



March 20, 2015

The Honorable Mike Kreidler  
Insurance Commissioner  
Washington State Office of the Insurance Commissioner  
P.O. Box 40258  
Olympia, WA 98504-0258

ATTN: Jim Freeburg

Re: Carrier Feedback on Network Access Rules Draft

Dear Commissioner Kreidler,

Columbia United Providers (CUP) appreciates the guidance offered by the Washington Office of the Insurance Commissioner (OIC) staff at the March 12, 2015 stakeholder meeting as well as the supplemental materials released in order to help stakeholders understand the impact of these proposed changes to their operations. Per the comments made at that stakeholder meeting, CUP would like to share our comments and concerns on several points.

We look forward to working with the OIC to ensure continued and successful compliance with the new rules. Our feedback is as follows.

**New section WAC 284-43-202 (2) – Network maintenance standards**

The proposed subsection specifies in (a), (b), and (c) that an issuer must submit an alternate access delivery request (AADR) and supporting documentation within ten business days upon issuing or receiving a termination that has the potential to affect network standards. In addition, in the event that the OIC determines an AADR is required after the issuer has determined that it is not, the issuer will have five business days to submit the request. CUP believes that both of these timeframes are problematic for two reasons.

First, as mentioned by other issuers and provider group representatives at the meeting, existing practice for contract negotiations between these two parties often begins with a termination on the table. In most cases, this termination is resolved as new terms are negotiated and settled. The

OIC requirement for an AADR submission during this window could open the door to unnecessary administrative burdens for both issuers and the OIC staff. Under the new rule, a number of contracts may already be settled and the network adequate after the AADR has been submitted.

Second, CUP's unique geographic location, in Clark County on the Washington-Oregon border, necessitates the contracting of providers in both states for our network. Therefore, our contracting usually carries with it the potential to become more complicated and require a slightly longer period than Washington-only plan networks.

At the stakeholder meeting Jennifer Kreidler mentioned that "[The submission] may not be a complete response but an opening of a dialogue. [OIC] needs to know what's happening and what you are doing to resolve the issue." While a complete AADR within such a short time frame is unfeasible, a notification of the issue, with a copy of the notice, and the plan for resolution could be provided within this proposed period with a caveat that a complete AADR should be submitted if the issue is not resolved within 30 days. This would accomplish OIC's objective of being well-informed of network changes while reducing the burden for both parties.

#### **New section WAC 284-43-202 (5) – Network maintenance standards**

The proposed subsection specifies in (d) that issuers that use certain networks models must monitor, among several items, (i) systems or processes for the integration of health care services by medical and mental health providers and (iii) appropriate diagnosis, treatment, and referral practices.

CUP's Chief Medical Officer raised some concerns that these items fall outside the scope of practice of health insurers and that quality of care are more appropriately monitored by existing entities such as Washington State's Medical Board, Department of Health, and the NCQA's Healthcare Effectiveness Data and Information Set (HEDIS) that is collected by health plans seeking accreditation.

#### **Amendment WAC 284-43-320 (7) – Hold harmless language**

This proposed amendment will require issuers to include the language of RCW 48.43.075 in all participating provider and facility contracts. The revision is unclear if this pertains to contracts moving forward from the 2016 plan year or if existing contracts must be revised to include this language verbatim.

At the stakeholder meeting, Jennifer Kreidler expressed that it was the OIC's expectation that issuers amend all existing contracts. This is a significant concern for CUP in terms of both cost and administrative load. Re-contracting our entire network before the 2016 plan year filing would be unfeasible; especially given there is only a difference of a few words in our current contract which was deemed compliant.

It is our suggestion that the OIC consider applying this rule to new provider and facility contracts for 2016 without requiring issuers to revise all existing contracts. However, if OIC retains the expectation expressed at the stakeholder meeting, we request that the rule be amended to phase in the new language by requiring the specific language be inserted in all newly-issued provider contracts and whenever an existing contract is renegotiated on or after January 1, 2016.

Once again, we thank the OIC staff for its efforts in creating and clarifying this draft and allowing stakeholders to participate in the rule-making process.

Please do not hesitate to contact me with any questions or comments.

Respectfully,

A handwritten signature in black ink, appearing to be 'K. Lee', written in a cursive style.

Karen Lee, CEO  
Columbia United Providers