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To interested entities,

In 2023, the Legislature enacted E2SHB 1357 to modernize prior authorization processes. Among other changes, the law shortens prior authorization determination timelines, adds standards for clinical review criteria, and requires carriers to use certain Application Programming Interfaces (APIs) for prior authorization processes. The law applies to fully-insured health plans, PEBB/SEBB health benefit plans and Medicaid managed care organizations (MCO's). It is codified at RCW 48.43.830, RCW 41.05.845 and RCW 74.09.840.

RCW 48.43.830(2)(e) requires the Office of the Insurance Commissioner (OIC) to update the legislature on the development of rules and implementation guidance from the federal Centers for Medicare and Medicaid Services (CMS) regarding the standards for development of application programming interfaces (APIs) and interoperable electronic processes related to prior authorization functions. The law requires that OIC consult with the Health Care Authority, carriers, providers and consumers on the development of these updates and any recommendations.

This letter seeks comment from each of these organizations related to our upcoming communication with the legislature on this issue. Please feel free to share this request with other carrier, provider or consumer organizations. **Any comments must be submitted to policy@oic.wa.gov on or before February 28, 2024**.

1. Federal Rule Development

On February 8, 2024 CMS published final rules related to Advancing Interoperability and Improving Prior Authorization Processes (CMS-0057-F). The rule's intent is to simplify health data exchange and increase use of interoperable systems, which are designed to improve exchange of patient and provider health information.

2. Federal Rule Alignment with E2SHB 1357

RCW 48.43.830(2)(a) requires carriers to build and maintain an API for prior authorization requests and determinations by January 1, 2025. However, the law delayed the enforcement date to January 1, 2026, if CMS had not finalized the federal API rules by September 13, 2023. Since final rules were not adopted by that date, under RCW 48.43.830(2)(c), OIC notified the legislature on September 13, 2023, that it would delay enforcement of the API requirements for health care

services until January 1, 2026. RCW 48.43.830(2)(b) requires carriers to implement an API for prescription drug prior authorization by January 1, 2027.

The table below illustrates how the final rule compares to the provisions of RCW 48.43.830 with respect to use of the prior authorization API. The primary differences are:

- State law applies to all fully insured health plans, PEBB/SEBB health plans and Medicaid managed care organizations (MCO's). The federal rule applies to state Medicaid and Childrens Health Insurance Programs, Medicare Advantage plans and fully insured individual health plans offered on the federal Exchange (Washington has a state-based Exchange);
- RCW 48.43.830 requires the use of a prior authorization API for prescription drugs; the federal rule does not;
- The federal rule requires implementation of the prior authorization API by January 1, 2027. RCW 48.43.830 requires implementation of the prior authorization API by January 1, 2026 for health care services and by January 1, 2027 for prescription drugs; and
- State law requires that the prior authorization API indicate whether a prior authorization denial or authorization of a service is less intensive than that included in the original request and clarifies that such a denial or authorization is considered an adverse benefit determination that can be appealed under Washington state's patient bill of rights law. There is not a comparable provision in the federal rule.

Issue	**RCW 48.43.830**	**Final federal rule**
Health plans/programs subject to the rule	Fully insured health plans, including qualified health plans offered on the Health Benefit Exchange; PEBB/SEBB plans; Medicaid MCO's	Medicaid; Children's Health Insurance Program; Medicare Advantage and qualified health plans offered through the Federally facilitated Exchange
Scope of services	Health care services, including Durable Medical Equipment (DME) Prescription drugs	Items and services that are part of a medical benefit, including DME, excluding prescription drugs.
Components of prior authorization API	The API must use health level HL 7 FHIR in accordance with federal standards that: • Automates the process to determine whether a prior authorization is required for durable medical equipment or a health care service;	Must implement and maintain an HL7 FHIR API that: • Includes the payer's list of covered items and services (excluding drugs) that require prior authorization; • Identifies all documentation required for approval of any items or services that require prior authorization;

	• Allows providers to query the carrier's prior authorization documentation requirements; • Supports an automated approach using nonproprietary open workflows to compile and exchange the necessary data elements to populate the prior authorization requirements that are compliant with HIPAA or have an exception from CMS; and • Indicates that a prior authorization denial or authorization of a service less intensive than that included in the original request is an adverse benefit determination and is subject to the carrier's grievance and appeal process under RCW **48.43.535**. Same requirements apply to a prescription drug prior authorization API but are effective January 1, 2027.	• Supports a HIPAA-compliant prior authorization request and response; and • Communicates whether the payer approves the prior authorization request (and the date or circumstance under which the authorization ends), denies the prior authorization request (with a specific reason), or requests more information.
Enforcement	On December 20, 2023, OIC issued a Technical Assistance Advisory OIC TAA (12/20/23) stating that OIC will enforce the requirement to provide the API interface for health care services prior authorizations beginning January 1, 2026 and for prescription drug prior authorizations beginning January 1, 2027.	Prior authorization API for medical items and services (excluding prescription drugs) must be implemented by January 1, 2027.

3. CMS Enforcement Discretion

The final federal rule provides enforcement discretion related to use of an electronic standard transaction under the Health Insurance Portability and Accountability Act (HIPAA) called the X12 278 standard. Entities that implement an all-FHIR based prior authorization API per the final rule that do not use the X12 278 standard as part of their API implementation will not be enforced against under HIPAA administrative simplification federal rule.

Thank you for your time and attention.