

**WAC 284-43-2022 Time frame for exception and substitution request determinations.**

(1) A carrier must make an exception request determination in a timely manner as defined in this section. A carrier may not deny the exception request if the enrollee or provider does not receive a response to an exception request within the time frames in this section.

(2) A carrier must maintain a sufficient record of each exception request to establish its compliance with the required exception process and time frames under chapter 284-43 WAC and RCW 48.43.420. Upon the commissioner's request, a carrier must make all records and documentation available and produce all requested documentation from any entity providing benefit administration or exception request decisions on its behalf within the time frame set by the commissioner.

(3) If a provider fails to submit sufficient information for the carrier to approve or deny an exception request, a carrier must notify the provider of the specific information needed within three business days of receiving a nonurgent exception request and one business day of receiving an urgent exception request. A carrier must notify the provider that the documentation is insufficient and must explain what information is missing. A carrier may establish a specific reasonable time frame for submission of the additional information. This time frame must be communicated to the provider or enrollee with a carrier's request for additional information. If the additional information is not received within that time frame, a carrier may deny the request.

(4) When a carrier receives sufficient information to make a decision regarding a nonurgent exception request, a carrier must make its determination and notify the enrollee or the enrollee's designee and the prescribing provider (or other prescriber, as appropriate) no later than three business days following receipt of the request.

(5) When a carrier receives sufficient information to make a decision regarding an urgent exception request, a carrier must make its determination and notify the enrollee or the enrollee's designee and the prescribing provider (or other prescriber, as appropriate) no later than one business day following receipt of the request.

(6) Use of a carrier's exception process is not a grievance or appeal pursuant to RCW 48.43.530 and 48.43.535. Denial of an exception request is an adverse benefit determination, and an enrollee, their representative provider or facility, or representative may request review of that decision using a carrier's appeal or adverse benefit determination review process.

(7) A carrier's denial of an exception request is subject to the requirements of RCW 48.43.535 and chapter 284-43A WAC, which grants enrollees access to independent external review of carrier decisions to deny, modify, reduce or terminate coverage of or payment for a health care service or if the carrier exceeds the timelines for making an exception request decision and denies coverage. While the external review is conducted, the carrier must cover the drug if the exception request was urgent or was for an emergency fill. If such an exigency ceases, any drug previously covered under such exigency may only be reauthorized through the standard exception request process. If the independent external review reverses the carrier's denial of either an urgent or nonurgent exception request, the carrier must retrospectively cover the nonformulary drug and continue coverage for the duration of the prescription.

(8) A carrier may not penalize or threaten a provider with a reduction in future payment or termination of a participating provider

agreement because the provider disputes a carrier's determination with respect to coverage or payment for a substitute drug.

[Statutory Authority: RCW 48.02.060, 48.43.400, 48.43.410, and 48.43.420. WSR 20-24-105, § 284-43-2022, filed 12/1/20, effective 1/1/21.]