

September 29, 2023

Rules Coordinator  
Office of the Insurance Commissioner

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RE: Proposed Prior Authorization Rulemaking

*Delivered electronically*

Dear Rules Coordinator,

On behalf of the Washington State Medical Association (WSMA), the undersigned members of the physician community and our partners, thank you for the opportunity to offer our support for the Office of the Insurance Commissioner's (OIC) rulemaking revising the prior authorization process, R 2023-02.

As the primary proponents of [HB 1357](#), we are grateful to the OIC for undertaking this rulemaking and advancing the full implementation of the new law. We look forward to continuing to collaborate with OIC on prior authorization reform efforts in the future. Accordingly, the WSMA requests that the OIC please incorporate patient access application programming interface (API) updates into this rule once the Centers for Medicare & Medicaid Services releases final rules on this topic.

We are seeking clarity on two points in the pre-publication draft.

It is unclear to us what the word "posted" means in the context of the definition of "electronic prior authorization request" at WAC 284-43-2050(12)(e)(i). Based on our understanding of the intent of this definition and how it is utilized in the draft, we offer the word "submitted" as a potentially more appropriate alternative:

*An "electronic prior authorization request" is delivered to an electronic email address at which a party has consented to receive notices or documents or ~~posted~~ **submitted** on an electronic network or site accessible via the internet, mobile application, computer, mobile device, tablet, or any other electronic device.*

We are seeking feedback from our members around whether it is appropriate to submit prior authorization requests over email from both security and administrative burden perspectives, especially when a secure online process already exists at WAC 284-43-2050(5) and will relay that feedback to the OIC when available.

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We also seek clarification on the impact of expiring a subsection of WAC 284-43-2050 on December 31, 2024 and whether or not language concerning the existing extenuating circumstances policy will be lost:

*(iii) If the time frames for the approval of an expedited prior authorization are insufficient for a provider or facility to receive approval prior to the preferred delivery of the service, the prior authorization should be considered an extenuating circumstance as defined in WAC 284-43-2060.*

We believe this reference is critical for situations when an extenuating circumstance prevents a participating provider or facility from obtaining a required prior authorization before a service is delivered. We would like to see reference to *WAC 284-43-2060* retained in the rule and suggest Section (12)(e) as an appropriate location.

Should you have any questions on our comment, please contact WSMA Policy Analyst, Hillary Norris, JD at [hillary@wsma.org](mailto:hillary@wsma.org).

Sincerely,

Washington State Medical Association  
Washington Academy of Eye Physicians and Surgeons  
Washington Chapter — American College of Emergency Physicians  
Washington State Medical Oncology Society  
Washington State Podiatric Medical Association  
Washington State Psychiatric Association

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