



Saving and improving lives with transplantation.

American Society of Transplant Surgeons®

February 6, 2023

The Honorable Chiquita Brooks-LaSure
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445–G
200 Independence Avenue, SW
Washington, DC 20201

Re: Re: Medicare Program; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program (“2024 MA Proposed Rule” or “Proposed Rule”)

Dear Administrator Brooks-LaSure:

On behalf of the American Society of Transplant Surgeons (ASTS) and our patients, I am pleased to have the opportunity to comment on the 2024 Medicare Advantage (MA) Proposed Rule. ASTS is a medical specialty society representing approximately 2,000 professionals dedicated to excellence in transplantation surgery. Our mission is to advance the art and science of transplant surgery through patient care, research, education, and advocacy.

ASTS very much appreciates CMS’ recent efforts focus on assuring the equity, transparency and access of services provided by Medicare Advantage (MA) plans to Medicare enrollees. These issues are of growing interest to ASTS because kidney transplantation is the treatment of choice for End Stage Renal Disease (ESRD), and ESRD-eligible Medicare beneficiaries became eligible to enroll in MA plans for the first time in 2021. A recent analysis conducted by Avalere recently found that just over 40,000 Medicare Fee-for-Service (FFS) patients with end-stage renal disease (ESRD) elected to enroll in Medicare Advantage (MA) during the 2021 open enrollment period. This enrollment shift increased the proportion of ESRD patients enrolled in MA from 23% to 30%.

Significantly, the cost benefits of kidney transplantation accrue in the post-transplant period. For this reason, these savings may not accrue to MA plans that encourage the transplantation of either ESRD-eligible or Age/Disability-eligible beneficiaries. It is worrisome that the available data indicates that the number of Medicare patients enrolled in MA plans who receive transplants is substantially lower than the number of transplants predicted by the CMS Hierarchical Condition Risk Adjustment Model. A 2016 study conducted by Avalere found that the CMS model over-predicts the number of MA transplant patients by 15%, and that the difference is statistically significant. Our concerns are reinforced by USRDS’ observation in its most recent report that the percentage of transplant recipients covered by MA in 2019 was relatively low (8.2%)¹, even though, by 2019, MA plans covered nearly 25% of Medicare beneficiaries with ESRD. Moreover, a number of transplant administrators have reported that Medicare Advantage plans sharply limit the number of potential donors that may be evaluated for a “match” and impose other restrictions on payment for medical services provided to living donors—restrictions that are not imposed when the potential recipient is a Medicare Fee for Services (FFS) beneficiary.

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In light of the growing proportion of ESRD-eligible Medicare beneficiaries enrolled in MA plans, ASTS believes that it is critical for MA plans to provide access to kidney transplantation that is at least comparable to that provided to those covered under traditional Medicare. For this reasons, we strongly support those provisions in the Proposed Rule that provide that:

- MA plans may only use prior authorization (PA) to confirm diagnoses or other medical criteria and ensure the medical necessity of services.
- MA beneficiaries must have access to the same items and services as they would under Traditional Medicare. When no applicable coverage rule exists under Traditional Medicare, plans must use current evidence from widely used treatment guidelines or clinical literature for internal clinical coverage criteria, which must then be made publicly available. For example, the number of potential living donors, that may be evaluate for a recipient “match” should not be limited in the MA plan.
- MA plans must establish a Utilization Management Committee to review their clinical coverage criteria and ensure consistency with traditional Medicare guidelines.

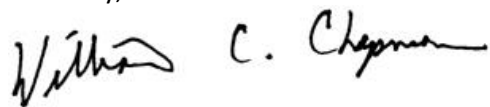
In addition, transplantation is typically subject to MA plan (and other health plan) prior authorization requirements. We strongly support those provisions of the Proposed Rule that provide that:

- MA plans’ PA approvals must remain valid for the duration of the course of treatment.
- MA plans must provide beneficiaries with a 90-day transition period where a PA would remain valid for any ongoing course of treatment when beneficiaries change plans or enter MA.
- After PA approval, MA plans cannot retroactively deny coverage for a lack of medical necessity.

ASTS appreciates the opportunity to comment on these important proposals. We urge CMS to finalize these proposals as soon as practicable and to put in place oversight mechanisms to ensure that the new limits on MA plans’ coverage criteria and their use of PA are implemented in a timely fashion.

If you have any questions, please contact Emily Besser at emily.besser@asts.org

Sincerely,

A handwritten signature in black ink, appearing to read "William C. Chapman". The signature is written in a cursive, flowing style.

William C. Chapman, MD
President
American Society of Transplant Surgeons