

Medicare Advantage: Rates & RADV Focus at JPM

Our Take & What the Companies Said

This week, we participated in the 41st Annual J.P. Morgan Healthcare Conference in San Francisco, California. We wanted to highlight our take and commentary made by insurers & value-based companies on Medicare Advantage – both MA rates & RADV expectations. Companies in attendance included CI, CNC, HUM, CVS, PRVA, and AGL.

- **Final RADV rule is expected to be released the first week of Feb.** We do not think the rules will be delayed any further. If the RADV regulation is not released on February 1, the final rule will likely be released over that first ten days, or so, of February. We think that the audit process may be set to start fairly soon after release.
- **Our take on the three main issues.** As we have discussed in prior analyses, there are three key levers to watch in the final rule (see [here](#)).
 - **FFS Adjuster (FFSA).** CMS has said that the application of the FFSA is not necessary, which plans argue against. CMS commissioned a study and looked for differences between its unaudited and audited models. The agency subsequently announced it believes there is no need for FFSA. **We think that there may be a small adjuster, that would be a concession to plans. MA plans would like a double digit adjuster, so depending on the magnitude it may not be adequate to assuage plans.**
 - **Retroactive (vs. Prospective) audits.** There is regulatory text that allows CMS to extrapolate the results from the audits, going as far back as 2011. Some argue the agency has always had the authority to look back. The plan community would have a strong argument, in our view, to solely make RADV prospective, and/or go back only a handful of years. **We think that it is very possible that CMS recoups prior years, but likely not beyond 5 years back.**
 - **Extrapolation.** There is n=200 (sample size) for audits. Basically, 200 persons are selected, and the auditors ask plans to provide up to 5 medical records to validate whether the Hierarchical Condition Category (HCC) is supported by any of the medical records. Medical records must be from medical providers and signed i.e., from i/p, o/p and physician. A radiology claim, for instance, would not be allowed. CMS uses a contractor to conduct reviews. **We think the best case would be that the extrapolation occurs at the contract level, rather than a small sliver of error rates being applied to an entire book of business.**
- **Value-based care providers also chime in on RADV, noting less concern given airtight practices.** Companies across the board expressed similar sentiment to one another, holding out hope that the government considers the changes they submitted during the 1-month comment period (2019). Physician enablement companies are confident that the industry overall has done a good job making sure that they have sound practices. agilon, Oak Street, Privia, aledade and others are participating in the conference this week.
- **Major payers -- Centene, Humana, CVS, Cigna -- are on the same RADV page and HUM indicates Congressional fixes & litigation if not satisfied.** Humana indicates that if industry asks are not satisfied, they may resort to Congressional legislation in response, or litigation as a last resort. Litigation may take several years. It is unknown if there would be a legal 'stay' placed on the audits until litigation is resolved.

- **Payers would take the hit instead of physician enablement companies.** Both agilon and Privia indicate that they would likely not feel direct impact of the audit results. agilon notes that the clawback does not pose a significant risk. They are responsible for the codes submitted, but since the government is working its way back from 2015, things will take a long time to play out. Privia states that it has faith that the federal government will not “rip the rug out from under” the industry overall, yet noting that government programs morph over time.
- **Payers expect pressure from the 2024 MA rate environment, and we certainly do not expect a negative rate but more like +2-4% (versus +4-7% in prior years).** Cigna and Centene were hesitant to speculate on the 2024 MA rate environment. However, Humana and CVS Health indicated that while they have benefited in the past from favorable rate notices, they do not anticipate a 4%+ rate environment, as in past years. They acknowledged added complexities such as inflationary pressures and COVID costs as potential influences on 2024 rates.
- **NEXT STEPS:** We are keeping an eye out for the final rule on RADV audit rules, which have cleared OMB, to be released in the next few weeks. The 2024 Medicare Advantage proposed rate notice is also expected to be released by CMS in that same timeframe. The rates will likely be released around the same time as the RADV rules, possibly even in the same week. By mid-February, we will have more certainty in the MA space.