

Report on Medicare Compliance Volume 32, Number 12. March 27, 2023

MA Rule May Be Opening to Curb Clinical Validation; MA Plan Backed off Denials at ALJ

By Nina Youngstrom

It's possible that CMS's proposed rule requiring Medicare Advantage (MA) plans to live by the same coverage criteria as traditional Medicare could eventually put MA plans out of the clinical validation business, an expert says. If things play out that way, it would take some pressure off hospitals that are defending the accuracy of physicians' diagnoses after the fact.

CMS's statement of work for recovery audit contractors (RACs) prohibits them from performing clinical validation and Medicare administrative contractors (MACs) don't appear to be doing it either, and therefore clinical validation should be off limits for MA plans as well in light of the Dec. 27 proposed rule, said Richelle Marting, an attorney and certified coder in Olathe, Kansas.^[1] After all, the rule clarifies that "MA organizations may only apply coverage criteria that are no more restrictive than Traditional Medicare coverage criteria found in NCDs, LCDs, and Medicare laws." But MA plans are using clinical validation to refuse to cover services "in a way that's different and more restrictive than traditional Medicare," she contends.

For example, MA plans are required to publish a policy "with the same quality of literature that you would expect from a local coverage determination or national coverage determination." That's very helpful to hospitals because, she said, clinical validation denials across payers often include references like newsletter articles or commercial blogs. More than once an MA plan has denied a complication or comorbidity (CC) of blood-loss anemia for a male patient based partly on an American College of Obstetricians and Gynecologists' practice bulletin on postpartum hemorrhage and a blog. "These are the references they're citing as a basis to ignore a physician's documented diagnosis and to decline to pay the hospital for the resources to evaluate and treat a legitimate medical condition," Marting said.

This document is only available to subscribers. Please log in or purchase access.

[Purchase Login](#)