



~~118~~<sup>119</sup><sup>TH</sup>  
CONGRESS-~~2D~~  
<sup>1</sup><sup>ST</sup> SESSION

S. 111

S. ~~4532~~

To amend title XVIII of the Social Security Act to establish requirements with respect to the use of prior authorization under Medicare Advantage plans.

IN THE SENATE OF THE UNITED STATES

~~JUNE 13, 2024~~



~~Mr. MARSHALL (for himself, Ms. SINEMA, Mr. THUNE, Mr. BROWN, Mrs. BLACKBURN, Mr. WHITEHOUSE, Mr. CASSIDY, Ms. HASSAN, Mr. TILLIS, Mr. CARPER, Mr. CORNYN, Mr. CASEY, Mr. BOOZMAN, Ms. STABENOW, Mr. MORAN, Ms. KLOBUCHAR, Mr. VANCE, Mrs. GILLIBRAND, Mr. BUDD, Mr. KAINE, Mr. HAWLEY, Mrs. SHAHEEN, Mrs. HYDE-SMITH, Mr. KELLY, Mr. CRAMER, Ms. ROSEN, Mr. BRAUN, Mr. HEINRICH, Mr. SCHMITT, Mr. HICKENLOOPER, Mr. RUBIO, Mr. PETERS, Mr. ROUNDS, Mr. WELCH, Mr. HOEVEN, Mr. PADILLA, Ms. COLLINS, Mr. BLUMENTHAL, Mrs. FISCHER, Mr. WARNOCK, Mr. SCHATZ, Mr. MERKLEY, Mr. FETTERMAN, Ms. WARREN, and Ms. CORTEZ MASTO) in-~~

~~roduced~~ Mr. MARSHALL (for himself and Mr. WARNER) introduced the following bill; which was read twice and referred to the Com-~~mittee~~ mittee on Finance

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# **A BILL**

To amend title XVIII of the Social Security Act to establish requirements with respect to the use of prior authorization under Medicare Advantage plans.

1       *Be it ENACTED by the SENATE AND House of REPRESENTA-*  
2 *tives of the UNITED States of America IN CONGRESS assembled,*  
2

3 ~~1~~SECTION 1. SHORT TITLE.

4 ~~2~~This Act may be cited as the “Improving Seniors’

5 ~~3~~Timely Access to Care Act of ~~2024~~2025”.

1 ~~4~~SEC. 2. ESTABLISHING REQUIREMENTS WITH RESPECT TO  
2 ~~5~~THE USE OF PRIOR AUTHORIZATION UNDER  
3 ~~6~~MEDICARE ADVANTAGE PLANS.

4 ~~7~~(a) IN GENERAL.—Section 1852 of the Social Secu-  
5 ~~8~~rity Act (42 U.S.C. 1395w–22) is amended by adding at  
6 ~~9~~the end the following new subsection:

7 ~~10~~“(o) PRIOR AUTHORIZATION REQUIREMENTS.—

8 ~~11~~“(1) IN GENERAL.—In the case of a Medicare  
9 ~~12~~Advantage plan that imposes any prior authorization  
10 ~~13~~requirement with respect to any applicable item or  
11 ~~14~~service (as defined in paragraph (5)) during a plan  
12 ~~15~~year, such plan shall—

13 ~~16~~“(A) beginning with plan years beginning  
14 ~~17~~on or after January 1, 2027—

15 ~~18~~“(i) establish the electronic prior au-  
16 ~~19~~thorization program described  
in para-  
17 ~~20~~graph (2); and

18 ~~21~~“(ii) meet the enrollee  
protection  
19 ~~22~~standards specified pursuant to paragraph  
20 ~~23~~(4); and

21 ~~24~~“(B) beginning with plan years beginning  
22 ~~25~~on or after January 1, 2026, meet the trans-  
23 ~~1~~parency requirements specified in  
paragraph

24 (3).

25 ~~3~~“(2) ELECTRONIC PRIOR AUTHORIZATION PRO-

26 4GRAM.—

1 5“(A) IN GENERAL.—For purposes of para-  
2 6graph (1)(A), the electronic prior authorization  
3 7program described in this paragraph is a pro-  
4 8gram that provides for the secure electronic  
5 9transmission of—

6 10“(i) a prior  
authorization request

7 11from a provider ~~of services~~ or supplier to 12 a  
Medicare

8 Advantage plan with respect to 13 an applica-  
9 ble item or service to be fur-14nished to an in-  
10 dividual and a response, in 15 accordance with  
11 this paragraph, from such 16 plan to such  
12 provider or supplier; and

13 17“(ii) any supporting  
documentation

14 18relating to such request or response.

15 19“(B) ELECTRONIC TRANSMISSION.—

16 20“(i) EXCLUSIONS.—For purposes of  
17 21this paragraph, a facsimile, a proprietary  
18 22payer portal that does not meet standards  
19 23specified by the Secretary, or an electronic  
20 24form shall not be treated as an electronic  
21 25transmission described in  
subparagraph

22 (A).

23 26“(ii) STANDARDS.—An electronic

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4transmission described in subparagraph

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5(A) shall comply with applicable technical

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6standards and other requirements to pro-

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7mote the standardization and streamlining

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8of electronic transactions adopted by the

4

9Secretary.

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10“(3) TRANSPARENCY REQUIREMENTS.—

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11“(A) IN GENERAL.—For purposes of para-

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12graph (1)(B), the transparency requirements

8

13specified in this paragraph are, with respect to

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14a Medicare Advantage plan, the following:

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15“(i) The plan, annually and in a man-

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16ner specified by the Secretary, shall submit

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17to the Secretary the following information:

13

18“(I) A list of all applicable items

14

19and services that were subject to a

15

20prior authorization requirement under

16

21the plan during the  
previous plan

17

22year.

18

23“(II) The percentage and number

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24of specified requests (as defined in

20

25subparagraph (F)) approved  
during

21

26the previous plan year by the plan in

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27an initial determination and the per-

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28centage and number of specified re-

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4quests denied during such plan year

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5by such plan in an initial determina-

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6tion (both in the aggregate and cat-

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7egorized by each item and service).

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8“(III) The percentage and num-

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9ber of specified requests that were de-

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10nied during the previous plan year by

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11the plan in an initial determination

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12and that were subsequently appealed.

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13“(IV) The number of appeals of

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14specified requests resolved during the

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15preceding plan year, and the percent-

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16age and number of such resolved ap-

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17peals that resulted in approval of the

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18furnishing of the item or service that

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19was the subject of such request, cat-

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20egorized by each applicable item and

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21service and categorized by each level

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22of appeal (including judicial review).

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23“(V) The percentage and number

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24of specified requests that were denied,

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25and the percentage and number of

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1specified requests that were approved,

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2by the plan during the previous plan

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3year through the utilization of deci-

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4sion support technology, artificial in-

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5telligence technology, machine-learn-

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6ing technology, clinical decision-mak-  
7ing technology, or any other tech-  
8nology specified by the Secretary.

9“(VI) The average and the me-  
10dian amount of time (in hours) that  
11elapsed during the previous plan year  
12between the submission of a specified  
13request to the plan and a determina-  
14tion by the plan with respect to such  
15request for each such item and serv-  
16ice, excluding any such requests that  
17were not submitted with the medical  
18or other documentation required to be  
19submitted by the plan.

20“(VII) The percentage and num-  
21ber of specified requests that were ex-  
22cluded from the calculation described  
23in subclause (VIII)  
24based on the  
25plan’s determination that  
such re-  
26quests were not submitted with the  
27medical or other documentation re-  
28quired to be submitted by the plan.

29“(VIII) Information on each oc-  
30currence during the previous plan  
31year in which, during a surgical or



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~~6~~medical procedure involving the fur-  
~~7~~nishing of an applicable item or serv-  
~~8~~ice with respect to which such plan  
~~9~~had approved a prior authorization re-  
~~10~~quest, the provider ~~of services~~ or  
sup-~~11~~plier ~~furnishing~~fur-  
nishing such item or service deter-  
~~12~~determined~~mined~~ that a different or  
addi-~~13~~tional  
item or service was medically nec-  
~~14~~necessary~~essary~~, including a  
specification of  
~~15~~whether such plan subsequently ap-  
~~16~~proved the furnishing of  
such dif-  
~~17~~ferent or additional item or service.  
~~18~~“(IX) A disclosure and descrip-  
~~19~~tion of any technology described in  
~~20~~subclause (V) that the plan utilized  
~~21~~during the previous plan year in mak-  
~~22~~ing determinations with  
respect to  
~~23~~specified requests.  
~~24~~“(X) The number of grievances  
~~25~~(as described in subsection (f)) re-  
~~1~~ceived by such plan during the pre-  
~~2~~vious plan year that were related to a  
~~3~~prior authorization requirement.  
~~4~~“(XI) Such other information as

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~~5~~the Secretary determines appropriate.

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~~6~~“(ii) The plan shall provide—

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~~7~~“(I) to each provider or supplier

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~~8~~who seeks to enter into a contract

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~~9~~with such plan to furnish applicable

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~~10~~items and services under such plan,

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~~11~~the list described in clause (i)(I) and

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~~12~~any policies or procedures used by the

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~~13~~plan for making determinations with

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~~14~~respect to prior  
authorization re-

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~~15~~quests;

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~~16~~“(II) to each such provider and

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~~17~~supplier that enters into such a con-

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~~18~~tract, access to the criteria used by

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~~19~~the plan for making such determina-

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~~20~~tions and an itemization of the med-

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~~21~~ical or other documentation required

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~~22~~to be submitted by a provider or sup-

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~~23~~plier with respect to such a request;

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~~24~~and

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~~1~~“(III) to an enrollee of the plan,

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~~2~~upon request, access to the criteria

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~~3~~used by the plan for making deter-

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~~4~~minations with respect to prior au-

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~~5~~thorization requests for an item or

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~~6~~service.

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7“(B) OPTION FOR PLAN TO PROVIDE CER-  
8TAIN ADDITIONAL INFORMATION.—As part of  
9the information described in subparagraph  
10(A)(i) provided to the Secretary during a plan  
11year, a Medicare Advantage plan may elect to  
12include information regarding the percentage  
13and number of specified requests made with re-  
14spect to an individual and an item or service  
15that were denied by the plan during the pre-  
16ceding plan year in an initial determination  
17based on such requests failing to demonstrate  
18that such individuals met the clinical criteria  
19established by such plan to receive such items  
20or services.

21“(C) REGULATIONS.—The Secretary shall,  
22through notice and comment rulemaking, estab-  
23lish requirements for Medicare Advantage plans  
24regarding the provision of—

25“(i) access to criteria described in  
26subparagraph (A)(ii)(II) to providers of  
27services and suppliers in accordance with  
28such subparagraph; and

29“(ii) access to such criteria to enroll-  
30ees in accordance with subparagraph  
31(A)(ii)(III).

32“(D) PUBLICATION OF INFORMATION.—  
33The Secretary shall publish information de-

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10scribed in subparagraph (A)(i) and subpara-  
11graph (B) on a public website of the Centers  
12for Medicare & Medicaid Services. Such infor-  
13mation shall be so published on an individual  
14plan level and may in addition be aggregated in  
15such manner as determined appropriate by the  
16Secretary.

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17“(E) MEDPAC REPORT.—Not later than 3  
18years after the date information is first sub-  
19mitted under subparagraph (A)(i), the Medicare  
20Payment Advisory Commission shall submit to  
21Congress a report on such information that in-  
22cludes a descriptive analysis of the use of prior  
23authorization. As appropriate, the Commission  
24should report on statistics including the fre-  
25quency of appeals and overturned decisions.  
1The Commission shall provide recommenda-  
2tions, as appropriate, on any improvement that  
3should be made to the electronic prior author-  
4ization programs of Medicare Advantage plans.

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5“(F) SPECIFIED REQUEST DEFINED.—For  
6purposes of this paragraph, the term ‘specified  
7request’ means a prior authorization request  
8made with respect to an applicable item or serv-  
9ice.

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4 ~~11~~For purposes of paragraph (1)(A)(ii), with respect  
5 ~~12~~to the use of prior authorization by Medicare Advan-  
6 ~~13~~tage plans for applicable items and services, the en-  
7 ~~14~~rollee protection standards specified in this para-  
8 ~~15~~graph are—

9 ~~16~~“(A) the adoption of transparent prior au-  
10 ~~17~~thorization programs developed in consultation  
11 ~~18~~with enrollees and with providers and suppliers  
12 ~~19~~with contracts in effect with such plans for fur-  
13 ~~20~~nishing such items and services under such  
14 ~~21~~plans;

15 ~~22~~“(B) allowing for the waiver or modifica-  
16 ~~23~~tion of prior authorization requirements based  
17 ~~24~~on the performance of such providers and sup-  
18 ~~25~~pliers in demonstrating compliance with such  
19 ~~1~~requirements, such as adherence to evidence-  
20 ~~2~~based medical guidelines and other quality cri-  
21 ~~3~~teria; and

22 ~~4~~“(C) conducting annual reviews of such  
23 ~~5~~items and services for which prior authorization  
24 ~~6~~requirements are imposed under such plans  
25 ~~7~~through a process that takes into account input  
1 ~~8~~from enrollees and from providers and suppliers  
2 ~~9~~with such contracts in effect and is based on  
3 ~~10~~consideration of prior authorization data from  
4 ~~11~~previous plan years and analyses of current cov-  
5 ~~12~~erage criteria.

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6 ~~13~~“(5) APPLICABLE ITEM OR SERVICE DE-  
7 ~~14~~FINED.—For purposes of this subsection, the term  
8 ~~15~~‘applicable item or service’ means, with respect to a  
9 ~~16~~Medicare Advantage plan, any item or service for  
10 ~~17~~which benefits are available under such plan, other  
11 ~~18~~than a covered part D drug.

12 ~~19~~“(6) REPORTS TO CONGRESS.—

13 ~~20~~“(A) GAO.—Not later than January 1,  
14 ~~21~~2032, the Comptroller General of the United  
15 ~~22~~States shall submit to Congress a report con-  
16 ~~23~~taining an evaluation of the implementation of  
17 ~~24~~the requirements of this  
subsection and an  
18 ~~4~~analysis of issues in implementing such require-  
19 ~~2~~ments faced by Medicare Advantage plans.

320 ~~3~~“(B) HHS.—

21 ~~4~~“(i) THE SECRETARY.—Not later than  
22 ~~5~~the end of the fifth plan year beginning  
23 ~~6~~after the date of the enactment of this sub-  
24 ~~7~~section, and biennially thereafter through  
25 ~~8~~the date that is 10 years after such date  
1 ~~9~~of enactment, the Secretary shall submit to  
2 ~~10~~Congress a report containing a description  
3 ~~11~~of the information submitted under para-  
4 ~~12~~graph (3)(A)(i) during—

5 ~~13~~“(I) in the case of the first such  
6 ~~14~~report, the fourth plan year beginning

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~~15~~after the date of the enactment of this  
~~16~~subsection; and  
~~17~~“(II) in the case of a subsequent  
~~18~~report, the 2 plan years preceding the  
~~19~~year of the submission of such report.  
~~20~~“(ii) CMS.—Not later than January  
~~21~~, ~~2027~~2028, the Centers for Medicare &  
Med-  
~~22~~icaid Services and the Office of National  
~~23~~Coordinator for Health Information Tech-  
~~24~~nology shall submit to Congress and pub-  
~~25~~lish on the Internet website of the Centers  
~~1~~for Medicare & Medicaid Services a report  
~~2~~that—  
~~3~~“(I) defines the term ‘real-time  
~~4~~decision’ and details how the defini-  
~~5~~tion for such term may be updated  
~~6~~based on any technological advances;  
~~7~~“(II) using the data submitted to  
~~8~~the Secretary under paragraph  
~~9~~(3)(A)(i), details a process for real-  
~~10~~time decisions for routinely approved  
items and services~~11~~ for~~routinely—~~  
~~approved—services—~~for~~12~~ purposes of  
the  
electronic prior au-~~13~~thorization  
program  
described in~~14~~ paragraph (2); and

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15“(III) includes an analysis of—

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16“(aa) items and services

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17that are routinely approved;

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18“(bb) items and services

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19identified in item (aa) that could

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20be eligible for real-time decisions;

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21“(cc) ~~how~~ whether establishing

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real-time decisions for such items

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and 23 services could—

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1“(AA) improve enrollee

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2access to benefits under this

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3part;

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4“(BB) produce oper-

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5ational efficiencies for pro-

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6viders ~~of services~~ and ~~sup-~~

7 ~~pliers~~ suppliers and

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Medicare ~~Advan-~~

8 ~~tage~~ Advantage plans;

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and

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9“(CC) reduce health

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10disparities for Medicare Ad-

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11vantage enrollees in rural

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12and low-income commu-

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13nities; and

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14“(dd) how ~~the use of~~ auto determinations of



4 routinely approved items and  
5 services made solely through au-  
6 ~~15mated decision-making and~~  
artifi- tomation and artificial  
intel-  
7 ~~16cial intelligence~~ ligence by  
 Medicare ~~Ad-~~ Advantage  
8 ~~17vantage~~ plans impact patient  
 ac-~~18~~ cess, including in-  
9 cluding disparities in ac-~~19~~ cess for  
10 rural and low-income  
~~20beneficiaries, to routinely ap~~ bene-  
11 ~~21proved items and~~  
~~services.”~~ ficiaries.”.

12 ~~22~~(b) PROVIDING THE SECRETARY AUTHORITY TO EN-  
13 ~~23~~FORCE TIMELY RESPONSES FOR ALL PRIOR AUTHORIZA-  
14 ~~24~~TION REQUESTS SUBMITTED UNDER PART C.—Section  
15 ~~18~~52(g) of the Social Security Act (42 U.S.C. 1395w-  
16 ~~22~~(g)) is amended—

17 ~~3~~(1) in paragraph (1)(A), by inserting “and in  
18 ~~4~~accordance with any timeframe established by the  
19 ~~5~~Secretary under paragraph (6)” after “paragraph  
620 (3)”;

21 ~~7~~(2) in paragraph (3)(B)(iii), by inserting “(~~or,~~  
~~&subject to subsection (e),~~ with

22 respect to prior au-~~9~~ thorization requests submitted on  
23 or after the first~~10~~  day of the third plan year begin-  
24 ning after the date~~11~~  of the enactment of the Improv-  
25 ing Seniors’ Timely~~12~~  Access to Care Act of ~~2024~~2025,

any

1 timeframe estab-~~13~~lished by the Secretary under para-  
2 graph (6))” after~~14~~ “72 hours”; and

3 ~~15~~(3) by adding at the end the following new  
4 ~~16~~paragraph:

5 ~~17~~“(6) TIMEFRAME FOR RESPONSE TO PRIOR AU-  
6 ~~18~~THORIZATION REQUESTS.—Subject to paragraph  
7 (3)

~~19~~and ~~sub~~section (e), the Secretary may establish, for~~20~~  
purposes of an

8 organization determination made~~21~~ with respect to a  
9 prior authorization request for an~~22~~ item or service to  
10 be furnished to an individual,~~23~~ timeframes, such as  
11 24 hours, for the organization~~24~~ to notify the enrollee  
12 (and the physician involved, as~~25~~ appropriate) of such  
13 determination for—

14 ~~1~~“(A) a request for expedited determination  
15 ~~2~~described in paragraph (3)(A);

16 ~~3~~“(B) a real time decision for routinely ap-  
17 ~~4~~proved items and services; and

18 ~~5~~“(C) any other prior authorization re-  
19 ~~6~~quest.”.

Document comparison by Workshare Compare on Wednesday, April 30, 2025  
5:47:20 PM

Input:	
Document 1 ID	file:///C:/Users/delaney.bounds/OneDrive - Powers, Pyles, Sutter & Verville PC/Seniors Act Original Use.pdf
Description	Seniors Act Original Use
Document 2 ID	file:///C:/Users/delaney.bounds/OneDrive - Powers, Pyles, Sutter & Verville PC/Seniors Act New Language.pdf
Description	Seniors Act New Language
Rendering set	Standard

Legend:	
<a href="#">Insertion</a>	
<del>Deletion</del>	
<del>Moved from</del>	
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Style change	
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Inserted cell	
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Statistics:	
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Insertions	416
Deletions	421
Moved from	0
Moved to	0
Style changes	0
Format changes	0
Total changes	837