October 14, 2016

Mr. Jim Freeburg
Office of the Insurance Commissioner
State of Washington
P.O. Box 40258
Olympia, WA 98504

RE: R 2016-19, Prior authorization processes and transparency (September 23, 2016, draft)

Dear Mr. Freeburg,

On behalf of Cambia Health Solutions family of health plan carriers, including Regence BlueShield, Asuris Health Northwest, BridgeSpan Health Company, we appreciate the opportunity to comment on the September 23, 2016, stakeholder draft of R 2016-19, relating to prior authorization (PA) processes and transparency.

As I indicated in my comments submitted to your office on August 17, 2016, we fully support the OIC's stated goal of creating a rule that will streamline the PA process to benefit patients.

We appreciate that your office adopted many of the proposed changes to the June 17, 2016, stakeholder draft offered by Cambia and others in the carrier community. The changes that you adopted will go a far way to achieve your goal of greater PA transparency while creating minimal administrative disruption for carriers.

With that said, there are a few areas in the current stakeholder draft that can be improved.

WAC 284-43-0160

The current draft requires carriers to provide a prior authorization within 60 minutes if the request is an "immediate prior authorization" or "urgent prior authorization" request. This provision appears to be requiring carriers to render a prior authorization in an emergency medical situation because an "immediate prior authorization" can only occur when a provider believes that her patient is in imminent danger. As I stated at the stakeholder meeting on October 5, 2016, it is not appropriate to subject emergency situations to the prior authorization process. Patients should immediately receive care from a provider if a provider believes that her patient may be in imminent danger, without bothering with prior authorization.

First, in a true emergency situation, patients are protected by existing state law. For example, RCW 48.43.093 states that prior authorization is not required when emergency services are necessary, as determined by the reasonable belief of a prudent layperson. This standard is far broader than that offered by the proposed WAC 284-43-0160, vaguely described as "in the judgment of the provider." WAC 284-43-0160 seemingly puts the burden on the provider to determine what constitutes an emergency situation and allow prior authorization, when supplemented by WAC 284-43-2050(9)(a), within 60 minutes. The "immediate prior authorization" requirement appears to hide the fact that prior authorization is not required prior to services when the enrollee seeks aid in good faith.

Second, WAC 284-43-2060 fills the gap in situations where providers believe that an expedited PA request is not enough time. For example, WAC 284-43-2060 mandates that carriers provide retrospective review to providers when a provider faced certain extenuating circumstances and was not able to submit a proper PA request. Therefore, if a provider believes that she does not have enough time to submit a PA request, she may deliver the service and then submit for retrospective review. As long as carriers are permitted to use medical necessity guidelines when reviewing retrospective review requests, we support this provision.

Finally, the proper scope of the rule before us is to deal with standard and expedited PA requests, not emergency medical situations. In fact, the June 17, 2016, version of the stakeholder draft limited the scope to simply standard and expedited prior authorizations requests. We strongly suggest that your office embrace the previous scope of the rulemaking.

WAC 284-43-2050

(5)(b): This section states that carrier PA notification must state if the authorized service may be delivered by an out of network provider or facility and disclose to the enrollee the financial implications for receiving services from an out of network provider or facility. Please note that if carriers are required to provide anything more specific than enrollee levels of cost sharing (as indicated in the enrollee agreements) in a PA notification, then enrollees may have a false sense of financial security. The cost of care to the enrollee may change depending on a variety of factors.

(9)(a); (10): As I stated above, "immediate PA" is not needed because PA is not required in a true emergency situation. Patients are protected in emergency situations under RCW 48.43.093. Please remove this provision.

(11)(c): Please reword overly broad language stating that carriers may not routinely request copies of medical records to render authorization. Carrier PA is based on the provider's medical records. Thus, routine requests for medical records is necessary to render an appropriate medical determination.

(16): Please remove or reword language stating that, "in limited circumstances when enrollees have to change plans due to a carrier's market withdrawal . . . subsequent carriers or their designated or contracted representative must recognize the prior authorization of the previous carrier and ensure that the

enrollee receives the initial service that was previously authorized as an in-network covered service." A carrier should not be bound to the PA approval of a previous carrier.

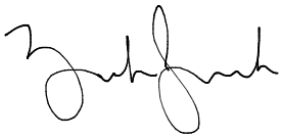
Consider the following questions:

What if the first carrier's PA is for a service a second carrier does not cover, or does cover but the second carrier does not have a contract with the approved provider, or the second carrier does cover but the service is only covered with step therapy, or the second carrier does cover but the service is covered at much higher cost sharing, or etc? How would the second carrier know that the first carrier employed adequate requirements for approving a procedure? As you can imagine, there are many more problematic scenarios.

In addition, this provision will act as a disincentive for a second carrier to take on the risk of individuals who are left without a carrier. The OIC should pursue regulations which incentivize carriers to cover individuals without a health plan. In addition, carriers should be able to apply its own processes when evaluating the need for PA.

I am happy to talk with your office about this rulemaking at any time. I can be reached at (206) 332-5060 or zach.snyder@cambiahealth.com.

Sincerely,



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