

From: [Sydney Zvara](#)
To: [OIC Rules Coordinator](#); [Freeburg, Jim \(OIC\)](#)
Subject: (R 2014-08) Network Access Regulation Exposure Draft - AWHP Comment Ltr
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The Association of Washington Healthcare Plans

March 20, 2015 Transmitted electronically

Jim Freeburg, Special Assistant to the Commissioner
Washington Office of the Insurance Commissioner
P.O. Box 40258
Olympia WA 98504-0258
Re: (R 2014-08) Network Access Regulation Exposure Draft

Dear Jim,

I am writing on behalf of the members of the Association of Washington Healthcare Plans (AWHP) regarding the Washington Office of Insurance Commissioner's (OIC) Network Access Regulation exposure draft.

We would like to thank the OIC for holding the March 12th stakeholder meeting. We appreciated the opportunity to better understand the underlying rationale for the draft rule language. It was also helpful to review and discuss the changes made to the exposure draft since the original version was released in October. And we would like to thank the OIC for the additional explanatory documents provided with the latest exposure draft. These documents helped us to better understand where the OIC was coming from and what changes had been made since the previous draft.

In follow-up to the March 12th meeting, we would like to offer these comments and suggestions.

WAC 284-43-202 Maintenance of sufficient provider networks. (New Section)

As a result of the March 12th stakeholder meeting, it is our understanding the one-day turnaround requirement contained in this section would come into play only "as a last resort" if a carrier failed to take action within the initial time frame. This situation could come about not only due to a carrier's failure to adequately monitor its networks and submit a timely alternate access delivery request (AADR), but also due

to a belief on the carrier's part that the change did not warrant an AADR. But, regardless of the underlying reason for an AADR, a one-day turnaround deadline does not provide adequate time to prepare and submit an AADR to the OIC. Coordinating and compiling the types of data and documents required as part of an AADR involve the work of multiple departments within a company, and will, realistically, always take longer than one day. Therefore we are concerned that this provision in the regulation sets carriers up for failure, and we do not believe this is intended by your office.

Accordingly, we recommend the OIC adjust the turnaround requirement from one day to five business days. An alternative approach would be to require an initial, less detailed notice within one day, providing a target submission date for the items needed in an AADR (Form A, Form B, GeoNetwork report, access plan). This approach would allow carriers to demonstrate good faith in complying with the regulation, while allowing time for thoughtful and thorough completion of the documentation.

As mutually acknowledged in earlier discussions between the OIC and healthcare plans, there simply is no standard, broadly applicable list of top chronic conditions. Too many variable factors are likely to affect any such list, from carrier demographics to the point in time at which it is established. Therefore we question the practicality of trying to include requirements around network sufficiency related to chronic conditions, and recommend removing the subsection.

The requirement that carriers provide notification within five days of receipt of a provider's termination notice in WAC 284-43-202 (7) is problematic. As acknowledged by carrier and provider representatives at the meeting, it is common for contract negotiations to start off with the provider's notice of termination to the carrier. The vast majority of these negotiations end in a contract agreement, and there is no termination. Requiring notification to the OIC and assessment of the need for an AADR every time would create an unnecessary administrative burden for carriers, providers, and OIC staff.

We suggest that we work together on an alternative solution wherein carriers notify the OIC when a provider termination notice is received while active contract negotiations are in process, and more formal steps are not triggered until a later date if negotiations are not successful.

WAC 284-43-225 Issuer recordkeeping - Provider networks. (New Section)

Please provide additional clarification and specifics around what is meant by a "given period of time" in subsection (2), so that carriers can ensure they understand this requirement.

WAC 284-43-330 Participating provider - Filing and approval.

Subsection (6)

It is our understanding the OIC is still working on this section, and so we appreciate the opportunity to point out in a timely manner that it would be impossible for carriers to implement the filing requirements called for in this section. This is because carriers would not be able to prospectively identify the enrollees to whom the reimbursement agreement would be applicable.

To help with development of a workable long-term solution, we suggest waiting until the anticipated guidance becomes available from CMS.

We look forward to further discussion of this rule-making effort. In the interim, please do not hesitate to contact me with any questions or if I may be of assistance.

Sincerely,



Sydney Smith Zvara
Executive Director

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AWHP is an alliance of licensed Health Maintenance Organizations (HMO), Health Care Service Contractors (HCSC), & Disability Insurers. Its diverse membership is comprised of local, regional, & national healthcare plans of varying size, serving the needs of consumers, employers, & public purchasers. Together, they provide health care coverage to over 5million residents of Washington State. AWHP members include Aetna, Amerigroup, Cambia Health Solutions, CIGNA, Columbia United Providers, Community Health Plan of WA, Coordinated Care, Group Health Cooperative, Kaiser Permanente, Molina Healthcare, HealthNet, Premera Blue Cross, Providence Health Plan, & UnitedHealthcare.