



Centers for Medicare and Medicaid Services
Office of Strategic Operations and Regulatory Affairs
Division of Regulations Development
Attention: Document Identifier/OMB Control Number CMS-10599
Room C4-26-05
7500 Security Boulevard
Baltimore, Maryland 21244-1850
<http://www.regulations.gov>

Re: Comments of the Michigan Association for Home Care in response to CMS-10599, Medicare Prior Authorization of Home Health Services Demonstration.

To whom it may concern,

I am writing on behalf of the Michigan Association for Home Care in regard to the Center for Medicare and Medicaid Service (CMS) request for comments on the Federal Register notice announcing CMS' pilot program in Michigan, Florida, Minnesota, Illinois, and Texas, establish a regulation for Medicare prior authorization of home health services demonstration, 81 Fed. Reg. 6275 (Feb. 5, 2016). On behalf of our 300 members in Michigan, we appreciate the opportunity to provide comments.

The Michigan Association for Home Care (Michigan Home Care) is the not for profit trade association representing Home Health agencies and other Home Care service providers dedicated to leadership and education to improve patient care and helping people choose to stay in their home longer. We are a membership-based organization comprised of not-for-profit and proprietary home health providers and other home care provider organizations dedicated to providing quality patient care. For more information about our organization, please visit: www.homecaremi.org.

We urge CMS to reconsider its prior authorization proposal and instead develop targeted program integrity reforms. The following comments are offered to support our position.

1. We believe Prior Authorization will have a Negative Impact on Home Health Patient Care and Outcomes

Prior authorization will impede the timely delivery of care because physician-ordered services will have to be reviewed and approved by government administrative employees before care can be initiated. In the case of DME prior authorization, approval often stretches to 10 days. If such were to occur in home health, medically frail seniors would face the risk of medical crises and higher readmission rates. We believe the program will present considerable delays and the timeline is unreasonable and inappropriate for home health services because it threatens quality of care that is delivered consistent with evidence-based practice standards. Particularly for Part A home health services, which are for post-acute care, the prompt delivery of care in the home is critical to avoid unnecessary re-hospitalization. It is a core tenet of the major care transitions and readmission reduction models to ensure that a home visit is provided within 24 to 72 hours of discharge from the hospital. Delaying the ability to deliver home health care within this timeline will result in care that is inconsistent with well-recognized best practices that are essential to providing quality care.

A prior authorization process for home health services would be a barrier to achieving timely initiation of care requirements in the Medicare program's conditions of participation for home health agencies, and CMS's performance measure for timely initiation of care. Medicare certified home health agencies are required in the conditions of participation to conduct the initial assessment visit "either within 48 hours of referral or within 48 hours of the patient's return home, or on the physician-ordered start of care date." A prior authorization process modeled after the power mobility process would delay care for as long as 10 to 20 days, directly counter to CMS's own regulation.

2. It Will Impose Unnecessary Financial, Regulatory, and Administrative Burdens

Prior authorization will lead to higher costs, as patients that would otherwise be served in their home are instead referred to more costly settings or return to hospitals. Further, this policy would increase the administrative burden on physicians and home health agencies, who are already required to provide extensive documentation on patient eligibility for home healthcare services. The proposed process raises the question of how such a process would occur in relation to the face-to-face encounter requirement. Whereas the prior

authorization process as envisioned would take place ideally before any services are rendered, the face-to-face encounter is not required to take place until 30 days after the start of care. To the extent that the CERT error rate is due to issues with documentation that stem from the face-to-face requirement, a prior authorization process would be an ineffective means of addressing such errors.

3. Prior Authorization Will Not Reduce Fraud and Abuse

Prior authorization will not stop the bad actors who are intent on defrauding the Medicare program. Instead, such criminals will submit false records to satisfy the prior authorization rules, just as they do now for CMS' other documentation requirements. Indeed, the only change that would result from this policy is that payment to bad actors will be delayed, not prevented. Michigan Home Care supports aggressive action to combat fraud and patient abuse but we do not feel prior authorization on Home Health services will reduce either.

4. We believe CMS does not have Legal Authority to impose Prior Authorization for Medicare-covered Services

CMS does not have statutory authority to impose prior authorization for Medicare-covered services, as Congress has provided such authority solely for durable medical equipment (DME). The Federal Register notice appears to highlight the Agency's lack of authority to impose prior authorization, and Agency representatives have publicly noted CMS does not have this authority.

Michigan Home Care and our members wish to contribute solutions that achieve positive and helpful outcomes. We welcome the opportunity to collaborate with CMS on the development and implementation of appropriate and targeted program integrity measures that fall within CMS's authority and that would effectively identify and eradicate fraud and abuse without exposing patients to any risk or taxpayers to any increased cost. For the reasons stated in these comments, we urge CMS to set aside the Prior Authorization Proposal and instead work with Michigan Home Care and other stakeholders to Develop Targeted Program Integrity Reforms

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