



**MEDICARE DRUG & HEALTH PLAN CONTRACT ADMINISTRATION GROUP**

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**DATE:** November 15, 2023

**TO:** Medicare Advantage Organizations  
Medicare-Medicaid Plans

**FROM:** Kathryn A. Coleman  
Director

**SUBJECT:** Additional Operational Instruction on the Utilization Management Committee Structure

Since the finalization of the [CY 2024 final rule](#), CMS has received feedback regarding the requirement for the Utilization Management (UM) committee to be formed at the Medicare Advantage (MA) organization or plan level, specifically where multiple MA organizations share a parent organization. This memorandum provides additional operational instruction regarding the structure of the UM committee and the options available to parent organizations, MA organizations, and MA plans.

In the “Medicare Program; Contract Year 2024 Policy and Technical Changes to the Medicare Advantage Program, Medicare Prescription Drug Benefit Program, Medicare Cost Plan Program, and Programs of All-Inclusive Care for the Elderly” final rule, which appeared in the Federal Register on April, 12, 2023 (88 FR 22120) hereinafter referred to as the “CY2024 final rule,” CMS finalized regulations at § 422.137(a) that require MA organizations that use UM policies and procedures to establish a UM committee that is led by a plan's medical director. Additionally, as finalized at § 422.137(b), the CY2024 rule establishes that an MA organization may not use any UM policies and procedures for basic or supplemental benefits on or after January 1, 2024, unless those policies and procedures have been reviewed and approved by the UM committee.

In the proposed rule,<sup>1</sup> CMS solicited comment on whether to permit an MA organization, or the parent organization of one or more MA organizations, to use one UM committee to serve multiple MA plans. While we received many comments supporting the use of one UM committee to serve multiple plans, commenters did not explicitly provide support for allowing one UM committee to serve multiple MA organizations. CMS decided to allow MA organizations the discretion regarding whether the UM committee is best situated at the MA organization or MA plan level. CMS noted in the CY2024 final rule that this same flexibility

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<sup>1</sup> 87 FR 79507, 88 FR 22213.

does not extend to parent organizations. In other words, a single UM committee could not serve multiple MA organizations.<sup>2</sup>

CMS believes that a UM committee established at the MA organization level appropriately aligns with how MA contracts and MA plans are structured. Generally, MA contracts cover specific regions to be consistent with the state license(s) held by the MA organization. A UM committee that serves a regional area would be more able to evaluate the localized nature of many UM policies and coverage criteria. Such committees would also be similar to how Medicare Administrative Contracts (MACs) operate in Traditional Medicare by serving specific regions. Local Coverage Determinations issued by the MACs apply to the MAC's specific region and vary from region to region, much like how UM policies and practices may vary by region. In addition, although it is not a requirement for UM committees to consult with contracted providers, we encourage them to do so. Provider networks are generally evaluated and used at the contract level for MA plans. Formation of the UM committee at the MA organization level is consistent with how § 422.136(b) allows an MA–PD plan to utilize an existing Part D Pharmacy & Therapeutics (P&T) committee established for purposes of administration of the Part D benefit under 42 CFR part 423, and an MA plan may utilize an existing Part D P&T committee established by an MA–PD plan operated under the same contract as the MA plan.

Since issuing the CY2024 final rule, CMS has received feedback regarding the level of burden involved with requiring the UM committee to be formed at the MA plan or MA organization level, specifically where multiple MA organizations share a parent organization. Therefore, CMS would like to offer additional clarification regarding the structure of the UM committee and the options available to parent organizations, MA organizations, and MA plans. In some cases, it may be appropriate for parent organizations to establish multiple UM committees with substantially the same membership. If all regulatory requirements, including UM committee membership requirements, are satisfied, then it may be appropriate for the same group of members to serve on the UM committees for multiple MA organizations. Since there are no requirements regarding how many individuals may serve on the UM committee, CMS believes that MA organizations and parent organizations have sufficient flexibility to establish UM committees, while also complying with all regulatory requirements. For example, a parent organization may choose to have one core group of UM committee members that serve across multiple committees under the subsidiary MA organizations, while also supplementing those committees with additional personnel based on which UM policies or procedures the UM committee must review. Further, as outlined in the CY2024 final rule, MA organizations are permitted to leverage existing committees to satisfy the new regulatory requirement. MA organizations may adapt or alter existing committees, including committees required by

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<sup>2</sup> 88 FR 22213. The MA organization is the legal entity that holds the MA contract with CMS. Pursuant to 42 CFR § 422.2, MA organization means “a public or private entity organized and licensed by a State as a risk-bearing entity (with the exception of provider-sponsored organizations receiving waivers) that is certified by CMS as meeting the MA contract requirements.” Parent organization means “the legal entity that exercises a controlling interest, through the ownership of shares, the power to appoint voting board members, or other means, in a Part D sponsor or MA organization, directly or through a subsidiary or subsidiaries, and which is not itself a subsidiary of any other legal entity.”

accrediting bodies and existing P&T committees, to conform with the regulatory requirements of § 422.137.

While all regulatory requirements of § 422.137 will become effective January 1, 2024, CMS would like to draw attention to the following requirements in particular:

- Medical Director – the UM committee must be led by a plan’s medical director. This means the medical director of one of the plans served by the MA organization. If a parent organization uses substantially the same members to serve on multiple committees, then the parent organization would need to ensure that the appropriate medical director is leading the UM committees.
- Conflict of Interest – The UM committee must include at least one practicing physician who is independent and free of conflict relative to the MA organization and MA plan served by the UM committee.
- Committee Responsibilities – The UM committee must document the reasoning for its decisions regarding UM policies and procedures and make that information available to CMS upon request. As outlined in the CY2024 final rule, documentation should provide CMS with an understanding of the UM committee's rationale for their decision, and may include, but is not limited to, information such as meeting minutes outlining issues discussed and any relevant supporting documentation. If a parent organization uses substantially the same members to serve on multiple committees, then the documentation would need to clearly indicate and delineate between what policies apply to all plans, and which policies apply to specific/regional plans and/or MA organizations.

If you have any questions, please submit an inquiry to the Part C Policy portal at: [dpap.lmi.org](https://dpap.lmi.org)