

# Publications

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## House Panel Moves to Block CMS's AI-Driven Prior Authorization Program: What the WISeR Rider Could Mean for Providers

### Key Takeaways

- The House Appropriations Committee approved a rider June 9 that would block FY 2027 funding for CMS's WISeR model. Unless the rider becomes law, however, the AI-driven prior authorization program will remain active in the six states where it currently operates.
- The rider could halt WISeR for FY 2027, but several legislative paths remain in play. Senate negotiations, a conference agreement or a continuing resolution could allow the program to continue, meaning providers should assume WISeR requirements remain in effect for now.
- Providers should continue documenting WISeR non-affirmations, appeals, outcomes and operational burdens. Those records may prove valuable for compliance efforts, litigation strategy and legislative advocacy as scrutiny of the program continues.

On June 9, 2026, the House Appropriations Committee approved a rider to the FY 2027 Department of Health and Human Services (HHS) spending bill that would prohibit all federal funding in FY 2027 for CMS's Wasteful and Inappropriate Services Reduction (WISeR) model, the AI-driven prior authorization program currently operating in six states. For the thousands of providers navigating WISeR's opaque denial engine, this is a significant development. But it is not yet a victory. The legislative path ahead is uncertain, and WISeR remains active policy today. In this alert, we explain what the proposed rider would do, why WISeR remains active for now and what providers should be doing as the legislative process unfolds.

### What Is WISeR?

Launched Jan. 1, 2026, by the CMS Innovation Center (CMMI), WISeR delegates Medicare prior authorization and pre-payment review for select high-cost services — skin and tissue substitutes, implantable electrical nerve stimulators and knee arthroscopy — to private AI vendors compensated on a contingency basis for the denials they generate. The program operates in Arizona, New Jersey, Ohio, Oklahoma, Texas and Washington, and it runs through Dec. 31, 2031. Providers who decline participation are not exempt: they face the same AI tool applied to post-payment review. Early data from Texas shows

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only a 62% initial approval rate under the AI — compared to a 92% national average — underscoring the program’s real-world impact on provider revenue and patient access.

## What the WISeR Rider Legislation Says

The rider contains two distinct components, each carrying different legal weight.

The **statutory prohibition** reads: *“None of the funds made available in this Act or any other Act may be used to implement CMS-5056-N...or any such model that implements prior authorizations in traditional Medicare.”* If enacted, this would mean a hard stop in FY 2027 — no agency discretion, no phased wind-down, no workaround.

The **report language** is non-binding but politically powerful. The Committee “notes concern with CMS’ Wasteful and Inappropriate Service Reduction (WISeR) Model, which may create burdens and delays for patients and providers,” calls for “robust congressional oversight and transparent evaluation of impacts on beneficiary access to care, provider burden, and program costs,” and directs CMS to report on pilot impacts and state selection methodology in its FY 2028 Congressional justification. Agencies routinely heed appropriations report language — even without a legal obligation to do so.

## What The WISeR Funding Rider Means For Providers Right Now

WISeR is still active. The rider has passed the House Appropriations Committee but has not been enacted. Three scenarios are in play:

1. **Rider survives into law:** WISeR halts through FY 2027, the duration of this spending measure. Prior authorizations under CMS-5056-N cease.
2. **Rider is stripped in Senate negotiations:** WISeR continues uninterrupted through 2031.
3. **No enacted bill by Oct. 1, 2026:** Congress must pass a Continuing Resolution funding the government at current FY 2026 levels and policies. Congress may choose to insert certain riders as part of this short-term patch or, more likely, may opt for a “clean” continuation of current spending law until it passes a final FY 2027 bill.

Providers should not stand down on compliance. Continue documenting all WISeR non-affirmations, appeals and outcomes, as this record will matter for both litigation and legislative advocacy — regardless of which scenario unfolds.

## The Broader Picture

Congressional pressure is one front in a multi-front challenge to WISeR. In May 2026, the GAO ruled that WISeR qualifies as a “rule” under the Congressional Review Act, meaning CMS failed to submit it to Congress before launch. The Electronic Frontier Foundation has pending FOIA litigation demanding disclosure of AI methodology and vendor contracts. The *Ban AI Denials in Medicare Act* remains pending in Congress and a Congressional Review Act resolution introduced in both the U.S. House and Senate formally would disapprove of, and overturn, WISeR. And APA-based legal challenges — targeting WISeR’s potentially having arbitrary and capricious AI outputs, due process deficiencies and the structural conflict created by contingency-fee vendor compensation — continue to develop.

## Action Items For Providers Facing WISeR Prior Authorization

A few practical steps now can help providers preserve options and prepare for whichever path WISeR takes in the months ahead:

- **Monitor the Senate** for floor action on the FY 2027 HHS bill and any conference report language.
- **Preserve documentation** of all WISeR non-affirmations, appeal outcomes and operational burdens.
- **Evaluate your appeal posture.** Legal challenges to WISeR remain viable independent of the legislative outcome.
- **Contact counsel** with questions about WISeR compliance, appeal strategy or advocacy options.

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