

CMS Issues Guidance on Usage of AI in Making Coverage Determinations

Article By:

Labor and Employment Group

On February 6, 2024, the US Centers for Medicare & Medicaid Services (CMS) [issued a letter](#) to all Medicare Advantage (MA) organizations and Medicare-Medicaid plans. The letter covered frequently asked questions and answers related to the coverage criteria and utilization management requirements in the CMS Final Rule issued on April 5, 2023.

Among the FAQs was guidance related to the use of artificial intelligence (AI) and other technologies to assess coverage decisions. CMS wrote, “An algorithm or software tool can be used to assist MA plans in making coverage determinations, but it is the responsibility of the MA organization to ensure that the algorithm or artificial intelligence complies with all applicable rules for how coverage determinations by MA organizations are made.” For example, in a decision to terminate post-acute care services, an algorithm or software tool can be used to predict the potential length of stay, but that prediction alone cannot be used as the basis to terminate services.

CMS also expressed concern that algorithms and AI technologies can exacerbate discrimination and biases, emphasizing that MA organizations must comply with nondiscrimination requirements of Section 1557 of the Affordable Care Act.

© 2025 McDermott Will & Emery

National Law Review, Volume XIV, Number 116

Source URL: <https://natlawreview.com/article/cms-issues-guidance-usage-ai-making-coverage-determinations>