

PATIENTS AND PEOPLE WITH DISABILITIES OPPOSE REFERENCING CANADIAN POLICIES

The Quality-Adjusted Life Year is a Discriminatory Metric: The quality-adjusted life year, or QALY, is a metric commonly used to determine the value of a health care treatment. To calculate a QALY, you must assign a value to a person's life and to the incremental improvement in quality of life with treatment. The value assigned to seniors, the chronically ill, or people with disabilities is lower than that of a young, healthy person and does not capture how people living with a condition value quality of life improvements. Therefore, QALYs often lead policymakers and payers to conclude that treatments for seniors, patients with chronic conditions or people with disabilities are not worth it.

Foreign Governments, including Canada, Utilize Discriminatory Metrics such as QALYs: Canada has several layers of assessment in which QALYs and other one-size fits all metrics are used. Before applying for coverage by the 5 different Canadian provinces, all drugs must complete a Common Drug Review by CADTH, a Canadian entity that references QALYs. The provinces may then conduct additional QALY-based assessment. The Canadian Patented Medicine Prices Review Board also explicitly establishes prices based on a cost-utility analysis model in which health outcomes are expressed as QALYs. In Canada, the outcome of relying on such a discriminatory metric is that many individuals living with disabilities are unable to receive the treatments and care they need.

The National Council on Disability Opposes Referencing Foreign Prices: The independent federal agency, the National Council on Disability, has made strong recommendations to policymakers against referencing QALYs, including a recommendation not to reference prices established in other countries. The NCD stated in its 2019 report on QALYs, "Several of these countries utilize QALYs to make benefits and coverage decisions. The coverage denials and loss of access to care faced by people with disabilities in these countries illustrate what might happen if the United States made a similar choice." Most recently, the NCD sent a letter to the Centers for Medicare and Medicaid Services on January 19, 2021, opposing an Interim Final Rule that would have referenced international prices in Medicare, stating, "Concerns about the discriminatory impact of the QALY on patients overseas led to its prohibition in the United States. The Affordable Care Act of 2010 (ACA) prohibits the Secretary of HHS from using the QALY, or similar measure, to determine coverage, reimbursement, or incentive programs under the Medicare program. In addition, HHS' regulation implementing Section 504 of the Rehabilitation Act prohibits discrimination on the basis of disability in all programs or activities conducted by HHS. Simply put, CMS cannot adopt foreign countries' drug prices that are determined by reliance on the QALY for the Medicare program."

Reference to QALYs is Inconsistent with Federal Civil Rights Law: Similarly, NCD pointed out in its 2019 report that Section 504 of the Rehabilitation Act and Section 1557 of the Affordable Care Act also apply to Medicaid programs because they receive federal financial assistance, calling for guidance on how these authorities apply to benefits and reimbursement decisions, and stating that payment decisions should not rely on cost-effectiveness research or reports that are developed using QALYs. State policymakers should consider that the United States has a thirty-year, bipartisan track record of opposing the use of the QALY and similar discriminatory metrics and has established legal safeguards to mitigate their use in Medicare and by precedent in denying a state Medicaid waiver relying on QALYs in 1992 due to its potential for violating the Americans with Disabilities Act.