

June 2022

# Congress Must Protect People in Medicare Advantage Plans From the Bad Actors

by Diane Archer, Senior Advisor on Medicare, Social Security Works

**American Hospital Association:** “Inappropriate and excessive denials for prior authorization and coverage of medically necessary services is a pervasive problem among certain plans in the MA program.” AHA “urges CMS to take swift action to hold Medicare Advantage (MA) plans accountable for inappropriately and illegally restricting beneficiary access to medically necessary care.”

**American Medical Association poll:** More than one in four (28%) physicians believe that [prior authorization rules for some tests and treatments are harming patients](#). Some health plans have prior authorization rules that are out of sync with standard medical practice.

## HHS Office of the Inspector General (OIG) [report](#):

- Some Medicare Advantage plans are [inappropriately denying potentially life-saving care to tens of thousands of older adults and people with disabilities](#)—care that traditional Medicare covers, including failure to cover rehab services, care in skilled nursing facilities, MRIs and other costly tests.
- Nearly one in seven (13%) Medicare Advantage plan denials of care are wrongful.
- An OIG 2018 [report](#) raises equally troubling concerns about the risks faced by older adults and people with disabilities in Medicare Advantage.

**National Bureau of Economic Research report:** Medicare would save “around ten thousand” lives a year if CMS cancelled contracts with the bottom-ranking five percent of Medicare Advantage plans and randomly reassigned their enrollees to other Medicare Advantage plans.

**Why are some MA plans denying so much care inappropriately?** Capitated payments unrelated to the cost of services delivered provide Medicare Advantage plans with a “potential incentive...to deny beneficiary access to services and deny payments to providers in an attempt to increase profits,” according to the OIG.

**Which are the bad Medicare Advantage actors?** The OIG report doesn’t disclose them.

**OIG recommendation:** CMS should protect people with Medicare and provide them “with clear, easily accessible information about serious [Medicare Advantage] violations.”

**AHA recommendation:** Public reporting of data on delays and denials of care at the plan-level.

## People with Medicare need to know which Medicare Advantage plans are the bad actors

- CMS must warn people enrolled in Medicare Advantage plans about serious violations.
- CMS should meaningfully hold the bad Medicare Advantage actors to account, cancelling their contracts when necessary to protect people with Medicare.
- CMS should not give Medicare Advantage plans an [8.5 percent rate increase](#) next year. It should be prohibited from paying them [more per enrollee](#) than it spends on people in traditional Medicare.