



ASHA
American
Speech-Language-Hearing
Association

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December 30, 2020

Seema Verma, MPH
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-9123-P
P.O. Box 8016
Baltimore, MD 21244-8016

RE: Medicaid Program; Patient Protection and Affordable Care Act; Reducing Provider and Patient Burden by Improving Prior Authorization Processes, and Promoting Patients' Electronic Access to Health Information for Medicaid Managed Care Plans, State Medicaid Agencies, CHIP Agencies and CHIP Managed Care Entities, and Issuers of Qualified Health Plans on the Federally Facilitated Exchanges; Health Information Technology Standards and Implementation Specifications

Dear Administrator Verma:

On behalf of the American Speech-Language-Hearing Association, I write to offer comments on the prior authorization related provisions within the above referenced proposed rule and requests for information.

The American Speech-Language-Hearing Association (ASHA) is the national professional, scientific, and credentialing association for 211,000 members and affiliates who are audiologists; speech-language pathologists; speech, language, and hearing scientists; audiology and speech-language pathology support personnel; and students.

ASHA appreciates the Centers for Medicare and Medicaid Services (CMS) proposing improvements to the prior authorization and related processes applicable to Medicaid, Children State Health Insurance Programs, and Qualified Health Plans governed by the Affordable Care Act (ACA). ASHA further appreciates CMS and the Office of the National Coordinator for Health Information Technology (ONC) seeking to reduce the administrative burdens and related barriers to accessing care that prior authorization may cause.

ASHA supports the intent of the proposed rule as well as many of the provisions that: 1) reduce prior authorization burden; 2) improve health information technology, and; 3) make complete records more accessible for consumers, providers, and payers. In addition, ASHA provides the following recommendations for the purpose of enhancing the impact of the final rule.

This letter includes ASHA's comments on the following provisions and requests for information (RFI) discussed in the proposed rule:

- Application Programming Interfaces;
- Documentation and Prior Authorization Burden Reduction through APIs;
- Applicability of Provisions within the Exchanges;
- Reducing the Use of Fax Machines (RFI); and
- Accelerating the Adoption of Standards Related to Social Risk Data (RFI).

Application Programming Interfaces (APIs)

ASHA appreciates the creative approach taken to address the seemingly intractable problem of interoperability of health information technology (HIT) systems and electronic medical records (EMR). APIs represent an opportunity to address the problem of interoperability with the least negative impact on health systems and providers who have invested heavily in existing HIT infrastructure. The need for a uniform standard for ensuring the ability of systems to communicate with each other is clear and the API proposal creates a pathway to achieving that goal without requiring all underlying systems to be based on the same technological standards.

For the past several years, ASHA has hosted national health plans and utilization management (UM) companies at an annual Private Payer Summit to discuss issues of common concern and open lines of communication between ASHA members and payers. ASHA has advocated for greater transparency around expectations and standards that health plans and UM companies use when making coverage determinations so that audiologists and speech-language pathologists can tailor their documentation and prior authorization requests appropriately. Therefore, ASHA welcomes CMS's and ONC's emphasis on improving transparency in the prior authorization process as facilitated by the creation of APIs.

Documentation and Prior Authorization Burden Reduction through APIs

ASHA fully supports payer development of the Document Requirement Lookup Service to provide greater transparency to providers and consumers regarding the expectations of prior authorization review. Similarly, ASHA supports mandating of electronic prior authorization support to allow two-way communication between payers and providers. Many health plans and UM companies already use electronic platforms to facilitate prior authorization related communication. As such, a mandate and uniform standards would help further improve transparency and universal adoption.

Clearly stating the reason for any denial along with specific reference to the information or lack thereof that resulted in the denial will help improve transparency of the prior authorization process. While many companies already communicate this information to consumers and providers, ASHA maintains that the prior authorization process will be markedly improved by mandating the disclosure and the specific reason why a request for service is denied.

Enhancing transparency, improving communication, and establishing shorter timelines will help improve the efficiency and effectiveness of prior authorization. The proposed rule establishes baseline requirements for coverage decisions of 72 hours for urgent requests and seven calendar days for non-urgent requests. While ASHA believes these timelines should be shorter because of the efficiencies created by HIT and EMRs, 24 hours and 72 hours respectively, ASHA appreciates the establishment of baselines to create a federal floor for compliance and to broaden adoption of all related requirements.

Finally, public reporting of prior authorization metrics including the rates of which health plans conduct prior authorization, the percentage of denials, and the percentages of the specific factors within denials that caused such determinations will improve transparency. Such details will not only help providers but also consumers better understand prior authorization and how it is used by plans to make coverage determinations. ASHA maintains that consumers have the right to know this information because their health insurance premiums, deductibles, and copayments pay for these covered benefits.

Applicability of Provisions within the Exchanges

As the proposed rule establishes standards, uniformity, and transparency regarding HIT interoperability, as well as a range of prior authorization process improvements, the positive impact of the rule should benefit as many Americans as possible. Therefore, **ASHA recommends that CMS and ONC apply the rule to all ACA governed plans including those on the federally facilitated exchanges and state-based exchanges.**

Expanding the application of requirements ensures that more Americans receive the benefits of the rule, creates uniformity across payers, and allows consumers, providers, and payers to operate with greater transparency and confidence regardless of how consumers enroll in their exchange plans.

While ASHA recognizes CMS's and ONC's intent to provide flexibility to state-based exchanges, the proposed provisions directly impact payers, consumers, and providers more than they relate to exchanges themselves. Therefore, the proposal should be applicable across both federally facilitated and state-based exchanges. CMS has the authority to implement such regulations broadly as evidenced by the regulatory approach taken with the Health Information Portability and Accountability Act, in its notice of proposed rulemaking released on April 7, 2020, among other regulations.¹

Reducing the Use of Fax Machines (RFI)

ASHA fully supports discontinuing the use of fax machines for exchanging prior authorization information and any other health information. While broader adoption of more advanced and efficient technology will improve communication and response times, it may also enhance the security of protected health information. ASHA recommends that HHS consider smaller practices that will need to invest in updated technology systems in order to comply with any related federal mandates.

Audiologists and speech-language pathologists were not eligible for initial rounds of federal funding to support the adoption of new technology because they, and most other nonphysician providers, were excluded from meaningful use of EHR reporting requirements. To effectively transition this large segment of the health care system to using EHRs and broadly adopting HIT, federal funding must accompany any transition mandates.

Similarly, as different segments of the health care system operate from different levels of technology adoption, deadlines must allow for the necessary transition to occur according to a manageable timeline that considers the varying needs of impacted providers and systems. ASHA recommends that CMS continue to work with nonphysician provider organizations prior to proposing specific rules for facilitating a transition away from using fax machines.

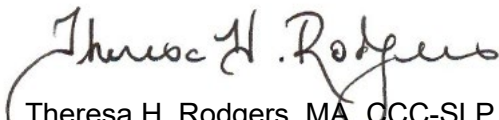
Accelerating the Adoption of Standards Related to Social Risk Data (RFI)

Social determinants of health directly influence health outcomes and impact the ability of providers, payers, and the health care system as a whole to meet the needs of consumers effectively and efficiently. As the national association with a vision of "making effective communication a human right, accessible and achievable for all", ASHA recognizes communication as not only a critical health outcome, but also a social determinant of health impacting the effectiveness of other health interventions and a range of health care, economic, and social factors.

ASHA supports CMS and ONC working to identify effective means to collect, aggregate, and analyze social risk data, and share it publicly to inform public and private health care as well as social programs. A possible strategy for obtaining additional data could include mandating reporting of social determinant factors on revised medical claims using associated codes within the International Classification of Diseases (ICD) code set. To enhance provider awareness, CMS could partner with professional associations to provide continuing education on the importance of social risk factors regarding the delivery of improved health outcomes and reducing the overall public health burden. ASHA recognizes the importance of such activities not only for our health system but for reducing health disparities through targeted interventions as well.

Thank you for the opportunity to respond to the provisions within the proposed rule as well as to the specific requests for information. If you or your staff have any questions, please contact Tim Nanof, ASHA's director of health care & education policy, at tnanof@asha.org.

Sincerely,



Theresa H. Rodgers, MA, CCC-SLP
2020 ASHA President

¹ U.S. Department of Health and Human Services. (2020). *Enforcement Discretion Under HIPAA To Allow Uses and Disclosures of Protected Health Information by Business Associates for Public Health and Health Oversight Activities in Response to COVID-19*. Published in the Federal Register, Vol. 85, No. 67 on April 7, 2020 Pages: 13392-13393.