April 16, 2024

William N. Parham, III
Director, Division of Information Collections and Regulatory Impacts
Office of Strategic Operations and Regulatory Affairs
Room C4-26-05
Centers for Medicare and Medicaid Services
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: Prior Authorization Demonstration for Certain Ambulatory Surgical Center Services (CMS-10884)

Dear Director Parham:

On behalf of our member medical group practices, the Medical Group Management Association (MGMA) is pleased to provide the following comments in response to the Centers for Medicare and Medicaid Services' (CMS) prior authorization demonstration for certain ambulatory surgical center (ASC) services. MGMA is concerned about CMS extending prior authorization requirements for ASCs under traditional Medicare and recommends the agency not move forward with this demonstration project.

With a membership of more than 60,000 medical practice administrators, executives, and leaders, MGMA represents more than 15,000 group medical practices ranging from small private medical practices to large national health systems, representing more than 350,000 physicians. MGMA's diverse membership uniquely situates us to offer the following policy recommendations.

CMS proposes to undergo a five-year demonstration project in ten states requiring prior authorization for certain surgical procedures provided in ASCs for traditional Medicare. The agency's basis for the project is data from 2019-2021 that shows an increase in utilization for 40 procedures. CMS also discusses the need for the project due to concerns about fraud or abuse.

This Administration has made great progress over the past year by finalizing regulations that, if implemented correctly, have the potential to decrease prior authorization burden and increase interoperability for Medicare Advantage and other government payers. This demonstration project contravenes these important gains and will add administrative burden for ASCs and increase costs for both providers and the agency. Contrast this with CMS' recently finalized Interoperability and Prior Authorization rule (CMS-0057-F) that it projects will save approximately $15 billion over ten years by improving the prior authorization process. Further, CMS does not cite actual evidence of fraud or abuse in ASCs necessitating this demonstration project.

MGMA members rank prior authorization requirements as the number one regulatory burden year after year. In our 2023 Annual Regulatory Burden Report, 89.35% of respondents said prior authorization

issues are very or extremely burdensome, and 97% said patients experienced delays or denial for medical necessary care due to prior authorization requirements.[1] Prior authorization has typically been used in Medicare Advantage compared to traditional Medicare — 84% percent of MGMA members surveyed reported prior authorization requirements for Medicare Advantage increased over the previous 12 months.[2] "It delays patients' access to care. Some payers take over two weeks to respond, some do not respond at all, and providers must waste time chasing them down for an answer," said one MGMA member.

There is ample evidence that should caution CMS against expanding this onerous administrative process to ASCs. Congress has also recognized the detrimental effects of prior authorization and has introduced legislation to mitigate the issue. There has been wide bipartisan and bicameral support for the *Improving Seniors' Timely Access to Care Act*, which would make numerous changes reducing prior authorization barriers. The bill was supported last Congress by 350 members in the House and Senate, as well as 500 healthcare organizations.

We continue to hear alarming responses from members describing the numerous adverse impacts that prior authorization requirements can have on their practices. There is not a significant need for the expansion of prior authorization into traditional Medicare for ASCs to address overutilization or other policy concerns, but there is a high likelihood that ASCs in these ten states would experience significant negative consequences impacting their operations should CMS move forward.

MGMA thanks CMS for its leadership and recent work to alleviate the burden of prior authorization for many government payers. We strongly urge the agency not to move forward with this ASC demonstration project as it would result in increased administrative burden and may unnecessarily delay patient access to care. If you have any questions, please contact James Haynes, associate director of government affairs, at jhaynes@mgma.org or 202-293-3450.

Sincerely,

/s/

Anders Gilberg
Senior Vice President, Government Affairs

[1] MGMA, 2023 Annual Regulatory Burden Report, Nov. 2023.
[2] MGMA, Spotlight: Prior Authorization in Medicare Advantage, May 2023.