

E2SHB 1688 - S AMD 1387

By Senator Muzzall

ADOPTED 03/03/2022

1 On page 14, line 30, after "stabilization," insert "or by the end
2 of the business day following the day the stabilization occurs,
3 whichever is later,"

4 On page 30, beginning on line 4, after "(13)" strike all material
5 through "act)" on line 5 and insert "For dispute resolution
6 proceedings initiated under RCW 48.49.150(2)(b) (as recodified by
7 this act), the arbitration provisions of this section apply except
8 that:

9 (a) The issue before the arbitrator will be the commercially
10 reasonable payment for applicable services addressed in the alternate
11 access delivery request rather than the commercially reasonable
12 payment for single or multiple claims under subsection (4) of this
13 section. The arbitrator shall issue a decision related to whether
14 payment for the applicable services should be made at the final offer
15 amount of the carrier or the final offer amount of the provider or
16 facility. The arbitrator's decision is final and binding on the
17 parties for services rendered to enrollees from the effective date of
18 the amended alternate access delivery request approved under RCW
19 48.49.150(2)(b) (as recodified by this act) to either the expiration
20 date of the amended alternate access delivery request, or at the time
21 that a provider contract and provider compensation agreement are
22 executed between the parties, whichever occurs first;

23 (b) During the period from the effective date of the amended
24 alternate access delivery request to issuance of the arbitrator's
25 decision, the allowed amount paid to providers or facilities for the
26 applicable services addressed in the amended alternate access
27 delivery request shall be a commercially reasonable amount, based on
28 payments for the same or similar services provided in a similar
29 geographic area; and

30 (c) The proceedings"

31 On page 35, line 20, after "facilities" strike "; and" and insert
32 ". If a carrier is submitting an alternate access delivery request

1 for the same service and geographic area as a previously approved
2 request, the carrier shall provide new or additional evidence of good
3 faith efforts to contract associated with the current request;"

4 On page 35, line 23, after "standards" insert "; and

5 (iv) For services for which balance billing is prohibited under
6 RCW 48.49.020, notify out-of-network providers or facilities that
7 deliver the services referenced in the alternate access delivery
8 request within five days of submitting the request to the
9 commissioner. Any notification provided under this subsection shall
10 include contact information for carrier staff who can provide
11 detailed information to the affected provider or facility regarding
12 the submitted alternate access delivery request"

13 On page 35, beginning on line 28, after "unless" strike all
14 material through "services." on line 37 and insert "all requirements
15 of this subsection are met.

16 (i) If a carrier is unable to obtain a contract with a provider
17 or facility delivering services addressed in an alternate access
18 delivery request to meet network access requirements, the carrier may
19 ask the commissioner to amend the alternate access delivery request
20 if the carrier's communication to the commissioner occurs at least
21 three months after the effective date of the alternate access
22 delivery request and demonstrates substantial evidence of good faith
23 efforts on its part to contract for delivery of services during that
24 three-month time period. If the carrier has demonstrated substantial
25 evidence of good faith efforts on its part to contract, the
26 commissioner shall allow a carrier to use the dispute resolution
27 process provided in RCW 48.49.040 to determine the amount that will
28 be paid to providers or facilities for services referenced in the
29 alternate access delivery request. The commissioner may determine by
30 rule the associated processes for use of the dispute resolution
31 process under this subsection.

32 (ii) Once notification is provided by the carrier to a provider
33 or facility under (a) of this subsection, a carrier is not
34 responsible for reimbursing a provider's or facility's charges in
35 excess of the amount charged by the provider or facility for the same
36 or similar service at the time the notification was provided. The
37 provider or facility shall accept this reimbursement as payment in
38 full."

EFFECT: Provides flexibility to the provision that allows a health carrier to require a nonparticipating hospital or behavioral health emergency service provider to make a good faith effort to notify the carrier within 48 hours of stabilization of an enrollee, by allowing that notification to take place by the end of the business day following stabilization.

Clarifies the process for determining payment under alternate access delivery requests (AADR) by allowing carriers to engage in the state arbitration process after three months of good faith efforts to contract for those services.

Requires that the arbitrator determine the payment amount for all services addressed in the AADR, rather than for a single or multiple claims, and clarifies the time period for which that payment amount is effective.

Requires carriers to pay providers a commercially reasonable amount for service addressed in the AADR during the time the arbitrator's decision is pending.

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