From: Don Downing
To: Beyer, Jane (OIC)
Subject: Follow-up comments re :ESHB 1196 Stakeholder meeting of July 12, 2021
Date: Tuesday, August 3, 2021 11:45:33 AM

External Email

Hello Jane,

Thank you for entertaining feedback at the July 12, 2021 meeting re: ESHB 1196. You had indicated that you would accept additional comments and I've finally found a moment to respond. I appreciate that ESHB 1196 was intended to primarily add audio-only telemedicine to existing telemedicine rules that excluded audio-only services, but it appears to me that it perhaps inadvertently further complicated the definitions of originating vs distant sites of telemedicine services. I've found that where there is possible confusion, that health plans find ways to deny or complicate payments to providers and thus impede patient access to care. My apologies for the length of this email and perhaps my personal confusion of the facts.

I'm concerned about how definitions within ESHB 1196 are being conflated:

RCW 48.43.735, section 8a defines "**Distant site**": "*means the* ***site at which a physician or other licensed provider****, delivering a professional service,* ***is physically located*** *at the time the service is provided through telemedicine."*

Then in section 8d it defines the "**Originating site**": "means the **physical location of a patient** receiving health care services through telemedicine;"

ESHB 1196 repeats exactly these two definitions in several places, including on page 14, Section 9c and 9f. However, as written, ESHB 1196 lists originating sites as various medical facilities and NOT places where a patient typically is who receives telemedicine services. This begs the question: Why would a patient need telemedicine services if they are already in one of these medical facilities where they could receive in-person services?

Equally incomprehensible is why medical facilities are not listed at all under "Distant site"….the "site at which a physician or other licensed provider…is physically located". Shouldn't the distant site be the place where healthcare facilities are listed, even if sometimes a provider may be providing telemedicine services from their home or somewhere else? I appreciate that OIC rule-making cannot re-write the law, but I'm hoping that ESHB 1196 rule-making will provide clarity to the law.

There appears to be a total conflation of distant site vs originating site throughout ESHB 1996 (and RCW 48.43.735) and it is not fully remedied, in my opinion, by the fact that there is language included in these documents that say telemedicine can be provided at "Home or any location determined by the individual receiving the [telemedicine] service." This language is buried in the extensive list of medical facilities which, again incomprehensively, but by definition, is the location of a patient receiving services via telemedicine…sites where in reality patients receive in-person services…not telemedicine services. In almost all cases, telemedicine services are provided to patients who ARE NOT at medical facilities.

"Distant site" and "Originating site" are defined the same way in all documents but language in ESHB 1196 seems to ignore, if not reverse, these definitions. In my view, any rules promulgated around ESHB 1196 must clarify these discrepancies. Listing of medical facilities as the location where a patient receives telemedicine services is confusing enough in ESHB 1996 but it also implies that the

list of medical facilities is somehow preferred. Schools, pharmacies, and other non-listed facilities may be the preferred and most accessible [distant site] locations of providers for many at-risk individuals. Please tell me if I'm somehow misunderstanding this language in the WACs and RCWs. The remainder of issues discussed at the meeting re: prior consent and "established relationships with providers" are important but it seem to be rationally resolvable. As per my concerns voiced at the meeting, however, I feel that in the name of diversity, equity and inclusion, we must promulgate rules that do not make it more difficult for at-risk individuals to access the care they need. Requiring often unachievable prior established relationships for low-income, low-health literacy, low-mobility individuals may inadvertently exclude them from telemedicine care services that they may need the most.

Sincerely,

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