

(1) A list of all items and services that require prior authorization.

(2) The percentage of standard prior authorization requests that were approved, aggregated for all items and services.

(3) The percentage of standard prior authorization requests that were denied, aggregated for all items and services.

(4) The percentage of standard prior authorization requests that were approved after appeal, aggregated for all items and services.

(5) The percentage of prior authorization requests for which the timeframe for review was extended, and the request was approved, aggregated for all items and services.

(6) The percentage of expedited prior authorization requests that were approved, aggregated for all items and services.

(7) The percentage of expedited prior authorization requests that were denied, aggregated for all items and services.

(8) The average and median time that elapsed between the submission of a request and a determination by the MA plan, for standard prior authorizations, aggregated for all items and services.

(9) The average and median time that elapsed between the submission of a request and a decision by the MA plan for expedited prior authorizations, aggregated for all items and services.

[89 FR 8976, Feb. 8, 2024]

§ 422.125 Resolution of complaints in a Complaints Tracking Module.

(a) *Definitions.* For the purposes of this section, the terms have the following meanings:

Assignment date is the date CMS assigns a complaint to a particular MA organization in the Complaints Tracking Module.

Complaints Tracking Module means an electronic system maintained by CMS to record and track complaints submitted to CMS about Medicare health and drug plans from beneficiaries and others.

Immediate need complaint means a complaint involving a situation that prevents a beneficiary from accessing care or a service for which they have an immediate need. This includes when

the beneficiary currently has enough of the drug or supply to which they are seeking access to last for 2 or fewer days.

Urgent complaint means a complaint involving a situation that prevents a beneficiary from accessing care or a service for which they do not have an immediate need. This includes when the beneficiary currently has enough of the drug or supply to which they are seeking access to last for 3 to 14 days.

(b) *Timelines for complaint resolution—*

(1) *Immediate need complaints.* The MA organization must resolve immediate need complaints within 2 calendar days of the assignment date.

(2) *Urgent complaints.* The MA organization must resolve urgent complaints within 7 calendar days of the assignment date.

(3) *All other complaints.* The MA organization must resolve all other complaints within 30 calendar days of the assignment date.

(4) *Extensions.* Except for immediate need complaints, urgent complaints, and any complaint that requires expedited treatment under §§ 422.564(f) or 422.630(d), if a complaint is also a grievance within the scope of §§ 422.564 or 422.630 and the requirements for an extension of the time to provide a response in §§ 422.564(e)(2) or 422.630(e)(2) are met, the MA organization may extend the timeline to provide a response.

(5) *Coordination with timeframes for grievances, PACE service determination requests, and PACE appeals.* When a complaint under this section is also a grievance within the scope of §§ 422.564, 422.630, or 460.120, a PACE service determination request within the scope of § 460.121, or a PACE appeal within the definition of § 460.122, the MA organization must comply with the shortest applicable timeframe for resolution of the complaint.

(c) *Timeline for contacting individual filing a complaint.* Regardless of the type of complaint received, the MA organization must attempt to contact the individual who filed a complaint within 7 calendar days of the assignment date.

[89 FR 30820, Apr. 23, 2024]

§ 422.128 Information on advance directives.

(a) Each MA organization must maintain written policies and procedures that meet the requirements for advance directives, as set forth in subpart I of part 489 of this chapter. For purposes of this part, *advance directive* has the meaning given the term in § 489.100 of this chapter.

(b) An MA organization must maintain written policies and procedures concerning advance directives with respect to all adult individuals receiving medical care by or through the MA organization.

(1) An MA organization must provide written information to those individuals with respect to the following:

(i) Their rights under the law of the State in which the organization furnishes services (whether statutory or recognized by the courts of the State) to make decisions concerning their medical care, including the right to accept or refuse medical or surgical treatment and the right to formulate advance directives. Providers may contract with other entities to furnish this information but remain legally responsible for ensuring that the requirements of this section are met. The information must reflect changes in State law as soon as possible, but no later than 90 days after the effective date of the State law.

(ii) The MA organization's written policies respecting the implementation of those rights, including a clear and precise statement of limitation if the MA organization cannot implement an advance directive as a matter of conscience. At a minimum, this statement must do the following:

(A) Clarify any differences between institution-wide conscientious objections and those that may be raised by individual physicians.

(B) Identify the state legal authority permitting such objection.

(C) Describe the range of medical conditions or procedures affected by the conscience objection.

(D) Provide the information specified in paragraph (a)(1) of this section to each enrollee at the time of initial enrollment. If an enrollee is incapacitated at the time of initial enrollment and is unable to receive information

(due to the incapacitating condition or a mental disorder) or articulate whether or not he or she has executed an advance directive, the MA organization may give advance directive information to the enrollee's family or surrogate in the same manner that it issues other materials about policies and procedures to the family of the incapacitated enrollee or to a surrogate or other concerned persons in accordance with State law. The MA organization is not relieved of its obligation to provide this information to the enrollee once he or she is no longer incapacitated or unable to receive such information. Follow-up procedures must be in place to ensure that the information is given to the individual directly at the appropriate time.

(E) Document in a prominent part of the individual's current medical record whether or not the individual has executed an advance directive.

(F) Not condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive.

(G) Ensure compliance with requirements of State law (whether statutory or recognized by the courts of the State) regarding advance directives.

(H) Provide for education of staff concerning its policies and procedures on advance directives.

(I) Provide for community education regarding advance directives that may include material required in paragraph (a)(1)(i) of this section, either directly or in concert with other providers or entities. Separate community education materials may be developed and used, at the discretion of the MA organization. The same written materials are not required for all settings, but the material should define what constitutes an advance directive, emphasizing that an advance directive is designed to enhance an incapacitated individual's control over medical treatment, and describe applicable State law concerning advance directives. An MA organization must be able to document its community education efforts.

(2) The MA organization—

(i) Is not required to provide care that conflicts with an advance directive; and