



August 12, 2021

Ms. Jane Beyer
Washington State Office of the Insurance Commissioner
P.O. Box 40258
Olympia, WA 98504
rulescoordinator@oic.wa.gov

RE: R 2021-06 telemedicine and audio-only telemedicine services stakeholder draft

Dear Ms. Beyer,

On behalf of Cambia Health Solutions family of insurance companies (“Cambia”), including Regence BlueShield, Asuris Northwest Health, BridgeSpan Health Company, Regence BlueCross BlueShield of Oregon, and Regence BlueShield of Idaho, thank you for the opportunity to provide comments on the stakeholder draft for the telemedicine and audio-only telemedicine services rulemaking. We appreciate the OIC considering our previous comments on the CR-101 and incorporating our feedback in this draft. We would like to offer the following additional comments on this stakeholder draft for your consideration.

WAC 284-170-130 Definitions

In Subsection (13)(b), the OIC expanded the circumstances in which a referral is allowed to meet the definition of an “established relationship” in ESHB 1196 to include “...circumstances in which the provider who has had at least one in-person appointment with the covered person participates in the discussion with the provider to whom the covered person has been referred.” It is not clear whether this requires the referring provider to be present along with the audio-only telemedicine provider at the time of the visit or whether the referring provider is required to have a discussion with the audio-only telemedicine provider prior to the visit occurring. We believe the OIC’s intent was the former of the two interpretations and therefore recommend the following revision to the language in Subsection (13)(b):

“(b) The covered person was referred to the provider providing audio-only telemedicine by another provider who has had at least one in-person appointment with the covered person within the past year and has provided relevant medical information to the provider providing audio-only telemedicine. A referral includes circumstances in which the provider who has had at least one in-person appointment with the covered person participates in the ~~discussion~~ **audio-only telemedicine visit** with the provider to whom the covered person has been referred.”

WAC 284-170-433 Provider contracts—Telemedicine

We appreciate the insight you shared at the stakeholder meeting last week that the OIC does not have the authority to regulate providers and therefore is identifying provisions carriers must include in their provider contracts. We understand the OIC's position and thought process, however we are concerned this will add a significant amount of required language to our contracts. Furthermore, our provider contracts already have language that requires providers to follow all applicable local, state, and federal laws and regulations. Most of the proposed language in WAC 284-170-433 in the stakeholder draft is already required under statute (ESHB 1196 and RCW 48.43.735) and therefore it is not necessary to require in provider contracts. Additionally, although we appreciate the new requirements the OIC drafted in Subsection (6)(b)(i)-(iii) surrounding patient consent, we would prefer not to pass these requirements through to providers using our contracts. ESHB 1196 already gives carriers the basis to require patient consent from providers. Additionally, reimbursement for telemedicine services is outlined in our virtual care reimbursement policy. All provider policies are incorporated by reference in our provider contracts and are a more appropriate location to communicate reimbursement policies for specific services.

The new language proposed in subsection (8) is not necessary for carriers to comply with their obligations under the referenced nondiscrimination regulations (WAC 284-43-5940 through 284-43-5965). We agree with the importance of access to telemedicine services for individuals with disabilities or limited-English proficiency and our contracts with providers contain nondiscrimination clauses already. We are concerned with calling out requirements for specific services and/or restating regulatory requirements in provider contracts and respectfully ask that this subsection be removed from the draft rule.

Thank you for considering our comments. Please let me know if you would like to discuss any of our feedback further. I can be reached at Jane.Douthit@Regence.com or (206) 332-5212.

Sincerely,

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

Jane Douthit
Cambia Health Solutions
Sr. Public & Regulatory Affairs Specialist