November 28, 2022

Jane Beyer, Senior Health Policy Advisor
Office of the Insurance Commissioner
P.O. Box 40255
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Ms. Beyer,

On behalf of the Washington State Medical Association, representing more than 12,000 physicians and physician assistants across the state, as well as our undersigned physician partner organizations, we are providing comment on R 2022-02, implementing House Bill 1688 from the 2022 legislative session.

As we have stated in previous comments, our primary interest in balance billing policy and the implementation of HB 1688 is preserving incentives for insurance carriers to contract with physician organizations and provider groups so that voluntary contracting remains the "norm" in our state. In the context of the negotiations and agreement that was reached on HB 1688 during the 2022 session, the key provision at issue was the utilization of AADRs in the balance billing setting.

We are disappointed that the CR-102 fails to explicitly require reimbursement at billed charges for the initial three-month period in AADRs utilized for balance billing services. We urge the following language be added to proposed To reflect the compromise reached on HB 1688, language should be added to proposed WAC 284-170-220 on page 44 (numbered as 7) before the rulemaking is finalized:

> (3) The amended alternate access delivery request must include attestation from the issuer of reimbursing the provider at billed charges for the 3 months after the effective date of the alternate access delivery request approval by the commissioner.

This aligns with the agreement reached on HB 1688, preserving incentives for insurance carriers to contract with physician groups and ensuring that AADRs are used infrequently, which was presented as a common goal throughout negotiations on HB 1688.

The OIC has consistently stated that a carrier would generally be required to reimburse a provider party to an AADR at the provider's billed charges. This tracks with WAC 284-170-210, but the law does not explicitly require carriers to reimburse at billed charges, instead directing that AADRs "may result" in payment at billed charges.

In the interest of incenting carriers to negotiate with providers potentially subject to an AADR, requiring carriers to reimburse providers at billed charges for three months was a central piece of the negotiations

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on Section 18 of HB 1688. This maintains an equilibrium of incentives where carriers want to avoid paying billed charges and physicians want to avoid being locked into an arbitrated rate for the remainder of the year, forwarding the shared goal that voluntary contracting remain the expectation and norm.

To ensure this equilibrium it must be specified that for those AADRs that include services covered by the BBPA, carriers are explicitly required to reimburse at billed charges for the three-month period that precedes the ability to petition for arbitration to establish a commercially reasonable payment rate for the duration of the AADR. We see this as a critical component of ensuring the compromise that was reached on HB 1688 is reflected in practice on the part of entities who will be entering into AADRs.

Thank you for your consideration. We look forward to continuing to work together on the implementation of the law and we welcome knowing if there is additional information we can provide.

Sincerely,

Sean Graham
Director of Government Affairs
Washington State Medical Association

Washington Chapter – American College of Emergency Physicians
Washington State Society of Anesthesiologists
Washington State Society of Pathologists
Washington State Society of Radiologists
Emergency Department Practice Management Association
Anesthesia Associates, PS
Bellingham Anesthesia Associates, PS
Inland Imaging, LLC
Inland Imaging Associates, PS
Inland Northwest Imaging, PS
Integra Imaging, PS
Longview Anesthesiology Group, PC
Monroe Anesthesia, PLLC
Matrix Anesthesia
Olympia Emergency Services
Paceline Anesthesia, PLLC
Pacific Anesthesia, PC
Radia Inc., PS
RAYUS Radiology
Surgical Center Anesthesiologists
South Sound Anesthesia Associates, PLLC
US Anesthesia Partners
Valley Anesthesia Associates, PLLC