



September 13, 2022

Ms. Jane Beyer  
Washington State Office of the Insurance Commissioner  
P.O. Box 40258  
Olympia, WA 98504  
Submitted via e-mail to: [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov)

RE: Implementation of E2SHB 1688 Second Prepublication Draft (R 2022-02)

Dear Ms. Beyer,

On behalf of Cambia Health Solutions family of insurance companies, including Regence BlueShield, Asuris Northwest Health, and BridgeSpan Health Company, thank you for the opportunity to provide feedback on the second prepublication draft for the implementation of E2SHB 1688 rulemaking. We would also like to thank the OIC for incorporating feedback from our previous comments on the prepublication draft. We would like to offer the following additional comments on the second prepublication draft for your consideration.

**WAC 284-43B-020 Balance billing prohibition and consumer cost-sharing**

Upon further review of the draft rule and the federal No Surprises Act (NSA), we believe the language in WAC 284-43B-020(1)(a) needs additional revisions to simply and clarify how an enrollee's cost-sharing must be calculated. We recommend the following changes to this subsection:

“The enrollee’s obligation must be calculated as if the total amount charged for the services were equal to the ~~qualifying payment amount, or in the case of air ambulance services~~ the lesser of the qualifying payment amount or the billed ~~charges~~ amount, determined using the methodology for calculating the qualifying payment amount, as determined under sections 2799A-1 and 27991-2 of the public health service act (42 U.S.C. Secs. 300gg-111 and 300gg-112) and federal regulations adopted to implement those provisions of P.L. 116-260.”

**WAC 284-43B-035 Arbitration Initiation and Selection of Arbitrator**

We recommend the following revisions to WAC 284-43B-035(3)(a) to include common National Provider Identifiers to align with the NSA.

“Involve identical carrier and provider, provider group or facility parties. A provider, provider group or facility parties may bundle claims billed using a common federal taxpayer identification number or national provider identifier number ~~on behalf of the provider members of the group.~~”

## **WAC 284-170-280 Network reports—Format**

Sec. 18(3) of E2SHB 1688, now codified as RCW 48.49.135(3), requires a carrier's proposed provider network include a "sufficient number of contracted behavioral health emergency services providers." The definition of "behavioral health emergency services providers" found in RCW 48.43.005(10) includes several types of providers and facilities capable of delivering those services. We supported the first prepublication draft's provisions that required carriers to include behavioral health emergency services providers in their network and demonstrate within a geographic network map that all enrollees have access to behavioral health emergency services within 30 minutes in an urban area and 60 minutes in a rural area. We believe those requirements align with the language and intent of E2SHB 1688. However, in the second prepublication draft, WAC 284-170-280(3)(e)(i)(J) requires carriers to demonstrate that access standard for "...at least three types of behavioral health emergency services providers defined in RCW 48.43.005, one of which must include a mobile rapid response crisis team." We believe requiring 100% enrollee access at the 30/60 minute urban/rural standard for three separate provider types, and specifically to mobile rapid response crisis teams, will be difficult for most commercial carriers to meet. This is especially true in the next few years as the system works to address behavioral health provider shortages and as commercial carriers build their working relationships with these provider types. We also believe it is important to note that because behavioral health emergency services were added to the Balance Billing Protection Act, enrollees are protected and inherently gain access to these services at in-network levels. For those reasons, we respectfully request the OIC revert this subsection back to the first draft language, which sets the access standard at the behavioral health emergency services provider category level.

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](mailto: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