

# United States Senate

WASHINGTON, DC 20510-0609

October XX, 2021

The Honorable Chiquita Brooks-LaSure  
Administrator  
U.S. Centers for Medicare & Medicaid Services  
7500 Security Boulevard  
Baltimore, M.D. 21244

Dear Administrator Brooks-LaSure:

We write to thank you for your commitment to ensuring timely access to health care for all Americans, and to request an update on the U.S. Centers for Medicare and Medicaid Services' (CMS) efforts to streamline prior authorization protocols across programs. We encourage you to take additional steps to strengthen prior authorization policies and make them more efficient for all Americans, including Medicare Advantage (MA) beneficiaries.

We appreciate the recent actions CMS has taken related to prior authorization that attempt to strike a balance between program integrity and patient access to care. In December 2020, CMS issued a proposed rule to modernize processes related to prior authorization that would reduce significant burdens on health care providers and patients and improve patient outcomes.<sup>1</sup> This notice of proposed rulemaking (NPRM) would have made changes to streamline prior authorization processes across Medicaid, Children's Health Insurance Program (CHIP), and federally-facilitated exchange (FFE) plans. To our disappointment, CMS formally withdrew these proposed changes to the prior authorization process in March 2021.

More recently, CMS issued a memorandum to MA plans, strongly encouraging all MA plans to waive or relax prior authorization requirements and utilization management processes related to COVID-19.<sup>2</sup> While we agree that prior authorization, when used appropriately, is an important tool for payers to manage costs and ensure program integrity, we support CMS's efforts to protect beneficiaries, increase transparency around prior authorization requirements, and streamline prior authorization processes for patients, providers, and health plans. We request an update on CMS's plans to revisit and advance policies to modernize and improve prior authorization for patients and providers.

As you have stated to Members of Congress, "providers and beneficiaries should not have to jump through unnecessary hoops for access to medically appropriate care."<sup>3</sup> The bipartisan, bicameral *Improving Seniors' Timely Access to Care Act* proposes a balanced approach to prior authorization in the MA program that would remove barriers to patients' timely access to care and allow providers to spend more time treating patients and less on paperwork hurdles.

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<sup>1</sup> U.S. Centers for Medicare and Medicaid Services (CMS), Reducing Provider and Patient Burden, and Promoting Patients' Electronic Access to Health Information (CMS-9123-P), <https://www.regulations.gov/docket/CMS-2020-0157/unified-agenda>.

<sup>2</sup> CMS, Health Plan Management System Memo, COVID-19 Flexibilities, May 22, 2021, <https://www.cms.gov/files/document/covid-19-updated-guidance-ma-and-part-d-plan-sponsors-may-22-2020.pdf>.

<sup>3</sup> U.S. Senate Finance Committee, Finance Committee Hearing for Chiquita Brooks-LaSure, Nominee for CMS Administrator, Questions for the Record from Senator Brown, April 15, 2021, <https://www.finance.senate.gov/imo/media/doc/CBL%20Answers%20for%20the%20Record%20-%20Senate%20Committee%20on%20Finance.pdf>.

We request an update on your recommended next steps for improving and streamlining prior authorization processes in a manner that benefits providers, health plans, and taxpayers, but especially beneficiaries – including MA enrollees. We urge you to build on CMS’s prior work and use your regulatory authority to improve the prior authorization process across health plans, in line with the *Improving Seniors’ Timely Access to Care Act*, by:

- establishing an electronic, “real-time” prior authorization process across federal programs, including MA plans;
- reducing administrative burden for both providers and health plans;
- minimizing the use of prior authorization for routinely approved items and services;
- increasing transparency around prior authorization requirements and clinical information needed to support decisions; and
- expanding beneficiary protections.

We look forward to learning more about CMS’s ongoing work to preserve timely access to medically necessary care, and we look forward to working together to streamline prior authorization protocols and implementing reforms that will improve the transparency and efficiency of prior authorization protocols in a manner that benefits beneficiaries.

Thank you again for your dedication to this matter.

Sincerely,

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Sherrod Brown  
United States Senator

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John Thune  
United States Senator

CC: U.S. Department of Health and Human Services Secretary Xavier Becerra