



January 4, 2017

Jim Freeburg
Washington State Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Re: Comments Regarding WSR 16-23-156 Prior Authorization Process and Transparency

Dear Mr. Freeburg,

On behalf of our 107 hospital and health system members, the Washington State Hospital Association appreciates the opportunity to comment regarding the proposed rules by the Office of the Insurance Commissioner (OIC) on prior authorization practices in this state.

We are pleased that the OIC is adopting rulemaking regarding prior authorizations and we support the provisions in the proposed rule. There has been a tremendous increase in the number and variation of prior authorization requirements required by health plans. The proposed rule does not directly address our concerns relating to the proliferation and lack of standardization of prior authorization requirements. We believe, however, the transparency and accountability requirements in the proposed rule are a strong step forward and will help create an environment where in the future carriers and providers can more effectively align clinical criteria to service delivery.

In particular, we appreciate the provisions in the proposed rule clarifying that benefit managers and other entities representing or contracted by a carrier are subject the same requirements as the carrier; that carrier changes to prior authorizations are considered changes to the provider or facility contract and subject to notification and amendment requirements; the provisions improving transparency and communication of specific clinical criteria used for medical necessity decisions; and provisions related to carrier treatment of extenuating circumstances when a prior authorization cannot be obtained in advance of a service.

We have attached some specific detailed recommendations to better define some of the provisions.

If you have questions, please contact Andrew Busz, WSHA Policy Director, Finance at andrewb@wsha.org or (206) 216-2533.

A handwritten signature in blue ink that reads 'Claudia'.

Claudia Sanders
Senior Vice President

A handwritten signature in red ink that reads 'Andrew'.

Andrew Busz
Policy Director, Finance

WSHA Specific Recommendations

NEW SECTION

WAC 284-43-2050 Prior authorization processes.

(9) A carrier or its designated or contracted representative that requires prior authorization for any service must allow a provider or facility to submit a request for a prior authorization at all times, including outside normal business hours. In addition, a carrier or its designated or contracted representative must maintain normal business hours that are consistent with the time zone in which the provider or facility is located in order to facilitate communication.

NEW SECTION

WAC 284-43-2060 Extenuating circumstances.

(2) A carrier or its designated or contracted representative must allow the retrospective review of services when an extenuating circumstance prevents a ~~participating~~ provider or facility from obtaining a required prior authorization before a service is delivered or when a prior authorization has been obtained, and extenuating circumstances prevents the provider or facility from delivering the medically necessary health care service as described in the prior authorization. For purposes of this section, an extenuating circumstance means a situation where a carrier must not deny a provider or facility's claim for lack of prior authorization if the services are otherwise eligible for reimbursement. A carrier's or its designated or contracted representative's extenuating circumstances policy must address, but is not limited to situations where:

(a) A provider or facility is unable to ~~expect~~ anticipate the need for the inpatient or outpatient ~~outpatient~~ service in question prior to performing the service;

(b) The provider or facility is unable to identify from which carrier or its designated or contracted representative to request a prior authorization;

(c) The provider or facility does not have enough time to request a prior authorization before or while performing a service;

(d) The provider or facility has received a prior authorization to deliver a health care service, but extenuating circumstances prevent the service from being delivered as originally intended, to include surgical situations where the condition of the enrollee was different than what was anticipated and a different medically necessary procedure needed; and

~~(d)~~ (e) The enrollee is discharged from a facility and insufficient time exists for institutional or home health care services to receive approval prior to delivery of the service.

(3) A carrier or its designated or contracted representative may require a participating provider or facility to follow certain procedures in order for services to qualify as an extenuating circumstance, such as requirements for documentation or a time frame for claims submission. Claims related to an extenuating circumstance may still be reviewed for medical necessity.

(4) Requirements of WAC 284-43-2000 apply to a retrospective review that occurs because the review occurs after the service has been delivered.

(5) This section does not apply to prescription drugs services.