



OFFICE OF
INSURANCE COMMISSIONER

EMERGENCY ORDER NO. 21-02

TO: ALL HEALTH CARRIERS AUTHORIZED OR ADMITTED TO OFFER HEALTH PLANS IN WASHINGTON STATE THAT ARE REGULATED BY THE INSURANCE COMMISSIONER

FROM: MIKE KREIDLER, INSURANCE COMMISSIONER

RE: PROVIDING FOR COVERAGE FOR MEDICAL PROVIDER CONSULTATIONS REGARDING COVID-19 VACCINATION

PURSUANT TO RCW 48.02.060(4), the Insurance Commissioner of the state of Washington (“Insurance Commissioner”) orders all health carriers authorized or admitted to offer health plans in Washington State that are regulated by the Insurance Commissioner (hereafter “Carriers”), as follows:

- A. While this Order is in effect, all Carriers shall cover consultations related to receiving vaccination against COVID-19 as preventive services as provided in this Order.
- B. Carriers shall not require copayments, deductibles, or other forms of cost sharing, unless the health plan is offered as a qualifying health plan for a health savings account. For such a qualifying health plan, the Carrier must establish the plan's cost sharing for the coverage required by this Order at the minimum level necessary to preserve the enrollee's ability to claim tax exempt contributions and withdrawals from their health savings account under internal revenue service laws and regulations.
- C. Consultations are only subject to this Order if they relate to obtaining vaccination against COVID-19.
- D. This Order applies to consultations that meet the following conditions:
 1. The consultation is conducted by a participating medical provider, as defined in RCW 48.43.005 and consistent with the procedure codes listed in this paragraph. For purposes of this Order, “medical provider” does not include providers of pharmacy services.
 2. The participating medical provider has checked a patient’s vaccination status in the provider’s medical records and the Washington State Immunization Information System (WAIIS) database and there is not an indication that the patient is fully vaccinated and has queried the patient when initiating the consultation to confirm that the patient is not yet fully vaccinated.

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3. The participating medical provider has an established relationship with the patient that includes at least one in-person appointment within the past three years with the provider or another provider employed at the same clinic.
 4. A discussion between the participating medical provider and patient has actually occurred via a contemporaneous conversation between the provider and the patient, either in-person or by live electronic communication by voice, such as a phone call or teleconference. Written correspondence, voice message, text message, facsimile, e-mail, or internet chat are not eligible for coverage under this Order.
 5. For consultations provided by audio-only telemedicine, the provisions of ESHB 1196 (amending RCW 48.43.735) apply upon its effective date of July 25, 2021. This includes the requirement in RCW 48.43.735(8)(a) that, if a medical provider intends to bill a patient or the patient's health plan for an audio-only telemedicine service, the medical provider must obtain patient consent for the billing in advance of the service being delivered.
 6. The participating medical provider has billed for no more than two consultations for a patient. The claim for COVID-19 vaccine consultation includes diagnosis code Z71.89 in the primary position and is billed using one of the following Common Procedural Terminology (CPT) codes:
 - a. CPT Code 99401 – in-person consultation and available for audio and visual telehealth visits.
 - b. CPT Code 99441 – audio-only (telephone) counseling for physicians.
 - c. CPT Code 98966 – audio-only (telephone) counseling for non-physicians (Medical Assistants, Nurses, etc.).
- E. A Carrier may not deny a claim for a consultation that meets the conditions described in paragraph D of this Order based upon the Carrier's knowledge of an enrollee's COVID-19 vaccination status.
- F. For consultations subject to this Order, a Carrier is not required to include payment for a facility fee associated with a provider-based clinic, as defined in RCW 70.01.040.
- G. Carriers must begin accepting claims from participating medical providers submitted under this Order by July 1, 2021, for dates of service beginning on the effective date of this Order.
- H. In implementing this Order, Carriers may continue to employ existing programs designed to detect and address fraud and abuse.

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BASIS

1. On February 29, 2020, the Governor issued Proclamation 20-05 declaring an emergency related to the COVID-19 outbreak. The proclamation provides in pertinent part as follows (emphasis added):

I, Jay Inslee, Governor of the state of Washington, as a result of the above-noted situation, and under Chapters 38.08, 38.52 and 43.06 RCW, do hereby proclaim that a State of Emergency exists in all counties in the state of Washington, and direct the plans and procedures of the Washington State Comprehensive Emergency Management Plan be implemented. State agencies and departments are directed to utilize state resources and to do everything reasonably possible to assist affected political subdivisions in an effort to respond to and recover from the outbreak.

2. On May 13, 2021, Governor Inslee announced an update to the statewide Roadmap to Recovery, identifying a seventy percent (70%) vaccination rate as the benchmark for reopening the state from COVID-19 restrictions.
3. Similarly, on June 2, 2021, President Biden announced a nationwide initiative to ensure that 70% of Americans receive at least one vaccine shot by July 4, 2021, noting that, as a result of the ongoing vaccination efforts, COVID-19 cases and deaths have plummeted – cases are down over 90% and deaths are down over 85% since January 20, 2021.
4. While Washington’s vaccination program continues to be a relative success, nationwide the overall rate of vaccination currently falls short of the 70% threshold identified by medical experts and government officials as the goal for achieving a significant reduction in community transmission of COVID-19 and a degree of herd immunity.
5. In particular, as of June 14, 2021, the Washington state Department of Health’s COVID-19 Data Dashboard showed that 63% of the population over age twelve had initiated vaccination, while only 55.7 % were considered “fully vaccinated.”
6. Multiple avenues of research have identified vaccine hesitancy as a significant obstacle to achieving the desirable level of vaccination across the full population. However, a growing body of research also demonstrates that a substantial number of the remaining unvaccinated adults are potentially persuadable to get a COVID-19 vaccine.
7. The Kaiser Family Foundation’s COVID-19 Vaccine Monitor report of June 11, 2021 found that 12% of all adults nationwide are in the “wait and see” category of vaccine intention, being potentially willing to get a vaccine from a source they can trust, among other circumstances.

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8. State-specific aggregate data compiled by The Commonwealth Fund, including Vaccine Hesitancy Estimates data provided by ASPE within HHS, was published on June 1, 2021. This data indicated about 10% of Washingtonians were hesitant or unsure about receiving a COVID-19 vaccine, as well as 18% of Washingtonians that were not hesitant but had not yet initiated vaccination.
9. These findings suggest that targeted outreach to such individuals by trusted sources, such as a personal physician or family doctor, may be able to persuade unvaccinated individuals to initiate or complete the vaccination process, with commensurate benefits to public health by ending the COVID-19 outbreak and COVID-19 restrictions in Washington state.
10. The COVID-19 outbreak continues to harm the health, safety and welfare of Washington citizens who have been rendered ill or whose lives or employment have been otherwise disrupted by the outbreak.
11. The geographical extent of this state of emergency is the entire state of Washington.
12. RCW 48.02.060(4)(d) provides in pertinent part that, when the Governor proclaims a state of emergency under RCW 43.06.010(12), the Insurance Commissioner may issue an order that addresses any or all of the following matters related to insurance policies issued in this state: (d) medical coverage related to access to care.
13. RCW 48.02.060(5) provides that an order by the Insurance Commissioner under subsection (4) of this section may remain effective for not more than sixty (60) days unless the Insurance Commissioner extends the termination date for the order for an additional period of not more than thirty (30) days. The Insurance Commissioner may extend the order if, in the Insurance Commissioner's judgment, the circumstances warrant an extension. An order of the Insurance Commissioner under subsection (4) of this section is not effective after the related state of emergency is terminated by proclamation of the Governor under RCW 43.06.210. The order must specify, by line of insurance: (a) the geographic areas in which the order applies, which must be within but may be less extensive than the geographic area specified in the Governor's proclamation of a state of emergency and must be specific according to an appropriate means of delineation, such as the United States postal service zip codes or other appropriate means; and (b) the date on which the order becomes effective and the date on which the order terminates.
14. Emergency action by the Insurance Commissioner is necessary to protect the health, safety and welfare of Washington citizens affected by the COVID-19 outbreak in the state of Washington.

ORDER

NOW, THEREFORE, the Insurance Commissioner hereby activates the provisions of RCW 48.02.060(4)(d) in order to protect the health, safety and welfare of Washington citizens affected by the

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COVID-19 outbreak in the state of Washington, as set forth above. The geographical extent of this Emergency Order is the entire state of Washington.

This Order shall remain in effect until **August 20, 2021**, subject to the further order of the Insurance Commissioner extending its effect.

THIS ORDER IS EFFECTIVE IMMEDIATELY AND IS ENTERED at Olympia, Washington, this
24th day of June, 2021.

A handwritten signature in black ink that reads "Mike Kreidler". The signature is written in a cursive, flowing style.

MIKE KREIDLER
Insurance Commissioner