inappropriate denials of services and payment.

The amended legislation would improve the prior authorization process and provide greater transparency within the MA program by:

- Establishing an electronic prior authorization (ePA) program and requiring MA plans to adopt ePA capabilities;
- Requiring real-time decisions under an MA ePA program, and MAOs unable to meet the real-time processing requirement in the event of “extenuating circumstances” to issue final prior authorization decisions within 72 hours after receipt of request or 24 hours if providers or suppliers submit a request that the delay may seriously jeopardize such individual’s life, health, or ability to regain maximum function. (Plans must act no later than 24 hours after receipt of such request);
- Standardizing and streamlining the prior authorization process for routinely approved items and services;
- Increasing transparency around MAO prior authorization requirements and their use by requiring plans to report on the extent of their use of prior authorization, the rate of approvals or denials, and rationale for denials, which then will be published by HHS on a public CMS website;
- Deletes potential loophole for insurers to claim that information requested by Secretary is “proprietary”; and
- Requiring that MAO give the Secretary information on any grievances received in the previous year related to a prior authorization requirement.

⁴ Office of Inspector General Report in Brief, [Some Medicare Advantage Organization Denials of Prior Authorization Requests Raise Concerns About Beneficiary Access to Medically Necessary Care](#), Updated April 2022.

The AOA and our affiliated state and specialty osteopathic associations firmly support this bipartisan legislation and encourage members of the subcommittee to favorably vote for this legislation.

Sincerely,

American Osteopathic Association
American Academy of Osteopathy
American College of Osteopathic Family Physicians
American College of Osteopathic Internists
American College of Osteopathic Neurologists and Psychiatrists
American College of Osteopathic Obstetricians and Gynecologists
American Osteopathic Academy of Orthopedics
American Osteopathic College of Anesthesiology
American Osteopathic College of Occupational & Preventive Medicine
American Osteopathic College of Physical Medicine & Rehabilitation
American Osteopathic College of Radiology
Arizona Osteopathic Medical Association
Connecticut Osteopathic Medical Society
Florida Osteopathic Medical Association
Florida Society of the ACOFP
Georgia Osteopathic Medical Association
Illinois Osteopathic Medical Society
Indiana Osteopathic Association
Iowa Osteopathic Medical Association
Louisiana Osteopathic Medical Association
Maine Osteopathic Association
Massachusetts Osteopathic Society
Michigan Osteopathic Association
Minnesota Osteopathic Medical Society
Missouri Association of Osteopathic Physicians and Surgeons
New Jersey Association of Osteopathic Physicians and Surgeons
North Carolina Osteopathic Medical Association
Ohio Osteopathic Association
Osteopathic Physicians and Surgeons of Oregon
Rhode Island Society of Osteopathic Physicians and Surgeons
South Carolina Osteopathic Medical Society
Tennessee Osteopathic Medical Association
Texas Osteopathic Medical Association
Utah Osteopathic Medical Association
Virginia Osteopathic Medical Association
Washington Osteopathic Medical Association
Wisconsin Association of Osteopathic Physicians & Surgeons