

September 12, 2022

Washington State Office of the Insurance Commissioner
P.O. Box 40258
Olympia, WA 98504-0258
Submitted via email to: rulescoordinator@oic.wa.gov

Re: Comments on R 2022-02 Implementation of E2SHB 1688 second pre-publication draft

Dear Ms. Beyer,

Kaiser Foundation Health Plan of the Northwest, Kaiser Foundation Health Plan of Washington, and Kaiser Foundation Health Plan of Washington Options, Inc. (collectively “Kaiser Permanente”), appreciate the opportunity to provide feedback to the Office of the Insurance Commissioner (“OIC”) on the second pre-publication draft regulation related to implementation of E2SHB 1688. Kaiser Permanente is an integrated health care system that covers and cares for more than 760,000 members in Washington State. We are committed to delivering affordable, coordinated, and high-quality care and coverage that supports not only our members but also the communities we serve.

We first want to thank the OIC for making changes to how many of each type of arbitrator will be on the list provided by the commissioner to each party. Our comments focus on the topic of alternate access delivery requests (AADR) and general technical recommendations for the draft language.

Alternate Access Delivery Request (AADR) comments

- WAC 284-170-210 (3) states that the effective date of an AADR is the date that the commissioner notifies the issuer that the AADR has been approved. There has been inconsistency about how and when issuers are notified. It would be helpful if the regulation states how the notification will be provided (e.g., via email).
- We would like to reiterate our main comments concerning the AADR time periods.
 1. WAC 284-170-210 (2)(c) provides that “[e]xcept to the extent provided otherwise in subsection (5) of this section, an alternate access delivery request may be approved for up to one health plan year, one calendar year, or until the issuer executes a provider contract to address the network access issue in the alternate access delivery request”. In WAC 284-170-210 (5) the draft regulation states that an approved AADR expires on December 31st of the year that the request was approved, or the effective date of a contract executed by the issuer and a provider, whichever occurs earlier. It

omits reference to “one health plan year.” We recommend that the time frame for expiration in (5) align with time frame for an approved AADR in (2)(c) for consistency.

2. In WAC 284-170-210 (3), the language states that an AADR effective date is the date on which the Commissioner notifies the issuer that the AADR has been approved. Historically, the OIC has instructed carriers to reprocess claims for alternative access providers back to the beginning of the plan year. It is unclear from the draft language if this will continue to be the expectation. Please clarify the topic of reprocessing claims as it relates to the effective date of the AADR.
- Please clarify if it is permissible to specify more than one county in a single AADR for a specific type of service. For example, if an AADR is for two or more counties that requires two or more provider contracts to address the network access gap, would separate AADRS be submitted for each provider and county combination? There are currently inconsistencies in the draft language that raise this question. We specifically call out the following sections:
 - WAC 284-170-210 uses “geographic area” in most cases, but in (5) introduces the term “county” one time as a singular noun.
 - WAC 284-170-220 (1)(c) states that an AADR must be for a “specific geographic location” but shortly after states “geographic locations” in the plural form.
 - Under WAC 284-170-280 (3)(f) Amended AADR Form E, is a separate form needed for each county, or is it permissible to include multiple counties in the same AADR for the same service?

Other general comments on the prepublication draft

- Under WAC 284-170-280 (3)(e)(J) Geographical maps, the regulation is going into more detail than the underlying statute as it relates to crisis teams. Mobile crisis teams may have a single location that serves an entire county. Please clarify if there will be a single map of providers’ office location(s) that also includes those locations/providers that offer a rapid response crisis team.
- WAC 284-170-285 uses “carriers” throughout the section, please check to see if the term should actually be “issuers” to align with other portions of the regulation.
- Under WAC 284-170-210 (5) RCW 48.39.020 is referenced, that covers Medicaid reimbursement and should be RCW 48.49.020.
- WAC 284-170-220(1) references RCW 48.49.150 (2)(b) which no longer exists, and this RCW should be updated to reference RCW 48.49.135 (2)(b).
- Under WAC 284-170-220 (1)(c) it states, “this requirement does not restrict a carrier from filing. . .”, however, we believe it should state “issuer” instead of carrier here for consistency with other portions of the regulation.

We thank you for the opportunity to provide comments on this second pre-publication draft and for the OIC's willingness to consider our feedback. We look forward to our continued collaboration throughout this rulemaking process. Please do not hesitate to contact us with questions.

Sincerely,



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