

United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS
WASHINGTON, DC 20510-6250

October 9, 2025

VIA EMAIL

Mr. David Joyner
President and Chief Executive Officer
CVS Health Corporation
1 CVS Drive
Woonsocket, RI 02895

Dear Mr. Joyner:

Last October, the Permanent Subcommittee on Investigations (“the Subcommittee”) released a majority staff report on delays and denials of care in the Medicare Advantage program.¹ The report followed revelations that large Medicare Advantage insurers were using predictive technologies, including Artificial Intelligence (“AI”), to limit or deny the care of vulnerable seniors.² Throughout the Subcommittee’s investigation, each of the companies investigated, including CVS, consistently denied that they used AI to make final decisions regarding patient care.³ Given the proliferation of AI technology and continued reports of disproportionate denials in Medicare Advantage, I write to ask whether that remains your company’s policy.

The Subcommittee’s report was based on more than a year of investigation and review of more than 280,000 pages of documents obtained from the three largest Medicare Advantage insurers, including company emails, internal strategy documents, and data not provided to regulators. For the first time, the Subcommittee was able to document how, during the same period in which CVS and other insurers were making significant investments in predictive technologies, prior authorization denial rates for admission to certain post-acute care facilities increased. Although insurers denied that these technologies had final authority over the denials driving the increases, the report documented ways in which workers responsible for prior

¹ S. PERMANENT SUBCOMM. ON INVESTIGATIONS, 118TH CONG., *Refusal of Recovery: How Medicare Advantage Insurers Have Denied Patients Access to Post-Acute Care* (Oct. 17, 2024), https://www.govinfo.gov/content/pkg/GOVPUB-Y4_G74_9-PURL-gpo234149/pdf/GOVPUB-Y4_G74_9-PURL-gpo234149.pdf.

² Casey Ross & Bob Herman, *Denied by AI: How Medicare Advantage plans use algorithms to cut off care for seniors in need*, STAT (Mar. 13, 2023), <https://www.statnews.com/denied-by-ai-unitedhealth-investigative-series/>.

³ See, e.g., Letter from Counsel to CVS to The Hon. Richard Blumenthal, Chairman, Permanent Subcomm. on Investigations and The Hon. Ron Johnson, Ranking Member, Permanent Subcomm. on Investigations (Oct. 10, 2024) (on file with the Subcommittee).

authorization may have been pressured to follow machine-generated recommendations, or that contractors may have had greater latitude to use AI in making care determinations.⁴

Since the release of the Subcommittee’s report, the rapid development of AI has only increased the possibility of its abuse in the healthcare sector. The Subcommittee’s report was based on data through the year 2022, but according to the American Hospital Association, Medicare Advantage denials have increased significantly since then, and “[o]ne factor driving this growth is the increased use of machine learning algorithms and other artificial intelligence tools.”⁵ A recent survey from the American Medical Association found that 61 percent of physicians fear that insurers’ growing use of predictive technologies “is increasing prior authorization denials.”⁶ And, beginning next year, the Trump Administration plans to launch a new AI-powered initiative to bring prior authorization to Traditional Medicare—where it has historically been absent—and has invited insurers like CVS to participate in the program.⁷

Amid the largely unregulated expansion of AI, the Center for Medicare and Medicaid Services (“CMS”) has confirmed that giving predictive technologies the authority to deny care is against the law.⁸ But despite the Subcommittee’s recommendation that insurers be required to report more data about the denials they issue and the role that AI plays in coverage determinations, regulators and the public remain woefully lacking in critical information needed to detect and curb harms resulting from misuses of the prior authorization process.⁹ As a result, the American people continue to be reliant on little more than insurers’ promises that they are not taking potential life-and-death decisions away from doctors and giving them to machines.

⁴ S. PERMANENT SUBCOMM. ON INVESTIGATIONS, *supra* note 1.

⁵ American Hospital Ass’n, *Skyrocketing Hospital Administrative Costs, Burdensome Commercial Insurance Policies are Impacting Patient Care*, (2024), <https://www.aha.org/system/files/media/file/2024/09/Skyrocketing-Hospital-Administrative-Costs-Burdensome-Commercial-Insurer-Policies-Are-Impacting-Patient-Care.pdf>.

⁶ Jennifer Lubell, *How AI is leading to more prior authorization denials*, AMERICAN MED. ASS’N (Mar. 10, 2025), <https://www.ama-assn.org/practice-management/prior-authorization/how-ai-leading-more-prior-authorization-denials>.

⁷ Press Release, Ctrs. for Medicare & Medicaid Servs., CMS Launches New Model to Targe Wasteful, Inappropriate Services in Original Medicare (June 27, 2025), <https://www.cms.gov/newsroom/press-releases/cms-launches-new-model-target-wasteful-inappropriate-services-original-medicare>.

⁸ CMS has clarified that, while “an algorithm or software tool can be used to assist [Medicare Advantage] plans in making coverage determinations,” a coverage decision that is “based on a larger data set instead of the individual patient’s medical history, the physician’s recommendations, or clinical notes” would not comply with federal Medicare statutes. Memorandum from Ctrs. for Medicare & Medicaid Serv. to All Medicare Advantage Organizations and Medicare-Medicaid Plans (Feb. 6, 2024), <https://www.documentcloud.org/documents/24410692-cms-memo-2624-faqs-related-to-coverage-criteria-and-utilization-management-requirements-in-cms-final-rule-cms-4201-f/>.

⁹ In December 2024, CMS proposed enhanced data reporting requirements and additional “guardrails” on insurers’ use of artificial intelligence, but in the final Medicare Advantage rule announced in April 2025, the Trump Administration declined to include these provisions. Press Release, Ctrs. for Medicare & Medicaid Servs., Contract Year 2026 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly, (Apr. 4, 2025), <https://www.cms.gov/newsroom/fact-sheets/contract-year-2026-policy-and-technical-changes-medicare-advantage-program-medicare-prescription-final>.

In order to help the Subcommittee assess how Medicare Advantage insurers are using AI or other predictive technology to make health care decisions, please respond to the following questions by October 17, 2025:

1. Does it remain the policy of CVS that final adverse determinations for Medicare Advantage beneficiaries cannot be made by AI or other predictive technologies?
 - a. If not, please provide a detailed description of when this change was implemented, as well as all records reflecting the change in policy;
2. Which AI or predictive technologies have been employed by CVS for the evaluation of patient care or the payment for patient services? Please include the name of the technology, how it is used, and any limitations on its use; and
3. Please describe any policies implemented since October 2024 to prevent predictive technologies from unduly influencing the work of human clinicians.

Thank you for your attention to this matter.

Sincerely,



Richard Blumenthal
Ranking Member
Permanent Subcommittee on Investigations

cc: The Honorable Ron Johnson
Chairman
Permanent Subcommittee on Investigations