

Payers again have to meet HHS mandates. Do they check the box to meet accessibility and non-API prior authorization mandates or take the opportunity to address and/or use enterprisewide content management?

Consider an Enterprise Approach to Meeting Upcoming HHS-Mandated Accessibility and Prior Authorization Regulations

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Introduction

As healthcare data grows in volume and complexity, payers face significant challenges in managing disparate data sources, ensuring data quality, and adhering to regulatory requirements. This data management challenge is related to not only internal storage and processing but also how data is communicated and presented to the outside world in an equitable and streamlined way.

Accessibility has become a focal point in the healthcare industry, with compliance regulations driving significant changes in how organizations communicate. Section 1557 of the Affordable Care Act (ACA) has set new standards for inclusion, impacting essential materials like the Annual Notice of Change (ANOC) and Evidence of Coverage (EOC).

On May 6, 2024, the Department of Health and Human Services (HHS) published final regulations implementing Section 1557 of the Patient Protection and Affordable Care Act (i.e., the “final rule”) after soliciting commentary on the rule proposed in 2022 (i.e., “proposed rule”). Section 1557 is the first federal civil rights law to focus on nondiscrimination in healthcare, prohibiting discrimination on the basis of race, color, national origin, sex, age, or disability by certain healthcare organizations that receive federal financial assistance (i.e., “1557 covered entities”).

AT A GLANCE

WHAT'S IMPORTANT

Payers have been mandated to provide accessible products and experiences, which meet WCAG 2.1 AA, PDF/UA, and other standards and mandates to ensure health equity for all members. Concurrently, they have been tasked to enable all prior authorizations in a streamlined way, including non-API requests. An enterprise-oriented content management approach addresses both mandates.

KEY TAKEAWAYS

Categories of use cases that are considered in developing accessibility include:

- » In-product accessibility support so that payers can meet or exceed guidelines for multiple brands, plans, and jurisdictions
- » Built-in translation support and the ability to manage multiple languages within a single project
- » A prior authorization solution for providers that cannot use or won't use the required API

What Is a Section 1557 Covered Entity?

In practical terms, entities and organizations subject to the final rule will generally include hospitals, all types of clinics, licensed health insurers, post-acute and long-term care facilities, and ancillary service providers that receive any type of grant, loan, subsidy, contract, or other forms of financial assistance, including Medicare Part B reimbursement. However, the final rule does not apply to any employer or other plan sponsor of a self-insured group health plan, including a board of trustees or an association.

What Operational Changes Are Required of Section 1557 Covered Entities?

Provide Meaningful Access to Individuals with Limited English Proficiency

By July 5, 2024 (and enforced one year after the effective date), Section 1557 requires 1557 covered entities to:

- » Take reasonable steps to provide meaningful access to individuals with limited English proficiency (LEP) who are eligible to be served or likely to be directly affected by health programs and activities.
- » Provide timely and accurate language assistance services at no charge, and notice thereof, in a manner that protects the privacy and independent decision-making ability of the individual with LEP. This means:
 - Offer a qualified interpreter in health programs and activities when there is a requirement for interpretation services.
 - Provide translation of “vital written materials” in the languages spoken by the lesser of 5% of the population served or 1,000 individuals. This means:
 - ◆ Translate key documents into any non-English language spoken by at least 5% of the population or 1,000 individuals, whichever is smaller, in the service area.
 - ◆ Include taglines in at least the top 15 languages spoken by LEP individuals in the state or service area, informing members about free language assistance services.

“Vital written materials” include policy documents (benefit booklets and ANOCs), explanations of benefits (EOBs), and notices and notifications — essentially anything that informs a member or patient about available benefits or services.

Ensure Effective Communication with Individuals with Disabilities

By July 5, 2024 (and enforced one year after the effective date), Section 1557 requires 1557 covered entities to take appropriate steps to ensure that communication with individuals with disabilities and companions of those with disabilities is as effective as communication with individuals without disabilities in their health programs and activities. The final rule now mandates further efforts in effective communication with individuals with disabilities by:

- » Requiring the provision of appropriate auxiliary aids and services, which means:
 - Make documents available in braille, large print, and audio formats.
 - Ensure digital materials are accessible, such as screen reader compatibility.

To maintain compliance with the final rule, 1557 covered entities must adopt policies and procedures regarding the provision of language assistance services for people with LEP and ensure effective communication and reasonable modifications for people with disabilities no later than July 5, 2025.

Make Reasonable Efforts to Mitigate Discrimination in the Use of Patient Care Decision Support Tools

By May 1, 2025, the final rule prohibits 1557 covered entities from discriminating against any individual on the basis of race, color, national origin, sex, age, or disability in the use and implementation of patient care decision support tools. Decision support tools include automated, augmented, and nonautomated decision-making technology, mechanisms, methods, software, and algorithms to support patient care. This means:

- » Include notices that outline members' rights under Section 1557.
- » Inform members of the available language and disability assistance services.
- » Create a list of any electronic and written translated materials the covered entity has and the languages they are translated into, date of issuance, and how to access electronic translations.

What Standards Are We Talking About?

The Web Content Accessibility Guidelines (WCAG) is a set of internationally recognized guidelines that the World Wide Web Consortium (W3C) developed under its Web Accessibility Initiative (WAI). WCAG provide advice to web content authors, designers, and developers on ensuring that the resources they produce are as accessible as possible to as many people as possible, regardless of any disability they have, such as visual impairment, hearing loss, learning difficulties, or age-related limitations. For example, describing an image (or any other nontext content) by using the "alt" attribute in HTML greatly benefits people who are blind or partially sighted. The attribute can either convert a textual description into speech output or transmit it to electronic, refreshable braille displays. In addition, WCAG 2.1 can provide advantages for other beneficiaries, including people who may be considered situationally disabled. These are individuals who, because of circumstances such as browsing technology, network connection speed, or browsing environment, may experience barriers similar to people with disabilities.

PDF/Universal Accessibility (PDF/UA), formally ISO 14289, is an International Organization for Standardization (ISO) standard for accessible PDF technology. A technical specification intended for developers implementing PDF writing and processing software, PDF/UA provides definitive terms and requirements for accessibility in PDF documents and applications. For those with appropriate software, conformance with PDF/UA ensures accessibility for people with disabilities who use assistive technology, such as screen readers, screen magnifiers, and joysticks, to navigate and read electronic content. PDF/UA is not a separate file format but simply a way to use the familiar PDF format that Adobe Systems invented and is now standardized.

While it is true that all PDF/UA files are PDFs, it is not accurate to say that all PDFs, including PDF/UA files, are accessible. Care must be taken to ensure that PDF files meet accessibility guidelines (e.g., Section 508 of the Rehabilitation Act/VPATS). Communication software tools must include functionality to create accessible PDF files. Accessible PDFs include, but are not limited to, the following characteristics:

- » Searchable text

- » Fonts that allow characters to be extracted to text
- » Other interactive features — hyperlinks and navigational aids
- » Document language and title indication
- » Security that will not interfere with assistive technology
- » Document structure tags and proper reading order
- » Alternative text descriptions for nontext elements

Prior Authorization Regulation

As part of CMS-0057-F, CMS finalized proposals for payers to implement and maintain an application programming interface (API) to support and streamline prior authorization (PA) processes, respond to requests within certain time frames, provide specific reasons for denials, and publicly report on approvals, denials, and appeals. The compliance date for the PA API is January 1, 2027. However, the compliance date for the reporting requirements is January 1, 2026 — a full year earlier. CMS made no distinction as to the method of PA receipt for the reporting requirements.

CMS also finalized proposals to establish certain requirements for the PA process whether or not the payer receives the request through the PA API. It is important to note that the PA business process improvements, or those provisions that do not require API development or enhancement, include:

- » The requirement to communicate a specific reason for a denial
- » The need for reduced decision time frames for standard and expedited PA decisions
- » Public reporting of certain PA metrics that will enhance transparency, including the percentages of prior authorizations that were processed, approved, and denied

Benefits

Health plans want to differentiate based on customer experience and employee experience while meeting regulatory requirements and operational service-level agreements. Both mandates give payers the opportunity to streamline using content management software. Whether prior authorization, enrollment, and onboarding experiences or minimizing claims processing issues, enterprise-based content management software provides comprehensive, versatile solutions for member journeys and use cases.

Considerations

Accessibility

The implementation of accessibility does not have to be a point solution construct. This can be a reason to clean up islands of local content in an enterprise way. To implement this mandated initiative, healthcare payers are reassessing

their entire approach to content management and should select vendors and partners that address the considerations discussed in the sections that follow.

SaaS/Cloud Approach at Scale

Enabling business users to create and manage content without IT is the goal of corporate communications. IT cannot be involved in every communication, nor every language, standard, brand, or jurisdiction that a payer interacts with. Therefore, the idea of a "content factory," where content is consistently loaded, curated, stored, accessed, and archived, is becoming popular. These accessibility requirements can be the driver for a complete rethink of how content is enabled in a payer.

Dynamic Template with a Reusable Components Approach

Manage content effectively by starting with a template and using that template at point of design. This approach can centrally apply enterprise branding (layouts and style sets), member-specific data integration, and language variance. This allows for simplified change management and versioning.

Accessible PDFs and Communications That Can Be Effectively Read by a Screen Reader

Ensure communications can also be exported in an XML format that can then be ingested into third-party solutions for transformation into braille, large print, and other formats that may be required.

Infusing Accessibility Either Pre-Production or Post-Production

Enable accessibility in either an in-house uniformity effort as the document is produced or enable conversion of documents to make them accessible at point of demand.

Digital Forms Offering a Range of Tools That Can Offset a Member's Physical Disabilities or Impairments

Empowering the ability to include images with alternative text or build a question sequence that guides the member experience (and avoids ever having to reference a specific place within a form) is a small but significant step toward creating accessible data collection processes. This can be particularly powerful if a form is a front-end to a low-code process (e.g., in Appian, Pegasystems) that needs to have structured data provided.

Compensating for Various Reading Levels by Including "Helper Text"

Offer clarification and data validation messages to help the members feel confident that what they are providing in the form is correct and will take them to the next desired step in the process.

Melding Accessibility Support into Brand, Jurisdiction, and Language Solutions

For years, many companies have had a requirement to alter content based on diverse brands, geographic regions, and different languages. Accessibility requirements are similar to these obligations and are similarly handled. An example of this is using business rules in a common repository. Wrapping paragraphs of content in conditional logic stored in a common enterprise repository is an advanced way to share content in a variety of contexts.

Prior Authorization

The providers that choose not to (or cannot) use the API vehicle to submit their prior authorization requests require addressing and streamlining (and metrics counted) as per the mandate. Establishing intelligent forms that can do

member, policy, and provider lookups, as found in content management software, enables a standard interface and flexible forms and workflow as this legislation evolves.

Payer organizations are also using the CMS mandate as a reason to enhance member-360, workflow, and reporting. In the race for funding dollars in a cost-squeezed payer industry, back-office operational improvements rarely get high priority, competing against flashier initiatives for funding. The CMS mandate gives payers the excuse to stress stewardship, data management, care and utilization management integration, a data platform, a ubiquitous workflow, and mail room/fax transformation.

Trends

Accessibility

Generative AI Writing Assistance

AI writing tools can help improve and speed up writing by generating content and proofreading for writing basics, such as spelling, grammar, and punctuation. They can also provide first-pass machine translation of content for human review.

Content Intelligence

Analysis of the ease of readability and sentiment in the context of evolving accessibility standards can provide quantitative scores to show how accessible content appears to a variety of readers.

Prior Authorization

Prior authorization as a concept — and PA solutions — has advanced to include:

- » Capturing metrics about the payer organization's and provider's authorization performance, particularly ones required by mandate
- » Breaking out some specialty drugs or disciplines (oncology, musculoskeletal, etc.) into specialized procedures, protocols, third-party organizational carve-outs, and technologies
- » Using the authorization process to trigger analytics to identify candidates for clinical trials, care management, wellness management, or other disease management programs
- » Identifying potential providers for “gold carding” (the gold card indicates that the providers consistently meet prior authorization requirements and, therefore, recipients will not delay their patients' care)
- » Using multiple policy sources to determine prior authorization decisions

Conclusion

The most appropriate path for payers in achieving both of the mandated initiatives seems to be establishing an overall vision and road map of the enterprise's approach and then modularly implementing sections of the necessary technology architecture.

Payers have an opportunity to collectively meet the mandates and clean up their fragmented approaches to content management in websites, policy management, member communications, and non-API prior authorization submission. Payers are going to spend the money to meet the mandates; the question is whether they will add to the enterprise's fragmentation or further centralize content and data management.

In 2025, payers are going to spend the money to meet the accessibility and prior authorization mandates; the question is whether they will add to the enterprise's fragmentation or further centralize content and data management.

About the Analyst



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Jeff Rivkin is research director of Payer IT Strategies for IDC Health Insights. In this role, he is responsible for research coverage on payer business and technology priorities; constituent and consumer engagement strategies; technology and business implications for consumer engagement; front-, middle-, and back-office functions; value-based reimbursement; risk; and quality-based payment and incentive programs, among other trends and technologies important to the payer community.

MESSAGE FROM THE SPONSOR

Smart Communications' Conversation Cloud platform enables health payers, providers and life sciences companies to deliver personalized, consistent, and compliant customer conversations across all touchpoints and channels.

With built-in support for accessibility and language translations — including AI-enabled machine translation, approval workflows, and content analysis tools — our SmartCOMM solution can help you meet accessibility and LEP requirements.

Our SmartIQ solution streamlines prior authorizations for providers who cannot or will not use your PA API, while meeting all reporting requirements. It also provides tools for making your PA digital experience accessible and available in multiple languages.

For more information, please visit: <https://www.smartcommunications.com/industry-solutions/healthcare-payers/>.



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