



PROPOSED RULE MAKING

CR-102 (October 2017)
(Implements RCW 34.05.320)
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FILED

DATE: October 21, 2020
TIME: 9:59 AM

WSR 20-21-105

Agency: Office of the Insurance Commissioner (OIC)

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR** 19-14-113 _____ ; or
- Expedited Rule Making--Proposed notice was filed as WSR** _____ ; or
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW** _____.

Title of rule and other identifying information: (describe subject) Network access and notice requirements

Insurance Commissioner Matter R 2019-05

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 2, 2020	3:30 PM	Zoom Meeting: Detailed information for attending the Zoom Meeting posted on the OIC Website here: https://www.insurance.wa.gov/network-access-and-notice-requirements-r-2019-05	Due to the COVID-19 public health emergency, this hearing will be held via Zoom.

Date of intended adoption: December 3, 2020 _ (Note: This is **NOT** the effective date)

Submit written comments to:

Name: Mandy Weeks-Green
Address: PO Box 40260, Olympia, WA 98504-0260
Email: rulescoordinator@oic.wa.gov
Fax: 360-586-3109
Other:
By (date) December 2, 2020

Assistance for persons with disabilities:

Contact Melanie Watness
Phone: 360-725-7013
Fax: 360-586-2023
TTY: 360-586-0241
Email: MelanieW@oic.wa.gov
Other:
By (date) December 2, 2020

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Commissioner will consider adopting rules regarding network access and notices to ensure implementation as provided for Chapter 11, Laws of 2019 (ESHB 1099), which has been codified in RCW 48.43.765. In addition to adding new sections, the Commissioner is considering amending existing WACs, including WACs 284-170-130, 284-170-200, and 284-170-260.

Reasons supporting proposal: The Legislature passed ESHB 1099 during the 2019 session. The bill requires additional network access standards, including specific standards related to access for mental health and substance use disorder treatment services. The bill also requires carriers to provide enrollees to new notices and information about networks, access, and mental health and substance use disorder treatment services. The OIC needs to develop rules to amend existing WACs and add new sections to align with ESHB 1099 (Chapter 11, Laws of 2019).

Statutory authority for adoption: RCW 48.02.060 and RCW 48.43.765.

Statute being implemented: RCW 48.43.765.

Is rule necessary because of a:

Federal Law?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Federal Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
State Court Decision?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters: None

Name of proponent: (person or organization) Mike Kreidler, Insurance Commissioner

<input type="checkbox"/> Private
<input type="checkbox"/> Public
<input checked="" type="checkbox"/> Governmental

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Mandy Weeks-Green	PO Box 40260, Olympia WA, 98504-0260	360-725-7041
Implementation:	Molly Nollette	PO Box 40260, Olympia WA, 98504-0260	360-725-7117
Enforcement:	Melanie Anderson	PO Box 40260, Olympia WA, 98504-0260	360-725-7214

Is a school district fiscal impact statement required under RCW 28A.305.135? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Is a cost-benefit analysis required under RCW 34.05.328?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name: Bode Makinde
Address: PO Box 40260, Olympia WA, 98504-0260
Phone: 360 725-7170
Fax: 360-586-3109
TTY:
Email: bodem@oic.wa.gov
Other:

No: Please explain:

Regulatory Fairness Act Cost Considerations for a Small Business Economic Impact Statement:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see chapter 19.85 RCW). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by RCW 34.05.313 before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of RCW 15.65.570(2) because it was adopted by a referendum.

This rule proposal, or portions of the proposal, is exempt under RCW 19.85.025(3). Check all that apply:

- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |

This rule proposal, or portions of the proposal, is exempt under RCW The health Insurers and business associations that are affected by this rule are large and are not small businesses.

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Explanation of exemptions, if necessary:

Section 1 – Cost of Compliance/ Minor cost Threshold

The OIC applied a default cost of compliance (**\$100**) when analyzing whether the rules would have a disproportionate impact on small businesses as defined in RCW 19.85.020(3). Below are calculations for minor cost thresholds across all impacted industries based on the best analogous NAICS types. For these reasons, the proposed rules do not impose more than minor costs on businesses as defined by RCW 19.85.020(2).

2017 Industry NAICS Code	NAICS Code Title	Minor Cost Estimate	Average annual employment	1% of Avg Annual Payroll	0.3% of Avg Annual Gross Business Income
524114	Direct Health and Medical Insurance Carriers	228929.41	6,777	\$88,030.57 2018 Dataset pulled from USBLS	\$228,929.41 2018 Dataset pulled from DOR
813910	Business Associations	3878.9	2,289	\$3,737.22 2018 Dataset pulled from USBLS	\$3,878.90 2018 Dataset pulled from DOR

COMPLETE THIS SECTION ONLY IF NO EXEMPTION APPLIES

If the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

No Briefly summarize the agency's analysis showing how costs were calculated.

Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses, and a small business economic impact statement is required. Insert statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name: Bode Makinde

Address: PO Box 40260, Olympia WA, 98504-0260

Phone: 360 725-7170

Fax: 360-586-3109

TTY:

Email: bodem@oic.wa.gov

Other:

Date: October 21, 2020

Name: Mike Kreidler

Title: Insurance Commissioner

Signature:



WAC 284-170-130 Definitions. Except as defined in other sub-chapters and unless the context requires otherwise, the following definitions shall apply throughout this chapter.

(1) "Adverse determination" has the same meaning as the definition of adverse benefit determination in RCW 48.43.005, and includes:

(a) The determination includes any decision by a health carrier's designee utilization review organization that a request for a benefit under the health carrier's health benefit plan does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness or is determined to be experimental or investigational and the requested benefit is therefore denied, reduced, or terminated or payment is not provided or made, in whole or in part for the benefit;

(b) The denial, reduction, termination, or failure to provide or make payment, in whole or in part, for a benefit based on a determination by a health carrier or its designee utilization review organization of a covered person's eligibility to participate in the health carrier's health benefit plan;

(c) Any prospective review or retrospective review determination that denies, reduces, or terminates or fails to provide or make payment in whole or in part for a benefit;

(d) A rescission of coverage determination; or

(e) A carrier's denial of an application for coverage.

(2) "Authorization" or "certification" means a determination by the carrier that an admission, extension of stay, or other health care service has been reviewed and, based on the information provided, meets the clinical requirements for medical necessity, appropriateness, level of care, or effectiveness in relation to the applicable health plan.

(3) "Clinical review criteria" means the written screens, or screening procedures, decision rules, medical protocols, or clinical practice guidelines used by the carrier as an element in the evaluation of medical necessity and appropriateness of requested admissions, procedures, and services, including prescription drug benefits, under the auspices of the applicable health plan. Clinical approval criteria has the same meaning as clinical review criteria.

(4) "Covered health condition" means any disease, illness, injury or condition of health risk covered according to the terms of any health plan.

(5) "Covered person" or "enrollee" means an individual covered by a health plan including a subscriber, policyholder, or beneficiary of a group plan.

(6) "Emergency medical condition" means the emergent and acute onset of a symptom or symptoms, including severe pain or emotional distress, that would lead a prudent layperson acting reasonably to believe that a health condition exists that requires immediate medical, mental health, or substance use disorder treatment attention, if failure to provide medical, mental health, or substance use disorder treatment attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(7) "Emergency services" has the meaning set forth in RCW 48.43.005.

(8) "Enrollee point-of-service cost-sharing" or "cost-sharing" means amounts paid to health carriers directly providing services, health care providers, or health care facilities by enrollees and may include copayments, coinsurance, or deductibles.

(9) "Facility" means an institution providing health care services including, but not limited to, hospitals and other licensed inpatient centers, ambulatory surgical or treatment centers, skilled nursing centers, residential treatment centers, diagnostic, laboratory, and imaging centers, and rehabilitation and other therapeutic settings, and as defined in RCW 48.43.005.

(10) "Formulary" means a listing of drugs used within a health plan.

(11) "Grievance" has the meaning set forth in RCW 48.43.005.

(12) "Health care provider" or "provider" means:

(a) A person regulated under Title 18 RCW or chapter 70.127 RCW, to practice health or health-related services or otherwise practicing health care services in this state consistent with state law; or

(b) An employee or agent of a person described in (a) of this subsection, acting in the course and scope of his or her employment.

(13) "Health care service" or "health service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease.

(14) "Health carrier" or "carrier" means a disability insurance company regulated under chapter 48.20 or 48.21 RCW, a health care service contractor as defined in RCW 48.44.010, and a health maintenance organization as defined in RCW 48.46.020, and includes "issuers" as that term is used in The Patient Protection and Affordable Care Act (P.L. 111-148, as amended (2010)).

(15) "Health plan" or "plan" means any individual or group policy, contract, or agreement offered by a health carrier to provide, arrange, reimburse, or pay for health care service except the following:

(a) Long-term care insurance governed by chapter 48.84 RCW;

(b) Medicare supplemental health insurance governed by chapter 48.66 RCW;

(c) Limited health care service offered by limited health care service contractors in accordance with RCW 48.44.035;

(d) Disability income;

(e) Coverage incidental to a property/casualty liability insurance policy such as automobile personal injury protection coverage and homeowner guest medical;

(f) Workers' compensation coverage;

(g) Accident only coverage;

(h) Specified disease and hospital confinement indemnity when marketed solely as a supplement to a health plan;

(i) Employer-sponsored self-funded health plans;

(j) Dental only and vision only coverage; and

(k) Plans deemed by the insurance commissioner to have a short-term limited purpose or duration, or to be a student-only plan that is guaranteed renewable while the covered person is enrolled as a regular full-time undergraduate or graduate student at an accredited higher education institution, after a written request for such classification by the carrier and subsequent written approval by the insurance commissioner.

(16) "Indian health care provider" means:

(a) The Indian Health Service, an agency operated by the U.S. Department of Health and Human Services established by the Indian Health Care Improvement Act, Section 601, 25 U.S.C. Sec. 1661;

(b) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. Sec. 1603(14), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. Sec. 450 et seq.;

(c) A tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. Sec. 1603(26), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the ISDEAA, 25 U.S.C. Sec. 450 et seq.;

(d) An Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. Sec. 1603(14), or tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. Sec. 1603(26), that operates a health program with funding provided in whole or part pursuant to 25 U.S.C. Sec. 47 (commonly known as the Buy Indian Act); or

(e) An urban Indian organization that operates a health program with funds in whole or part provided by Indian Health Service under a grant or contract awarded pursuant to Title V of the Indian Health Care Improvement Act, Section 4(29), 25 U.S.C. Sec. 1603(29).

(17) "Managed care plan" means a health plan that coordinates the provision of covered health care services to a covered person through the use of a primary care provider and a network.

(18) "Medically necessary" or "medical necessity" in regard to mental health services and pharmacy services is a carrier determination as to whether a health service is a covered benefit because the service is consistent with generally recognized standards within a relevant health profession.

(19) "Mental health provider" means a health care provider or a health care facility authorized by state law to provide mental health services.

(20) "Mental health services" means in-patient or out-patient treatment including, but not limited to, partial hospitalization ((~~o~~)), residential treatment, out-patient facility-based treatment, intensive outpatient treatment, emergency services, or prescription drugs to manage, stabilize, or ameliorate the effects of a mental disorder listed in the most current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) ((~~IV~~)) published by the American Psychiatric Association, ((~~excluding~~)) including diagnoses and treatment((~~s~~)) for substance ((~~abuse, 291.0 through 292.9 and 303.0 through 305.9~~)) use disorder.

(21) "Network" means the group of participating providers and facilities providing health care services to a particular health plan or line of business (individual, small, or large group). A health plan network for issuers offering more than one health plan may be smaller in number than the total number of participating providers and facilities for all plans offered by the carrier.

(22) "Out-patient therapeutic visit" or "out-patient visit" means a clinical treatment session with a mental health provider of a duration consistent with relevant professional standards used by the carrier to determine medical necessity for the particular service being rendered, as defined in Physicians Current Procedural Terminology, published by the American Medical Association.

(23) "Participating provider" and "participating facility" mean a facility or provider who, under a contract with the health carrier or with the carrier's contractor or subcontractor, has agreed to provide health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments, or deductibles, from the health carrier rather than from the covered person.

(24) "Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

(25) "Pharmacy services" means the practice of pharmacy as defined in chapter 18.64 RCW and includes any drugs or devices as defined in chapter 18.64 RCW.

(26) "Primary care provider" means a participating provider who supervises, coordinates, or provides initial care or continuing care to a covered person, and who may be required by the health carrier to initiate a referral for specialty care and maintain supervision of health care services rendered to the covered person.

(27) "Preexisting condition" means any medical condition, illness, or injury that existed any time prior to the effective date of coverage.

(28) "Premium" means all sums charged, received, or deposited by a health carrier as consideration for a health plan or the continuance of a health plan. Any assessment or any "membership," "policy," "contract," "service," or similar fee or charge made by a health carrier in consideration for a health plan is deemed part of the premium. "Premium" shall not include amounts paid as enrollee point-of-service cost-sharing.

(29) "Service area" means the geographic area or areas where a specific product is issued, accepts members or enrollees, and covers provided services. A service area must be defined by the county or counties included unless, for good cause, the commissioner permits limitation of a service area by zip code. Good cause includes geographic barriers within a service area, or other conditions that make offering coverage throughout an entire county unreasonable.

(30) "Small group plan" means a health plan issued to a small employer as defined under RCW 48.43.005(~~((+33+))~~) (34) comprising from one to fifty eligible employees.

(31) "Substance use disorder services" means in-patient or out-patient treatment including, but not limited to, partial hospitalization, residential treatment, or out-patient facility-based treatment, intensive outpatient treatment, emergency services, or prescription drugs to manage, stabilize, or ameliorate the effects of a substance use disorder listed in the most current version of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM) published by the American Psychiatric Association, including diagnoses and treatment for substance use disorder.

(32) "Substitute drug" means a prescription medication, drug or therapy that a carrier covers based on an exception request. When the exception request is based on therapeutic equivalence, a substitute drug means a therapeutically equivalent substance as defined in chapter 69.41 RCW.

~~((+32+))~~ (33) "Supplementary pharmacy services" or "other pharmacy services" means pharmacy services involving the provision of drug therapy management and other services not required under state and federal law but that may be rendered in connection with dispensing, or that may be used in disease prevention or disease management.

WAC 284-170-200 Network access—General standards. (1) An issuer must maintain each provider network for each health plan in a manner that is sufficient in numbers and types of providers and facilities to assure that, to the extent feasible based on the number and type of providers and facilities in the service area, all health plan services provided to enrollees will be accessible in a timely manner appropriate for the enrollee's condition. An issuer must demonstrate that for each health plan's defined service area, a comprehensive range of primary, specialty, institutional, and ancillary services are readily available without unreasonable delay to all enrollees and that emergency services are accessible twenty-four hours per day, seven days per week without unreasonable delay.

(2) Each enrollee must have adequate choice among health care providers, including those providers which must be included in the network under WAC 284-170-270, and for qualified health plans and qualified stand-alone dental plans, under WAC 284-170-310.

(3) An issuer's service area must not be created in a manner designed to discriminate or that results in discrimination against persons because of age, gender, gender identity, sexual orientation, disability, national origin, sex, family structure, ethnicity, race, health condition, employment status, or socioeconomic status.

(4) An issuer must establish sufficiency and adequacy of choice of providers based on the number and type of providers and facilities necessary within the service area for the plan to meet the access requirements set forth in this subchapter. Where an issuer establishes medical necessity or other prior authorization procedures, the issuer must ensure sufficient qualified staff is available to provide timely prior authorization decisions on an appropriate basis, without delays detrimental to the health of enrollees.

(5) In any case where the issuer has an absence of or an insufficient number or type of participating providers or facilities to provide a particular covered health care service, the issuer must ensure through referral by the primary care provider or otherwise that the enrollee obtains the covered service from a provider or facility within reasonable proximity of the enrollee at no greater cost to the enrollee than if the service were obtained from network providers and facilities. An issuer must satisfy this obligation even if an alternate access delivery request has been submitted and is pending commissioner approval.

An issuer may use facilities in neighboring service areas to satisfy a network access standard if one of the following types of facilities is not in the service area, or if the issuer can provide substantial evidence of good faith efforts on its part to contract with the facilities in the service area. Such evidence of good faith efforts to contract will include documentation about the efforts to contract but not the substantive contract terms offered by either the issuer or the facility. This applies to the following types of facilities:

- (a) Tertiary hospitals;
- (b) Pediatric community hospitals;
- (c) Specialty or limited hospitals, such as burn units, rehabilitative hospitals, orthopedic hospitals, and cancer care hospitals;

(d) Neonatal intensive care units; and

(e) Facilities providing transplant services, including those that provide solid organ, bone marrow, and stem cell transplants.

(6) An issuer must establish and maintain adequate arrangements to ensure reasonable proximity of network providers and facilities to the business or personal residence of enrollees, and located so as to not result in unreasonable barriers to accessibility. Issuers must make reasonable efforts to include providers and facilities in networks in a manner that limits the amount of travel required to obtain covered benefits.

(7) A single case provider reimbursement agreement must be used only to address unique situations that typically occur out-of-network and out of service area, where an enrollee requires services that extend beyond stabilization or one time urgent care. Single case provider reimbursement agreements must not be used to fill holes or gaps in the network and do not support a determination of network access.

(8) An issuer must disclose to enrollees that limitations or restrictions on access to participating providers and facilities may arise from the health service referral and authorization practices of the issuer. A description of the health plan's referral and authorization practices, including information about how to contact customer service for guidance, must be set forth as an introduction or preamble to the provider directory for a health plan. In the alternative, the description of referral and authorization practices may be included in the summary of benefits and explanation of coverage for the health plan.

(9) To provide adequate choice to enrollees who are American Indians/Alaska Natives, each health issuer must maintain arrangements that ensure that American Indians/Alaska Natives who are enrollees have access to covered medical and behavioral health services provided by Indian health care providers.

Issuers must ensure that such enrollees may obtain covered medical and behavioral health services from ~~((the))~~ an Indian health care provider at no greater cost to the enrollee than if the service were obtained from network providers and facilities, even if the Indian health care provider is not a contracted provider. Issuers are not responsible for credentialing providers and facilities that are part of the Indian health system. Nothing in this subsection prohibits an issuer from limiting coverage to those health services that meet issuer standards for medical necessity, care management, and claims administration or from limiting payment to that amount payable if the health service were obtained from a network provider or facility.

(10) An issuer must have a demonstrable method and contracting strategy to ensure that contracting hospitals in a plan's service area have the capacity to serve the entire enrollee population based on normal utilization.

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

(a) Adequate networks must include crisis intervention and stabilization, psychiatric inpatient hospital services, including voluntary psychiatric inpatient services, and services from mental health providers.

(b) 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))~~ (c) 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.

~~((e))~~ (d) Emergency mental health services and substance use disorder 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's monitoring of network access and adequacy must be based on its classification of mental health and substance use disorder services to either primary or specialty care, ensuring that a sufficient number of providers of the required type are in its network to provide the services as classified. An issuer may use the classifications established in WAC 284-43-7020 for this element of its network assessment and monitoring.

(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, by using the issuer's transparency tool developed pursuant to RCW 48.43.007 and by referring to the network provider directory.

(12) The provider network must include preventive and wellness services, including chronic disease management and smoking cessation services as defined in RCW 48.43.005~~((37))~~ and WAC 284-43-5640(9) and 284-43-5642(9). If these services are provided through a quit-line or help-line, the issuer must ensure that when follow-up services are medically necessary, the enrollee will have access to sufficient information to access those services within the service area. Contracts with quit-line or help-line services are subject to the same conditions and terms as other provider contracts under this section.

(13) For the essential health benefits category of ambulatory patient services, as defined in WAC 284-43-5640(1) and 284-43-5642(1), an issuer's network is adequate if:

(a) The issuer establishes a network that affords enrollee access to urgent appointments without prior authorization within forty-eight hours, or with prior authorization, within ninety-six hours of the referring provider's referral.

(b) For primary care providers the following must be demonstrated:

(i) The ratio of primary care providers to enrollees within the issuer's service area as a whole meets or exceeds the average ratio for Washington state for the prior plan year;

(ii) The network includes such numbers and distribution that eighty percent of enrollees within the service area are within thirty

miles of a sufficient number of primary care providers in an urban area and within sixty miles of a sufficient number of primary care providers in a rural area from either their residence or work; and

(iii) Enrollees have access to an appointment, for other than preventive services, with a primary care provider within ten business days of requesting one.

(c) For specialists:

(i) The issuer documents the distribution of specialists in the network for the service area in relation to the population distribution within the service area; and

(ii) The issuer establishes that when an enrollee is referred to a specialist, the enrollee has access to an appointment with such a specialist within fifteen business days for nonurgent services.

(d) For preventive care services, and periodic follow-up care including, but not limited to, standing referrals to specialists for chronic conditions, periodic office visits to monitor and treat pregnancy, cardiac or mental health conditions, and laboratory and radiological or imaging monitoring for recurrence of disease, the issuer permits scheduling such services in advance, consistent with professionally recognized standards of practice as determined by the treating licensed health care provider acting within the scope of his or her practice.

(14) The network access requirements in this subchapter apply to stand-alone dental plans offered through the exchange or where a stand-alone dental plan is offered outside of the exchange for the purpose of providing the essential health benefit category of pediatric oral benefits. All such stand-alone dental plans must ensure that all covered services to enrollees will be accessible in a timely manner appropriate for the enrollee's conditions.

(a) An issuer of such stand-alone dental plans must demonstrate that, for the dental plan's defined service area, all services required under WAC 284-43-5700(3) and 284-43-5702(4), as appropriate, are available to all enrollees without unreasonable delay.

(b) Dental networks for pediatric oral services must be sufficient for the enrollee population in the service area based on expected utilization.

(15) Issuers must meet all requirements of this subsection for all provider networks. An alternate access delivery request under WAC 284-170-210 may be proposed only if:

(a) There are sufficient numbers and types of providers or facilities in the service area to meet the standards under this subchapter but the issuer is unable to contract with sufficient providers or facilities to meet the network standards in this subchapter; or

(b) An issuer's provider network has been previously approved under this section, and a provider or facility type subsequently becomes unavailable within a health plan's service area; or

(c) A county has a population that is fifty thousand or fewer, and the county is the sole service area for the plan, and the issuer chooses to propose an alternative access delivery system for that county; or

(d) A qualified health plan issuer is unable to meet the standards for inclusion of essential community providers, as provided under WAC 284-170-310(3).

~~((16) This section is effective for all plans, whether new or renewed, with effective dates on or after January 1, 2015.))~~

WAC 284-170-260 Provider directories. (1) ~~((Provider directories must be updated at least monthly, and must be offered to accommodate individuals with limited-English proficiency or disabilities.~~

~~An issuer must post the current provider directory for each health plan online, and must make a printed copy of the current directory available to an enrollee upon request as required under RCW 48.43.510 (1)(g).~~

~~(2) For each health plan, the associated provider directory must include the following information for each provider:~~

~~(a)) For each carrier that uses a provider network, the carrier must make information about that network available to the general public, prospective enrollees and enrollees, in the form of an easily accessible and searchable online provider directory.~~

Easily accessible for the purposes of this section means:

(a) The general public is able to view all of the current providers for each plan in the provider directory on the carrier's public website through a clearly identifiable link or tab and without creating or accessing an account or entering a policy number; and

(b) If a carrier maintains multiple provider networks, the carrier must post the current provider directory for each plan so the general public is able to easily discern which providers participate in which plans and which provider networks.

(2) Carriers must make a printed copy of the current provider directory available to an enrollee upon request as required under RCW 48.43.510 (1)(g). The printed directory must contain the telephone number, including a TTY/TTD number, and any other contact information to enable the enrollee to obtain information about providers in the health plan network.

(3) Printed and online provider directories must be made available to the general public, prospective enrollee's and enrollee's in a manner that accommodates individuals with limited-English proficiency or disabilities.

(4) Printed and online provider directories must be updated for accuracy at least monthly. To ensure accuracy:

(a) Each provider directory must include clear instructions about how a consumer or an enrollee can report inaccurate information in the provider directory to the carrier.

(b) Carriers must have an easily available method for providers to report changes to their provider directory information, in addition to any reports associated with initial or renewed credentialing used by the carrier.

(c) Carriers must investigate reported inaccuracies from providers and consumers, and if verified, correct inaccuracies as part of the carrier's monthly updates.

(d) Carriers must establish processes and procedures to confirm the accuracy of provider directory information, including processes and procedures to ensure that changes are made when inaccuracies are verified. Carriers must provide the processes and procedures and any associated records, including the provider directories, to the commissioner upon request for review.

(5) Printed and online provider directories must include the following information for each provider:

(a) The provider's location and telephone number;

(b) The specialty area or areas for which the provider is licensed to practice and included in the network;

~~((b))~~ (c) Any in-network institutional affiliation of the provider, such as hospitals where the provider has admitting privileges or provider groups with which a provider is a member;

~~((e))~~ (d) Whether the provider may be accessed without referral;

~~((d))~~ (e) Any languages, other than English, spoken by the provider;

(f) If a provider offers mental health or substance use disorder treatment services, identify in the directory that the provider is contracted to deliver mental health or substance use disorder treatment services.

~~((3) An issuer))~~ (6) A carrier must include in its ~~((electronic posting of a health plan's))~~ printed and online provider ((directory) directories a notation of any primary care, chiropractor, women's health care provider, mental health provider or facility, substance use disorder provider or facility, or ((pediatrician)) pediatric provider whose practice is closed to new patients.

~~((4) If an issuer maintains more than one provider network, its posted provider directory or directories must make it reasonably clear to an enrollee which network applies to which health plan.~~

~~(5))~~ (7) Printed and online provider directories must include information about any available telemedicine services ~~((must be included and specifically described.~~

~~(6))~~ and specifically describe the services and how to access those services.

(8) Printed and online provider directories must include information about any available interpreter services, communication and language assistance services, and accessibility of the physical facility ~~((must be identified in the directory)),~~ and the mechanism by which an enrollee may access such services.

~~((7) An issuer))~~ (9) Printed and online provider directories must include information about the network status of emergency providers as required by WAC 284-170-370.

~~((8) This section is effective for all plans, whether new or renewed, with effective dates on or after January 1, 2015.))~~

NEW SECTION

WAC 284-170-285 Mental health and substance use disorder web page model format and required content. (1) Not later than July 1, 2021, carriers must establish and maintain a web page entitled "Important Mental Health and Substance Use Disorder Treatment Information" that complies with the requirements in this section. By July 1, 2021, carriers must prominently post the information in subsections (4), (5), (6), (7), and (8) of this section on their website so that a member may easily locate it.

(2) A member must be able to link to the web page from their portal landing page if the carrier provides members with a portal. If the carrier does not provide members with a personal electronic portal, the carrier must place a link to the web page that is visually prominent and easily located on the health plan's network information page.

(3) A carrier's transparency tool(s) must include the information required in this section to the extent that it is required by RCW 48.43.007(2).

(4) The web page must contain a section that explains what to do if an enrollee or their dependent is experiencing a mental health or substance use disorder emergency or crisis. This section must specifically include, but is not limited to, links and information for the National Suicide Prevention hotline, and identify resources for emergency or crisis intervention within an enrollee's service area and within Washington state that provide support and services for mental health or substance use disorder emergencies or crises. The content for this portion of the web page must emphasize the ways an enrollee or their personal representative can receive emergency or crisis services either from public health resources, private health resources or through the services offered by the carrier in nontechnical and consumer friendly language. This section must be above the fold and visually prominent on the mental health and substance use disorder web page.

(5) The web page must contain accurate information explaining the following information, based on the health plan network's access and adequacy standards for mental health and substance use disorder treatment and services:

(a) How an enrollee can find in-network mental health and substance use disorder treatment and services in their service area;

(b) What an enrollee may do if covered services are not available in their service area or the enrollee cannot obtain access to scheduling an appointment from an in-network provider within ten business days for mental health and substance use disorder services covered as primary care and fifteen business days for those covered as specialty care; and

(c) A description of access to services based on the applicable time frames, such as the following: "If the enrollee seeks covered mental health and substance use disorder treatment services for which the enrollee needs a referral or is covered as specialty care, an appointment must be made available to the enrollee within fifteen days of requesting one. If the requested service does not require a referral or is not specialty care, the appointment must be made available within ten business days of making a request for an appointment. If an enrollee is unable to schedule an appointment within the applicable number of business days, the carrier must assist with scheduling an appointment."

(6) By June 30th of each year, the commissioner shall post a report identifying, by carrier, the number of consumer complaints, asserting an inability to access mental health or substance use disorder services within ten business days for primary care and fifteen business days for specialty care, that were submitted to the commissioner during the prior calendar year. A carrier's "Important Mental Health and Substance Use Disorder Treatment Information" web page must include a link to this report, and must update the link to the office of the insurance commissioner's web page on which the report is posted.

(7) If the commissioner has disciplined the carrier for violating the network standards set forth in this chapter or Title 48.43 RCW, with regard to mental health or substance use disorder treatment and services, the carrier must post a link to each order of enforcement or disciplinary action posted on the commissioner's website within thirty days of the commissioner posting the order on the office of the insurance commissioner's website. An order may be removed from the

carrier's website three years after the issue date of the order or completion of the corrective action plan associated with the order, whichever is later.

Carriers may indicate when a corrective action plan associated with the order is completed and carriers may include an explanation of the actions it has taken to address the enforcement or disciplinary action.

(8) The web page must contain a section titled "How to File a Complaint with the Office of the Insurance Commissioner" and refer users to the OIC complaint form at <https://www.insurance.wa.gov/file-complaint-or-check-your-complaint-status.com> or the commissioner's toll-free insurance consumer hotline at 1-800-562-6900.

(9) The commissioner may review the web page for accuracy and conformance with the requirements of this section when an enrollee complaint is received about access to mental health or substance use disorder services, or at any time as the commissioner deems necessary to ensure the carrier is in compliance with the requirements of this chapter.

(10) Carriers may include its logo and identifying information on the web page.