October 28, 2020

Mandy Weeks-Green, Sr. Health Policy Analyst
Washington State Office of the Insurance Commissioner
P.O. Box 40260
Olympia, WA 98504-0260
Submitted via email to: rulescoordinator@oic.wa.gov

(R2019-11)

Dear Ms. Weeks-Green:

Kaiser Foundation Health Plan of the Northwest, Kaiser Foundation Health Plan of Washington, and Kaiser Foundation Health Plan of Washington Options, Inc. (collectively “Kaiser Permanente”), appreciate the opportunity to provide feedback to the Office of the Insurance Commissioner (“OIC”) on the proposed rule (CR-102) implementing the new prescription drug utilization management requirements contained in ESHB 1879. Kaiser Permanente is an integrated health care system that covers and cares for nearly 800,000 members in Washington State. We are committed to delivering affordable, coordinated, and high-quality care and coverage that supports not only our members but also the communities we serve.

Kaiser Permanente would like to thank the OIC for considering our comments on the previous stakeholder draft. We are including a summary of some items, on which we previously commented, that were not included in the proposed rule but that we feel are important.

- The language in WAC 284-43-2020(2) governing what must be posted on the health carrier’s website should be modified to reflect the language in the underlying statute.1

  We suggest the following language:

  “Beginning January 1, 2021, an issuer must post its clinical review approval criteria for the prescription drugs and the drug utilization management exception process on its website. An issuer must also require any entity performing prescription drug benefit administration on the issuer's behalf to post the drug utilization management exception process and clinical review approval criteria used for the issuer's enrollees on the entity's website. The review approval criteria must be accessible to both providers and enrollees and presented in plain language that is understandable to both providers and enrollees. The clinical review approval criteria must include all rules and criteria related to the prescription drug utilization management exception process including the specific information and documentation that must be submitted by a health care provider or enrollee to be considered a complete exception request.”

1 RCW 48.43.420(1).
• We urge the OIC to add language to the scenarios outlined in WAC 284-43-2021(8) requiring evidence that an exception is clinically appropriate based on the severity and high probability of the listed factors occurring.

• While a carrier may not deny an exception request if a response is not provided within the requisite time frames established in WAC 284-43-2022, we recommend the OIC incorporate a “good faith” standard to apply when carriers reach out to providers in response to an exception request but the provider fail to receive the carrier’s communication.

Thank you for engaging stakeholders during this rulemaking effort. Please do not hesitate to contact us with questions.

Sincerely,

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