Health care reform

Amid political scrutiny, attacks on WISeR call its future into jeopardy

Watch out for pushback on the Wasteful and Inappropriate Service Reduction (WISeR) program, which added prior authorization to Medicare services that don't normally require it in some states.

With a shift in power looming in Congress, the program, along with the prospect of its artificial intelligence (AI) and prior authorization aspects being replicated elsewhere, may be scaled back in the months to come.

Care delays cause concern

The six-year Center for Medicare and Medicaid Innovation (CMMI) program, which is mandatory on specific procedures in certain jurisdictions, was announced on June 27, 2025, and speedily opened on Jan. 1, 2026 (*PBN 7/14/25*).

For providers in Medicare Administrative Contractor (MAC) jurisdictions JH (Oklahoma and Texas), JL (New Jersey), JF (Arizona and Washington) and J15 (Ohio), payment for certain procedures and DMEPOS orders are "subject to prepayment medical review ... that may involve requests for documentation to support the medical necessity of the targeted item or service," CMMI says.

The prior authorization requests are handled by vendors with "expertise managing the prior authorization process for other payers using enhanced technology like AI," according to CMS. Procedures and products include cervical fusion, incontinence control devices, and skin and tissue substitutes.

After launch, negative reports started coming in quickly. In March, an analysis by Rebecca Adams of the Washington Post's WP Intelligence found that WISeR was "causing delays for some patients and physicians" and that approval rates were lower than in Medicare Advantage. The analysis also found "technical hiccups" that "left patients waiting for care."

In April, Senator Maria Cantwell (D-Wash.) issued a report based on Washington State Hospital Association data corroborating some of WP Intelligence's findings. Cantwell also noted that vendors are paid a "financial bonus" for "each claim they deny," and raised concerns that the program "uses artificial intelligence (AI) and clinicians to approve — or overrule — their doctors' recommendations." The AI aspect may be especially resonant as it becomes increasingly controversial across industries (*PBN 7/6/26*).

The Electronic Frontier Foundation (EFF), a digital First Amendment group, sued CMS in March for not honoring its Freedom of Information Act (FOIA) request for data on WISeR. After winning access, EFF reported that while WISeR vendors were supposed to respond to prior authorization requests within 72 hours, in the program's first three months "a significant number of prior authorization requests took far longer than 72 hours to resolve. One status report cites a prior authorization request that went unanswered for 83 days."

EFF also found that WISeR contractors denied nearly 6,000 prior authorizations, reported provider complaints, warned about the program's "financial incentive to deny care" and called for greater transparency.

Lawmakers leap in

Congress has kept an eye on WISeR, focusing on the controversial prior authorization and AI aspects of the program.

In April, some House Democrats, including Ro Khanna of California, introduced a "Stop Deadly Denials Act" bill that specifically called for the end of WISeR's "innovative payment and service delivery model." The bill did not advance.

In May, Congress' Government Accountability Office (GAO) determined that WISeR was subject to the Congressional Review Act, meaning that because it "substantially affects the rights and obligations of non-agency parties, specifically providers and beneficiaries of those services," the CMS Notice creating WISeR should have been cleared by Congress and the Comptroller General before it was finalized.

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Senator Ron Wyden (D-Ore.), Rep. Suzan DelBene (D-Wash.) and Rep. Greg Landsman (D-Ohio) introduced resolutions to end the program. "WISeR is a dangerous program that is denying care to Medicare patients so companies can profit," DelBene argued. And the House Appropriations Committee advanced an amendment on June 9 to recommend against funding WISeR in the 2027 federal budget.

The effort to block WISeR was defeated in the Senate, 46-50, but Democratic members continue to criticize the program. On Sept. 17, Senator Patty Murray (D-Wash.) grilled Chris Klomp, chief counselor to HHS and a nominee for Deputy Secretary, at a Senate Committee on Health, Education, Labor, and Pensions (HELP) hearing, suggesting that WISeR contractors "make more money if they deny care" and asking that Klomp "commit today to revoking the WISeR model and [allow] our Medicare beneficiaries in Washington state to receive the timely care that they need."

Klomp declined Murray's request, but CMS hasn't entirely stonewalled criticism. At the ADAPT Conference in Santa Fe in October, CMS Deputy Administrator Kimberly Brandt admitted "there are a lot of things about WISeR that are not working," according to NextGov/FCW. Brandt added that "especially because of the congressional scrutiny on [the WISeR program, CMS Innovation Center staff] are committed to trying to get that right and get it better."

Mended, not ended

Given the expected Democratic gains in the midterm elections, experts are confident that they'll continue to present opposition to the program — though none expect a full drawback.

Jasmine Mines, attorney and founder of Mines Law Firm in Beverly Hills, sees congressional opposition as a "serious threat" which she thinks will manifest in 2027 budget negotiations, currently scheduled to wrap up in mid-December.

But Jose Vela Jr., a member of the Clark Hill law firm in Houston, says that "opposition alone does not terminate a congressionally authorized Medicare demonstration. The House Appropriations Committee's effort to block funding is significant, but the ultimate outcome depends on what Congress enacts and how CMS responds."

Instead of termination, Vela expects to see CMS offer program changes, particularly regarding clinical oversight, transparency and adjustments to the services subject to review. "Identifying problems and making adjustments is part of what a demonstration is supposed to accomplish," Vela reasons.

"Some change is likely," says Tomas Bednar, vice president, policy and strategy with Sound Physicians in Nashville. "Lawmakers in both parties have pressed Medicare Advantage plans to rein in prior authorization, and WISeR brings that same tool into original Medicare, which explains much of the pushback."

The future of the program may pivot, says Henry Norwood, a health care attorney with the Kaufman Dolowich firm in San Francisco, on the Democrats' power and will going into 2027.

"I don't think we're at a point where CMS would voluntarily pull back the program, or even aspects of it, without some sort of an effort on the Democratic side to curb it," Norwood says. And killing WISeR "is not going to be one of their top priorities. There isn't enough backlash yet — though that could certainly grow if we see more wrongful denials of prior authorizations." — *Roy Edroso* (*roy.edroso@decisionhealth.com*) ■

RESOURCES

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- Government Accountability Office, "U.S. Department of Health and Human Services, Centers for Medicare & Medicaid Services—Applicability of the Congressional Review Act to Notice Implementing the Wasteful and Inappropriate Services Reduction (WISeR) Model," May 12, 2026: *www.gao.gov/products/b-337994*

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