

March 19, 2015

Dear Rules Coordinator,

Kinering is a not-for-profit neurodevelopmental center (NDC) in Bellevue, providing comprehensive services to children with special needs since 1962. In light of the Washington State Supreme Court's ruling in *OST v. Regence Blueshield*, we formally request that the provider network access rules be amended so that neurodevelopmental centers and the services they provide are part of adequate network requirements for insurance issuers.

The Court's ruling in *OST v. Regence Blueshield* clearly stated that neurodevelopmental therapies qualify as mental health services under mental health parity and they cannot be excluded by insurance issuers if the service or therapy is deemed medically necessary in order to treat a mental disorder identified in the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders (DSM-IV)*. In addition, WAC 284-43-200(11)(a) states:

There must be mental health providers of sufficient number and type to provide diagnosis and medically necessary treatment of conditions covered by the plan through providers acting within their scope of license and scope of competence established by education, training, and experience to diagnose and treat conditions found in the most recent version of the Diagnostic and Statistical Manual of Mental Disorders or other recognized diagnostic manual or standard.

Neurodevelopmental therapies are used for children with learning, communications, motor skills and pervasive developmental disorders, to name a few examples. Each of these are included in the *DSM-IV*. Neurodevelopmental Centers are the only providers with the licenses, training and experience to provide neurodevelopmental therapies.

Despite the Court's ruling and the language in the WAC, Kinering and other NDCs continue to face barriers when attempting to contract with issuers. The inclusion of NDCs in provider networks must be made explicit in network access rules.

We understand that the most appropriate place to include this language may very well be in WAC 284-43-200, rather than any section currently amended by R 2014-08. We also understand that 284-43-200 was amended last April. However, the Supreme Court's decision did not come down until October of 2014, well after last year's rulemaking. R 2014-08 is the only opportunity to reexamine 284-43-200. Regardless of which section of the WAC is applicable, we ask that the rules clearly instruct issuers to contract with NDCs in order to provide NDTs.

Should WAC 284-43-200 be the most appropriate place for this language, we propose the following addition to the subsection (11) (new language underlined):

(11) At a minimum, an issuer's provider network must adequately provide for mental health and substance use disorder treatment, including behavioral health therapy.

(a) Adequate networks include crisis intervention and stabilization, psychiatric inpatient hospital services, including voluntary psychiatric inpatient services, and services from mental health providers. There must be mental health providers of sufficient number and type to provide diagnosis and medically necessary treatment of conditions covered by the plan through providers acting within their scope of license and scope of competence established by education, training, and experience to diagnose and treat conditions found in the most recent version of the *Diagnostic and Statistical Manual of Mental Disorders* or other recognized diagnostic manual or standard.

(b) An issuer must establish a reasonable standard for the number and geographic distribution of mental health providers who can treat serious mental illness of an adult and serious emotional disturbances of a child, taking into account the various types of mental health practitioners acting within the scope of their licensure.

The issuer must measure the adequacy of the mental health network against this standard at least twice a year, and submit an action plan with the commissioner if the standard is not met.

(c) Emergency mental health services, including crisis intervention and crisis stabilization services, must be included in an issuer's provider network.

(d) An issuer must include a sufficient number and type of mental health and substance use disorder treatment providers and facilities within a service area based on normal utilization patterns.

(e) An issuer must contract with a sufficient number of neurodevelopmental centers to the extent available in the issuer's service area to provide access to appropriate therapies to support children with neurodevelopmental delays.

~~(e)~~ (f) An issuer must ensure that an enrollee can identify information about mental health services and substance use disorder treatment including benefits, providers, coverage, and other relevant information by calling a customer service representative during normal business hours.

Thank you for the opportunity to submit comments. If any additional information is needed, please do not hesitate to contact me.

Sincerely,



Maxine M Siegel
Executive Director