Medicare Will Require Prior Approval for Certain Procedures

A pilot program in six states will use a tactic employed by private insurers that has been heavily criticized for delaying and denying medical care.

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Frances L. Ayres worried that a new program under traditional Medicare will involve the types of pre-approval hassles for medical care that she had tried to avoid. Credit...Nick Oxford for The New York Times

By Reed Abelson and Teddy Rosenbluth
Aug. 28, 2025

Like millions of older adults, Frances L. Ayres faced a choice when picking health insurance: Pay more for traditional Medicare, or opt for a plan offered by a private insurer and risk drawn-out fights over coverage.

Private insurers often require a cumbersome review process that frequently results in the denial or delay of essential treatments that are readily covered by traditional Medicare. This practice, known as prior authorization, has drawn public scrutiny, which intensified after the murder of a UnitedHealthcare executive last December.

Ms. Ayres, a 74-year-old retired accounting professor, said she wanted to avoid the hassle that has been associated with such practices under Medicare Advantage, which are private plans financed by the U.S. government. Now, she is concerned she will face those denials anyway.

The Centers for Medicare and Medicaid Services plans to begin a pilot programthat would involve a similar review process for traditional Medicare, the federal insurance program for people 65 and older as well as for many younger people with disabilities. The pilot would start in six states next year, including Oklahoma, where Ms. Ayres lives.

The federal government plans to hire private companies to use artificial intelligence to determine whether patients would be covered for some procedures, like certain spine surgeries or steroid injections. Similar algorithms used by insurers have been the subject of several high-profile lawsuits, which have asserted that the technology allowed the companies to swiftly deny large batches of claims and cut patients off from care in rehabilitation facilities.

The A.I. companies selected to oversee the program would have a strong financial incentive to deny claims. Medicare plans to pay them a share of the savings generated from rejections.

The government said the A.I. screening tool would focus narrowly on about a dozen procedures, which it has determined to be costly and of little to no benefit to patients. Those procedures include devices for incontinence control, cervical fusion, certain steroid injections for pain management, select nerve stimulators and the diagnosis and treatment of impotence.

Abe Sutton, the director of the Center for Medicare and Medicaid Innovation, said that the government would not review emergency services or hospital stays.

Mr. Sutton said the government experiment would examine practices that were particularly expensive or potentially harmful to patients. “This is what prior authorization should be,” he said.

The government may add or subtract to the list of treatments it has slated for review depending on what treatments it finds are being overused, he said.

But while experts agree that wasteful spending exists, they worry that the pilot program may pave the way for traditional Medicare to adopt some of the most unpopular practices of private insurers.

The program, called the Wasteful and Inappropriate Service Reduction Model, is already drawing opposition from Democratic lawmakers, former Medicare officials, physician groups and others.

Patients are also leery. “I think it’s the back door into privatizing traditional Medicare,” Ms. Ayres said.

People enrolled in traditional Medicare who live in Arizona, New Jersey, Ohio, Oklahoma, Texas and Washington State will be included in the experiment, which is expected to start in January and last for six years.

Dr. Vinay Rathi, an Ohio surgeon and an expert in Medicare payment policy, warned that the experiment could recreate the same hurdles that exist with Medicare Advantage, where people enroll in private plans. “It’s basically the same set of financial incentives that has created issues in Medicare Advantage and drawn so much scrutiny,” he said. “It directly puts them at odds with the clinicians.”

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Typically, these A.I. models scan a patient’s records to determine if a requested procedure meets an insurer’s criteria. For instance, before authorizing back surgery, the system might search for proof that a patient first tried physical therapy or received an MRI showing a bulging disc. Many companies say human employees are involved at the final stages, to review the A.I. evidence and approve the recommendations.

Insurers defend these tactics as being effective in reducing inappropriate care, such as by preventing someone from getting back surgery at tremendous cost instead of another treatment that would work just as well.

Government officials said that any denials would be done by “an appropriately licensed human clinician, not a machine.”

Mr. Sutton also emphasized that the government could penalize companies for inappropriate decisions.

A group of House Democrats, including Representative Alexandria Ocasio-Cortez of New York, warned in a letter to government officials in late July that giving for-profit companies a “veto” over care “opens the door to further erosion of our Medicare system.”

Private plans under Medicare Advantage have become increasingly popular, with a little more than half of older Americans and people with disabilities eligible for the program and some 34 million enrolled. But many, like Ms. Ayres, are willing to forgo some of the

additional benefits the private plans offer, like dental checkups and gym memberships, to avoid having to jump through numerous hoops to get care.

“It’s really surprising that we are taking the most unpopular part of Medicare Advantage and applying it to traditional Medicare,” said Neil Patil, a senior fellow at Georgetown and a former senior analyst at Medicare.

The American Medical Association wrote in a letter that doctors view prior authorization “as one of the most burdensome and disruptive administrative requirements they face in providing quality care to patients.” Most patients who appeal are successful, but a vast majority never appeal.

Democrats and Republicans in Congress have supported legislation that would curb some of the insurers’ most troublesome practices. The Biden administration enacted some new rules, and the Trump administration was eager to take credit for pushing insurers to pledge to a series of reforms just a few days before unveiling this new program.

In announcing the new model, Dr. Mehmet Oz, the administrator of the Medicare agency, said the goal was to root out fraud, waste and abuse.

“It boils down to patient harm,” Mr. Sutton said. The model is expected to save several billions of dollars over the next six years, although it could save more if it were expanded.

There are clear-cut examples where Medicare has wasted billions on questionable medical care. The agency came under scrutiny earlier this year for spending billions of dollars on expensive “skin substitutes” of dubious value. The pilot program would require patients to seek prior authorization before getting a skin substitute.

But if the algorithm used to authorize those procedures proves to save the government money, Dr. Rathi fears C.M.S. may feel justified in broadening the program to include services that are not such “low-hanging fruit.”

“You’re kind of left to wonder, well, where does this lead next?” he said. “You could be running into a slippery slope.”

How insurers make their decisions remains opaque. A spokesman for Health and Human Services, which oversees the Medicare agency, declined to identify which companies had submitted applications for the contract.

Contractors hired by the government are supposed to watch over payments to ward against inappropriate or wasteful coverage. Those reviews generally happened after someone had received a treatment, though the Biden administration instituted a modest pre-approval program that did not use A.I.

The new model relies on an additional set of private companies for traditional Medicare that have a very clear incentive to deny care.

The companies represent “a whole new bounty hunter,” said David A. Lipschutz, the co-director for the Center for Medicare Advocacy, one of the groups that has urged government officials to abandon the program.

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