

§ 156.223 Prior authorization requirements.

(a) *Communicating a reason for denial.* Beginning January 1, 2026, if the QHP issuer denies a prior authorization request (excluding a request for coverage of drugs as defined in § 156.221(b)(1)(v)), the response to the provider must include a specific reason for the denial, regardless of the method used to communicate that information.

(b) *Prior Authorization Application Programming Interface (API).* Unless granted an exception under paragraph (d) of this section, for plan years beginning on or after January 1, 2027, a QHP issuer on a Federally-facilitated Exchange must implement and maintain an API conformant with § 156.221(c)(2) through (4), (d), and (e), and the standards in 45 CFR 170.215(a)(1), (b)(1)(i), and (c)(1) that—

(1) Is populated with the QHP issuer's list of covered items and services (excluding drugs as defined in § 156.221(b)(1)(v)) that require prior authorization;

(2) Can identify all documentation required by the QHP issuer for approval of any items or services that require prior authorization;

(3) Supports a HIPAA-compliant prior authorization request and response, as described in 45 CFR part 162; and

(4) Communicates the following information about prior authorization requests:

(i) Whether the QHP issuer—

(A) Approves the prior authorization request (and the date or circumstance under which the authorization ends);

(B) Denies the prior authorization request; or

(C) Requests more information.

(ii) If the QHP issuer denies the prior authorization request, it must include a specific reason for the denial.

(c) *Publicly reporting prior authorization metrics.* Beginning in 2026, following each year it offers a QHP on a Federally-facilitated Exchange, a QHP issuer must report prior authorization data, excluding data on drugs as defined in § 156.221(b)(1)(v), at the issuer level by March 31. The QHP issuer must make the following data from the previous calendar year publicly accessible by posting them on its website:

(1) A list of all items and services that require prior authorization.

(2) The percentage of standard prior authorization requests that were approved, aggregated for all items and services.

(3) The percentage of standard prior authorization requests that were denied, aggregated for all items and services.

(4) The percentage of standard prior authorization requests that were approved after appeal, aggregated for all items and services.

(5) The percentage of prior authorization requests for which the timeframe for review was extended, and the request was approved, aggregated for all items and services.

(6) The percentage of expedited prior authorization requests that were approved, aggregated for all items and services.

(7) The percentage of expedited prior authorization requests that were denied, aggregated for all items and services.

(8) The average and median time that elapsed between the submission of a request and a determination by the QHP issuer, for standard prior authorizations, aggregated for all items and services.

(9) The average and median time that elapsed between the submission of a request and a decision by the QHP issuer for expedited prior authorizations, aggregated for all items and services.

(d) *Exception.* (1) If a plan applying for QHP certification to be offered through a Federally-facilitated Exchange believes it cannot satisfy the requirements in paragraph (b) of this section, the issuer must include a narrative justification in its QHP application that describes all of the following:

(i) The reasons why the issuer cannot reasonably satisfy the requirements for the applicable plan year.

(ii) The impact of non-compliance upon providers and enrollees.

(iii) The current or proposed means of providing health information to providers.

(iv) Solutions and a timeline to achieve compliance with the requirements in paragraph (b) of this section.

(2) The Federally-facilitated Exchange (FFE) may grant an exception to the requirements in paragraph (b) of this section if the Exchange determines that making QHPs of such issuer available through such Exchange is in the interests of qualified individuals in the State or States in which such Exchange operates and an exception is warranted to permit the issuer to offer QHPs through the FFE.

[89 FR 8988, Feb. 8, 2024]