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

#### Dear Administrator Brooks-LaSure:

On behalf of the undersigned organizations representing physicians across the country, we thank you for listening to our concerns, as well as those of our patients, and proposing meaningful prior authorization (PA) reforms in the Centers for Medicare & Medicaid Services' (CMS') Notice of Proposed Rule Making for Part C & Part D (CMS–4201–P) ("proposed rule") that will increase access to medically necessary care.

Recent American Medical Association (AMA) survey data show that 93 percent of physicians report care delays or disruptions associated with PA. AMA data also show that 34 percent of physicians report that PA has led to a serious adverse event (e.g., hospitalization, permanent impairment, or even death) for a patient in their care and that 91 percent of physicians see PA as having a negative effect on their patients' clinical outcomes. Moreover, the Office of Inspector General (OIG) 2022 report found that 13 percent of PA requests denied by Medicare Advantage (MA) plans met Medicare coverage rules, and 18 percent of payment request denials met Medicare and MA billing rules. We applaud CMS' proposed policy responses to the findings of the OIG's report and to ongoing stakeholder concerns and urge CMS to finalize these policies to help protect beneficiaries' access to medically necessary care.

# Clinical validity and transparency of coverage criteria

Physicians want nothing more than to provide clinically appropriate care to their patients. We urge CMS to finalize the following provisions to improve the coverage criteria used in medical necessity determinations, ensure a clinically sound foundation for PA programs, and protect access to care:

- MA plans may only use PA to confirm diagnoses or other medical criteria and ensure the medical necessity of services. In other words, PA is not a tool to be used to delay or discourage care.
- 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.
- MA plans must establish a Utilization Management Committee to review their clinical coverage criteria and ensure consistency with traditional Medicare guidelines.
- MA plans cannot deny care ordered by a contracted physician based on a particular provider type or setting unless medical necessity criteria are not met.

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# Continuity of care and reliance on approvals

Repetitive PA requirements or approval revocations can disrupt care and lead to adverse clinical outcomes—particularly for patients with chronic conditions. **CMS should finalize the policy proposals below to protect patients from care interruptions, treatment delays, and unanticipated medical costs:** 

- 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.

## **Alternatives and Exemptions**

According to the AMA's PA <u>survey</u>, physicians and their staff spend an average of two business days per week completing the PA workload for a <u>single physician</u>, and 88 percent of physicians describe their PA burden as high or extremely high. This translates to less time with patients and contributes to an exhausted and overwhelmed workforce, underscoring the need to reduce overall PA volume. We are pleased that CMS is encouraging MA plans to implement gold-carding programs to exempt physicians with high approval rates from PA requirements. Our organizations stand ready to work with CMS to develop meaningful guidelines for gold-carding programs that would reduce the volume of PAs to the benefit of all stakeholders, and we encourage CMS to establish a requirement on MA plans to develop such programs.

## Automation and efficiency

Tasks related to PA—from initial coverage requirement discovery to documentation submission—remain largely unautomated. We therefore support the proposed rule's requirement that Part D plans implement the National Council for Prescription Drug Programs Real Time Prescription Benefit standard. This would allow physicians to check PA requirements and drug formulary status at the point of prescribing in EHRs and support informed conversations with patients about therapy costs.

#### Program enhancements

We appreciate CMS' efforts to holistically reform PA programs and stress the need to continue evaluation of MA and Part D programs for more opportunities to improve the PA process. We note that Part D beneficiaries would benefit from the clinical validity provisions in the proposed rule. We urge CMS to further strengthen its PA reform effort by extending its proposed clinical validity and transparency of coverage criteria polices into the area of prescription drugs.

# Conclusion

Thank you for listening to our calls for PA reform and proposing policies that will help right-size these requirements that so often stand in the way of medically necessary care. We urge CMS to finalize these important changes for MA and Part D plans and look forward to continuing to work with you to reduce the burden of PA as it relates to all care in all health insurance markets.

Sincerely,

American Medical Association AMDA - The Society for Post-Acute and Long-Term Care Medicine American Academy of Allergy, Asthma & Immunology American Academy of Dermatology Association American Academy of Facial Plastic and Reconstructive Surgery American Academy of Family Physicians American Academy of Hospice and Palliative Medicine American Academy of Neurology American Academy of Ophthalmology American Academy of Otolaryngic Allergy American Academy of Otolaryngology - Head and Neck Surgery American Academy of Physical Medicine and Rehabilitation American Academy of Sleep Medicine American Association for Hand Surgery American Association of Neurological Surgeons American Association of Neuromuscular & Electrodiagnostic Medicine American Association of Public Health Physician American Associations of Orthopaedic Surgeons American College of Allergy, Asthma & Immunology American College of Cardiology American College of Chest Physicians American College of Emergency Physicians American College of Gastroenterology American College of Lifestyle Medicine American College of Medical Genetics and Genomics American College of Obstetricians and Gynecologists American College of Osteopathic Internists American College of Physicians American College of Radiation Oncology American College of Rheumatology American College of Surgeons American Epilepsy Society American Gastroenterological Association American Geriatrics Society American Orthopaedic Foot & Ankle Society American Osteopathic Association American Society for Clinical Pathology American Society for Dermatologic Surgery Association American Society for Gastrointestinal Endoscopy American Society for Laser Medicine and Surgery, Inc. American Society for Radiation Oncology American Society of Addiction Medicine American Society of Anesthesiologists American Society of Cataract & Refractive Surgery

American Society of Hematology

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> American Society of Interventional Pain Physicians American Society of Neuroradiology American Society of Nuclear Cardiology American Society of Retina Specialists American Society of Transplant Surgeons American Urological Association American Vein & Lymphatic Society American Venous Forum Association for Clinical Oncology Association of American Medical Colleges College of American Pathologists Congress of Neurological Surgeons **Endocrine Society** GLMA: Health Professionals Advancing LGBTQ+ Equality Heart Rhythm Society Medical Group Management Association Outpatient Endovascular and Interventional Society Society for Cardiovascular Magnetic Resonance Society for Vascular Surgery Society of Cardiovascular Computed Tomography Society of Critical Care Medicine Society of Hospital Medicine Society of Interventional Radiology Society of Pediatric Dermatology Society of Thoracic Surgeons

> > Medical Association of the State of Alabama Alaska State Medical Association Arizona Medical Association Arkansas Medical Society California Medical Association Colorado Medical Society Connecticut State Medical Society Medical Society of Delaware Medical Society of the District of Columbia Medical Association of Georgia Idaho Medical Association Illinois State Medical Society Indiana State Medical Association Iowa Medical Society Kansas Medical Society Kentucky Medical Association Louisiana State Medical Society Maine Medical Association MedChi, The Maryland State Medical Society

Spine Intervention Society

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> Massachusetts Medical Society Michigan State Medical Society Minnesota Medical Association Mississippi State Medical Association Missouri State Medical Association Montana Medical Association Nebraska Medical Association Nevada State Medical Association Medical Society of New Jersey New Mexico Medical Society Medical Society of the State of New York North Carolina Medical Society North Dakota Medical Association Ohio State Medical Association Oklahoma State Medical Association Oregon Medical Association Pennsylvania Medical Society South Carolina Medical Association South Dakota State Medical Association Tennessee Medical Association Texas Medical Association **Utah Medical Association** Vermont Medical Society Medical Society of Virginia Virgin Island Medical Society Washington State Medical Association West Virginia State Medical Association Wisconsin Medical Society Wyoming Medical Society