

**Statement for the Record from
the National Association for the Support of Long Term Care (NASL), the
American Physical Therapy Association (APTA), APTA Private Practice
Section, the American Occupational Therapy Association (AOTA), the
American Health Care Association/ National Center for Assisted Living
(AHCA/NCAL), the National Association for Rehabilitation Providers and
Agencies (NARA), and the American Medical Rehabilitation Providers
Association (AMRPA)**

**Submitted to the House Energy and Commerce Subcommittee on Oversight
and Investigations for the hearing entitled, “Protecting America’s Seniors:
Oversight of Private Sector Medicare Advantage Plans”**

Tuesday, June 28, 2022

The undersigned organizations, who represent health care rehabilitation professionals and providers serving patients covered by Medicare Advantage (MA) plans, submit this statement for the record for the Hearing held by the House Energy and Commerce Subcommittee on Oversight and Investigations entitled, “Protecting America’s Seniors: Oversight of Private Sector Medicare Advantage Plans” on Tuesday, June 28, 2022. The hearing will examine the quality of care that America’s seniors are receiving through Medicare Advantage plans and the fiscal sustainability of the Medicare Advantage program.

The undersigned organizations support the Subcommittee’s review of prior authorization requirements for care by the Medicare Advantage plans within the Medicare Advantage program. In April, the Department of Health and Human Services, Office of Inspector General, released a report entitled, [“Some Medicare Advantage Organization Denials of Prior Authorization Requests Raise Concerns About Beneficiary Access to Medically Necessary Care \(April 27, 2022\).”](#) Findings from the OIG’s report includes that 13 percent of MA plans’ prior authorization denials examined by the OIG met Medicare coverage rules and would have been approved under traditional Medicare. In addition, the OIG examined plan payment denials and found that 18 percent of the provider payment requests denied by MA plans met both Medicare coverage rules and MA plan billing rules.

Our organizations and the members we represent have experienced a general misuse of prior authorization for outpatient and post-acute rehabilitation therapy services (including physical therapy, occupational therapy, and speech-language pathology services) and other services provided to patients receiving care in outpatient offices, nursing facilities, rehabilitation hospitals and other settings in the long term and post-acute care sector. Plan policies present challenges, create obstacles and result in delays to patients receiving the care they need and accessing the

coverage on which they depend. MA plans frequently, as a matter of course, require prior authorization for the beneficiary to receive skilled services and then subsequently deny these preauthorized services, requiring the provider to endure a lengthy and costly appeals process to obtain payment for services previously approved.

We are pleased that legislation has been introduced to establish some guardrails around MA plan's prior-authorization practices. The changes are necessary to improve a system that, when misused can result in administrative burdens for providers, taking time away from patient care and delaying needed medical intervention. Specifically, the bill, the *Improving Seniors Timely Access to Care Act (H.R.3173/S.3018)*, would establish an electronic prior authorization process utilizing standards set forth by HHS to be used by the MA plans for prior authorization. The bill would also require the implementation of a "real-time" decision system for items and services that are routinely approved and mandate that MA plans provide more detailed reports on use of prior authorization to the U.S. Centers for Medicare & Medicaid Services (including their rates of approvals, denials, and average time for approvals), and press MA plan providers to do a better job of incorporating input from health care providers in their authorization. We are pleased to endorse the *Improving Seniors Timely Access to Care Act (H.R.3173/S.3018)*, which will help protect patients, including those in need of rehabilitation care, from unnecessary delays in care due to reducing the frequency of inappropriately delayed or denied rehabilitative care.

We urge the committee to advance this legislation this year.

List of Organizations

NASL – The National Association for the Support of Long Term Care (NASL) is a non-profit advocacy organization representing suppliers of ancillary services and providers to the long term and post-acute care (LTPAC) sector. NASL members include contract rehabilitation therapy companies, and in-house therapy programs, which employ physical therapists (PTs), occupational therapists (OTs), and speech-language pathologists (SLPs) who furnish rehabilitation therapy to hundreds of thousands of Medicare beneficiaries in nursing facilities as well as to beneficiaries in other long-term and post-acute care settings. NASL members also include companies that develop and distribute electronic medical record (EMR), billing and claims management, point-of-care, and other critical technology solutions that are used by the majority of LTPAC providers of assisted living, home health, skilled nursing and ancillary services.

APTA - The American Physical Therapy Association (APTA) is the national membership professional organization representing 100,000 member physical therapists, physical therapist assistants, and students of physical therapy. Physical therapists are movement experts who help to optimize people's physical function, movement, performance,

health, quality of life, and well-being. APTA's mission is to build a community that advances the profession of physical therapy to improve the health of society.

APTA PPS - The APTA Private Practice Section (PPS) is comprised of 3,922 physical therapists nationwide who own, operate, or work in a private practice setting. We are a component of the American Physical Therapy Association (APTA), and our mission is to champion the success of the physical therapist in business.

AOTA - The American Occupational Therapy Association (AOTA) is the national professional association representing the interests of more than 213,000 occupational therapists, occupational therapy assistants, and students of occupational therapy. The practice of occupational therapy is science-driven, evidence-based, and enables people of all ages to live life to its fullest by promoting health and addressing the functional effects of illness, injury, and disability.

AHCA/NCAL - The American Health Care Association and National Center for Assisted Living (AHCA/NCAL) represents more than 13,500 long term and post-acute care facilities, or 1.08 million skilled nursing facility (SNF) beds and more than 5,000 assisted living centers with over 280,000 beds. We represent the majority of SNFs across the country and a rapidly growing number of assisted living communities. Our members furnish physical and occupational therapy and speech-language pathology services under Medicare to skilled nursing facility post-acute and long-term residents as well as outpatient therapy services to residents of assisted living residents nationwide.

NARA – The National Association for Rehabilitation Providers and Agencies (NARA) is a not-for-profit trade association representing organizations that provide physical therapy, occupational therapy and speech language pathology services to Medicare beneficiaries across the acute and post-acute continuum. The National Association of Rehab Providers & Agencies (NARA) represents more than 80,000+ therapists, rehab providers, and rehab support organizations across the country ranging from rehab agencies, private practices, schools and athletic organizations to inpatient and adult living and skilled nursing facilities.

AMRPA – The American Medical Rehabilitation Providers Association (AMRPA) is the national voluntary trade association representing more than 700 inpatient rehabilitation hospitals and units (IRH/Us). AMRPA members provide intensive rehabilitation services across multiple health care settings to help patients maximize their health, functional skills, independence, and participation in society so they can return to home, work, or an active retirement.