

## CMS Response to Public Comments Received for CMS-10905

The Centers for Medicare and Medicaid Services (CMS) received the following comments related to the Service Level Data Collection for Initial Determinations and Appeals (CMS-10905; OMB:0938-New):

### **Comment:**

Several commenters recommended that CMS make this data publicly available and accessible for stakeholders. These commenters urged CMS to consider all opportunities to report the data collected from plans in an easily searchable, consistent, and coherent manner.

### **CMS Response:**

CMS is dedicated to providing transparency and will consider ways to publicize the data collected in a meaningful way while maintaining beneficiary privacy.

### **Comment:**

Some commenters expressed concern that many of the elements in this reporting are duplicative of other collection efforts across the agency. One commenter asked CMS to clarify whether this data collection would be added to the current Part C Reporting Requirements or if this would be a separate reporting requirement.

### **CMS Response:**

We are collecting these data under the authority of the Part C Reporting Requirements. We expect to post this data collection and corresponding technical guidance as separate documents on the Part C Reporting Requirements website at <https://www.cms.gov/medicare/enrollment-renewal/health-plans/part-c>.

Once we have complete service-level data related to plan coverage and appeals decisions, we expect to reduce plan burden in other areas, such as reporting at the aggregate level or the volume of data requested upon audit.

### **Comment:**

We received comments asking CMS to confirm when this quarterly reporting will be effective. Some commenters were concerned that the implementation timeline does not account for the significant investment of time and resources necessary to ensure accurate and valid data. Further, they requested that implementation not start any sooner than 2026.

### **CMS Response:**

We recognize that plans will need time to enhance their systems to be able to report this data set. At this time, we are not requiring plans to utilize an independent data validation contractor to validate their data. However, validation checks should be performed by each organization prior

to submission. CMS will also have upload validation checks in place to help ensure accurate reporting upon submission. With regard to the timeframe for collection, CMS will not start collecting these data any sooner than plan year 2026.

**Comment:**

A few commenters were seeking clarification whether the initial determinations reporting section applies to both claims and authorizations.

**CMS Response:**

Yes, the initial determination and reconsideration reporting sections apply to both pre-service and payment requests. We have revised the Service Level Data Collection document to make this more apparent by separating the reporting into subsections for “coverage decisions” and “payment”.

**Comment:**

One commenter recommended that we request this data retroactively over several contract years for certain types of services to determine if there is a longstanding discriminatory patterns of care denials.

**CMS Response:**

We thank the commenter for their suggestion; however, we do not intend to collect this data retroactively at this time.

**Comment:**

A few commenters recommended that CMS incorporate the newly collected data from plans into quality reporting programs, such as MA Organization Star Ratings, to ensure that payers are held accountable for their performance.

**CMS Response:**

We thank the commenters for suggesting a potential use for the data. CMS’ initial focus will be on receiving complete and accurate data. In future rulemaking we may consider incorporating these data into quality reporting programs, such as the Star Ratings.

**Comment:**

A few commenters suggested CMS provide additional detail to ensure that the data meets the standard the agency is expecting and provides meaningful information for end users. These commenters recommended that CMS more clearly define the parameters for each of these elements in the Part C Technical Specifications, similar to what is provided in the current Technical Specification on Grievances and Organization Determinations & Reconsiderations. We also received several comments requesting additional clarity for specific elements.

**CMS Response:**

We thank the commenters for their recommendations. In addition to revisions made to the elements in this data collection, we intend to issue more detail in technical guidance to support plans in compiling and submitting the data to CMS.

**Comment:**

Some commenters recommended additional elements for CMS to add to this collection. This included reviewer qualification at the initial determination level, an appeal number, pending or unresolved cases, downgraded requests, more detail related to internal plan criteria, denials based on artificial intelligence, and the rate of reversal at the IRE level of review.

**CMS Response:**

In response to these comments, we have added the reviewer qualification at the initial determination level and whether the expedited processing request was downgraded. We thank the commenters for their thoughtful suggestions and will consider adding other elements in future updates to the data collection.

**Comment:**

One commenter did not agree with the burden estimate made by CMS related to this collection and stated that the agency significantly underestimated the burden on plans to comply with this quarterly reporting. This commenter expressed concern that the administrative burden to collect and report the new data elements each quarter will be material.

**CMS Response:**

We appreciate the commenter's concern and understand that there will be enhancements needed to comply with this requirement. We have revised the burden from 0.25 hours to 0.50 hours per response. We believe this better reflects the time it will take plans to report this data on a quarterly basis once systems are in place.