

Oz Defends WISeR Model, GAO Gives Congress Green Light To Block Model Using CRA

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The Trump administration is continuing to defend its controversial WISeR model to lawmakers, who say the artificial intelligence model expanding prior authorization in Medicare is delaying beneficiary care and who recently received the green light from the Government Accountability Office to use the Congressional Review Act to block the model.

In a decision released Tuesday (May 12), GAO concluded CMS' July 2025 notice implementing the Wasteful and Inappropriate Services Reduction (WISeR) model qualifies as a "rule" under the Congressional Review Act (CRA), meaning Congress could potentially move to overturn the model through a joint resolution of disapproval.

"Among other things, the WISeR Model Notice prescribes new requirements for Original Medicare providers in selected states by mandating prior authorization or pre-payment medical review of claims for certain services," the GAO wrote in its decision. "Given the nature of the changes and because they could potentially affect the determinations made on claims for the selected services, we conclude that the Notice substantially affects the rights and obligations of non-agency parties, specifically providers and beneficiaries of those services. Therefore, the Notice is a rule subject to CRA's submission requirements."

The opinion opens a new pathway for lawmakers who've spent months attempting to stop the model through legislation and the appropriations process. Rep. Suzan DelBene (D-WA), chair of the Democratic Congressional Campaign Committee, told *Bloomberg Government* this week that she's now looking at the CRA process as a possible avenue for blocking WISeR.

GAO's decision comes after CMS Administrator Mehmet Oz offered up one of the administration's most detailed public defense of the model. In a May 8 letter responding to DelBene and nearly 20 House Democrats who questioned the initiative last year, Oz stressed CMS would monitor contractors' determinations and penalize vendors that inaccurately deny care.

“CMS will audit participants to ensure that determinations are consistent with existing Medicare coverage criteria,” Oz wrote. “Audit results contribute to participants’ quality scores, resulting in negative payment adjustments for inaccurate determinations. Further, participants who have a high rate of inaccuracy may be terminated from the model.”

Oz also pushed back on Democrats’ concern that CMS is putting AI rather than doctors in charge of deciding who receives care.

“WISeR does not use AI to deny care,” Oz wrote. “All non-affirmation determinations are made by experienced licensed clinicians, and technology use is limited to making the process efficient and getting approvals out quickly.”

The six-year pilot currently operates in Arizona, New Jersey, Ohio, Oklahoma, Texas and Washington.

Oz argued in his letter the model only targets a “very narrow set” of services that they deem vulnerable to fraudulent use, and he stressed that providers who believe their patient immediately needs the service may bypass prior authorization entirely by furnishing the service first and then submitting claims for pre-payment review.

Oz also said CMS plans to implement a “gold card” exemption program later this year for providers who consistently meet Medicare coverage criteria “by achieving a certain affirmation threshold associated with their prior authorization requests.”

But despite receiving a response from Oz, DelBene’s office told *Inside Health Policy* Friday (May 15) that there’s still major concerns with the administration’s explanations.

DelBene’s office said the administration appears to be shifting the burden onto beneficiaries and providers to appeal denials while knowing that many patients likely won’t pursue the process, and CMS has no explanation on what would happen next if a participant is removed from the model for excessive inaccuracies.

While Oz tried to reassure lawmakers that most determinations are made within 72 hours, DelBene’s office told *IHP* that timeline differs from what they’re hearing from constituents. The office also criticized CMS for providing few details so far on its planned “gold card” exemption program for providers with strong approval records.

Still, the administration’s increasingly robust defense of the initiative suggests officials may finally be taking congressional backlash more seriously, especially with lawmakers now gaining another avenue to stop the model.

While most of the criticism come from Democrats thus far, there have been signs of discomfort with WISeR from congressional Republicans. House appropriators last year adopted language in the fiscal 2026 HHS spending bill that would block funding for WISeR. And this year, House Energy & Commerce health subcommittee Chair Morgan Griffith (R-VA) allowed discussion on a bill that would bar CMS from implementing the model.

The growing criticism has already forced CMS to at least make some adjustments to the model. In April, the agency indefinitely delayed WISeR implementation for deep brain stimulation for Parkinson's disease and essential tremors, as well as percutaneous image-guided lumbar decompression for spinal stenosis.

That same month, digital rights group Electronic Frontier Foundation sued CMS over the model, arguing the agency had failed to adequately disclose how the AI algorithms operate or what safeguards exist against bias and wrongful denials of care.

Still, CMS officials have continued defending WISeR. Medicare Director Chris Klomp, while acknowledging last month that the model may ultimately require some tweaks, defended the initiative and said CMS is "watching it like hawks" to quickly learn from any mistakes made during early implementation. -- Jalen Brown (jbrown@iwppnews.com)