

November 11, 2020

Mandy Weeks-Green, Senior Health Policy Analyst  
Washington Office of the Insurance Commissioner  
PO Box 40258  
Olympia, WA 98504

*Delivered via electronic mail to [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov)  
Attention: Mandy Weeks-Green*

Re: Comments on Proposed Rule for R2019-03 Confidential Communications

Dear Ms. Weeks-Green,

Thank you for the opportunity to review the proposed rule language for R2019-03 Confidential Communications and draft Confidentiality Request Form. We appreciate the work OIC has done throughout the stakeholder process to revise and refine requirements. The revisions made will help implementation efforts, though there are still some areas we seek additional clarification. On behalf of Molina Healthcare, please find the following comments:

**WAC 284-43-0420 Sensitive Health Care Services**

*“(1) A health carrier must direct all communication regarding sensitive health care services, including communications subject to confidentiality, directly to the protected individual. To facilitate communication of these services, a carrier must allow the protected individual to select their preferred communication format and may provide sensitive health services communications to the protected individual by: (d) Mail to the address requested by a protected individual, and if no address has been requested, then mail to the known address if the communication and envelope are addressed only to the protected individual.”*

*“(2) When a protected individual provides their express written consent or verbal authorization on a recorded line, a health carrier may disclose information concerning sensitive health care services for that protected individual.”*

*“(3)(b) Health carriers must implement the request and any subsequent request for changes within three business days from receipt of the request. If a request is incomplete or missing information, the carrier must implement as much of the request as possible, and contact the enrollee to obtain a complete request within three business days.”*

**Molina Comments**

Molina understands protected individuals can select their preferred communication format but seeks guidance from OIC to understand the process that should be implemented for those individuals that do not specify a method of communication. Molina proposes for consideration that in these scenarios the language under section (1)(d) be made broadly applicable to the entire

section. This would allow communications to be sent to the known address with the envelope addressed only to the protected individual.

Molina remains concerned about the requirement in Section (2) for carriers to provide a recorded telephone line for verbal authorization. This requirement would pose significant operational challenges for Molina as we would need to reroute calls from our current agents, who are most skilled in Washington Marketplace programs, to call centers in other states that have recording capabilities. Molina respectfully requests OIC consider a one-year safe harbor of this requirement and allow carriers to utilize written communication or an unrecorded phone for members to express consent during that time. This additional time would be critical for a smooth transition of Washington Marketplace calls to alternative call centers and would help ensure members' ability to access timely and accurate information during Open Enrollment, and the beginning of the plan year, both periods traditionally known for high call volumes and member inquiries.

Regarding section (3)(b), Molina seeks to understand the process that should be implemented when unable to reach members to complete a request that is incomplete or missing information. We would like to propose for consideration that requests that are still incomplete or missing information after two outreach attempts to the member default to mailing to the known address on file as the communication method for sensitive health services.

**Molina Comments on Confidentiality Request Form**

Under WAC 284-43-0420, section (3)(a) the Confidentiality Request Form may be submitted by a provider or enrollee. Given this new provision, Molina requests for consideration the form include a section for members to authorize their provider to act as their representative and submit the form.

Again, we appreciate the opportunity to provide comments and work collaboratively with the OIC in proposed rulemaking. Thank you for your consideration of Molina's comments, and if there are any questions, we would be happy to discuss.

Sincerely,

Gretchen Gillis  
Director of Government Contracts  
Molina Healthcare of Washington