

From: Merlene.S.Converse@kp.org
To: [Freeburg, Jim \(OIC\)](#)
Subject: pre CR 101 comments for prior authorization rule
Date: Monday, May 09, 2016 10:52:51 AM

Hi Jim,

As the OIC considers rule-making on prior authorization, we would like to request that the OIC add clarifying language to WAC 284-170-470 as it relates to "every provider agreement". The language is overly broad and has the implication that we would need to add language related to prior authorization of pharmacy claims in all provider, facility, and supplier agreements, even if the providers, facilities, or suppliers do not have prescribing medication within their licensed scope of practice. In general, WA regulations refer to provider agreement requirements generically, and the same regulations are used whether it is for a professional services agreement, facility services agreement, or a supplier agreement.

When the type of agreement does not lend itself to a provision about prescription drugs, it is creating confusion for the entities that we are contracting with. For example, it is hard to explain to a durable medical equipment supplier why we need to add a provision about prescription drugs. Another example would be the requirement to have this provision in an agreement with a chiropractor. It is not within the scope of practice for chiropractors to prescribe medication under RCW 18.25.005 (4).

We recommend that the OIC consider making revisions to WAC 284-170-470 (5) and (7) along the lines of the following language in red type.

(5) In every provider agreement **between a provider who is licensed to prescribe drugs under Title 18 and an issuer**, the issuer must:

(a) Disclose if the provider or pharmacy has the right to make a prior authorization request;

and

(b) Provide that if the issuer requires the authorization number to be transmitted on a pharmaceutical claim, the issuer will provide the authorization number to the billing pharmacy. The authorization number will be communicated to the billing pharmacy after approval of a prior authorization request and upon receipt of a claim for that authorized medication.

(7) In every provider agreement **between a provider who is licensed to prescribe drugs under Title 18 and an issuer**, every issuer will state that an issuer will authorize an emergency fill by the dispensing pharmacist and approve the claim payment. An emergency fill is only applicable when:

(a) The dispensing pharmacy cannot reach the issuer's prior authorization department by phone as it is outside of that department's business hours; or

(b) An issuer is available to respond to phone calls from a dispensing pharmacy regarding a covered benefit, but the issuer cannot reach the prescriber for full consultation.

Also, as the OIC moves forward with looking at the medical prior authorization rules, it would be good to keep this general concept in mind. Any language that regulation will require in "every provider contract" needs to be assessed for relevance to provider, supplier, and facility agreements. If the language is not relevant to all types of contracts, the regulation should call out which type of provider agreement requires the language.

Please let me know if you have questions.

Thank you.

Merlene Converse
Regulatory Consultant II
Regulatory Services

Kaiser Foundation Health Plan of the Northwest
500 NE Multnomah St., Suite 100 -- Floor 8
Portland, Oregon 97232

503-936-3580 (cell)
Merlene.S.Converse@kp.org

NOTICE TO RECIPIENT: If you are not the intended recipient of this e-mail, you are prohibited from sharing, copying, or otherwise using or disclosing its contents. If you have received this e-mail in error, please notify the sender immediately by reply e-mail and permanently delete this e-mail and any attachments without reading, forwarding or saving them. Thank you.