PREMERA | BLUE CROSS

Via e-mail to rulescoordinator@oic.wa.gov

July 20, 2015

Mr. Jim Freeburg
Special Assistant to the Commissioner
Policy & Legislative Affairs
Office of Insurance Commissioner
P. O. Box 40258
Olympia, WA 98504-0258

Subject: OIC Matter No. R 2014-08 – Provider Network Maintenance Standards

Dear Jim:

The purpose of this letter is to provide you with comments, on behalf of Premera Blue Cross, LifeWise Health Plan of Washington, and LifeWise Assurance Company (herein "Premera" or "the Companies"), on the proposed provider network rules. We have appreciated the opportunities, prior to the formal rule proposal, to review and discuss stakeholder drafts.

Our comments below restate, to some degree, comments and concerns previously raised by the Companies, in order to document such comments in the rulemaking testimony. Please see our letter dated March 20, 2015, for details.

WAC 284-43-202 Maintenance of sufficient networks. The Companies continue to believe that the requirements set forth in Subsection (2) for written notification to the OIC of potential contract terminations within five days, followed in many cases by submission of alternative access delivery requests (AADRs), should be clarified so that the initial, simple notification to your office is followed by an AADR only if and when negotiations with the provider at issue are clearly not being successful and termination is definite. As previously explained, it is not uncommon for providers to initiate contract negotiations by sending the issuer a termination notice; in the majority of cases, negotiations result in a new contract. We believe that submission of voluminous unnecessary paperwork, which is time-consuming both to compile and to review, in such instances should be avoided.

In addition, we also wish to caution that the one-day turnaround time to submit an AADR in certain cases is unrealistic, and while we understand that this is intended to apply to extreme situations, it nonetheless would make sense to provide the issuer with an achievable timeframe, such as five days.

For subsection (5)(d), we respectfully restate our request that you provide examples of what would fit under this description of network models, in order to be clear about the intent and scope of this provision.

WAC 284-43-225 Issuer recordkeeping—Provider networks. We continue to believe that prior authorizations, which are a utilization management measure, are out of place in a network access rule, and we therefore object to the inclusion of subsection (2). Furthermore, if the provision is to be kept as part of

this rulemaking, we are still concerned that the rule language does not clearly include only those prior authorizations that are required under the enrollee's contract as a condition of receiving full benefits.

WAC 284-43-251 Enrollee's access to providers. We previously expressed concerns that the notice period for terminations lacked provisions to avoid premature announcements when a termination is less than certain and negotiations are ongoing. While we believe that the good-faith effort language may be intended to support issuer judgment to delay notification in such situations, this is less than clear, and we respectfully request that you expressly incorporate an exception provision. The same comments apply to the notification provisions in proposed Section 284-43-320(10).

WAC 284-43-310 Selection of participating providers – Credentialing and unfair discrimination. We would like to confirm here that, despite the unchanged language of subsection (1)(c), your office takes the position – as stated in the March stakeholder meeting – that subsection (3) clarifies the intent of this rule section. Specifically, as you have stated, the rule would not preclude an issuer from closing network participation to a provider category or specialty because its network is adequate as to that category or specialty. A cross-reference subsection (1)(c) and subsection (3) would be helpful, and we recommend you consider adding it.

WAC 284-43-320 Provider contracts – Standards – Hold harmless provisions. We restate our strong suggestion of sufficient lead time for the inclusion of new and revised language in provider agreements. Our recommended approach was described in more detail in the referenced March 20 letter.

In addition, we ask that you clarify the intent and requirements at issue in proposed subsection (6)(d) of this section, on two points. One is that this provision should expressly state that it is applicable only to contracted/ participating providers and facilities; this is suggested within the context of the subsection, but we believe greater clarity is needed to avoid misunderstandings. The second point is that the intent of the "full access to contract and service terms" should be clarified to mean those terms as are applicable to the treatment and services contemplated for the enrolled patient; further, we believe that summarized or excerpted benefit provisions meet this purpose, and that sending entire enrollee booklets or member benefit contract documents is not intended or required.

WAC 284-43-330 Participating provider – Filing and approval. Please add clarification to proposed subsection (5) for signed provider and facility contracts that those contracts for which the issuer has an electronic signature on file meet this requirement.

We urge your office to consider and apply the above comments and suggestions to the rule before it is adopted, and we will be happy to work with you further. Please feel free to contact me to discuss this letter and any related issues.

Sincerely,

Waltraut Lehmann
Manager, Regulatory Affairs