H-0502.2

HOUSE BILL 1432

State of Washington 69th Legislature 2025 Regular Session

By Representatives Simmons, Eslick, Rule, Davis, Macri, Stearns, Reed, Goodman, Salahuddin, Pollet, Timmons, and Santos

Read first time 01/20/25. Referred to Committee on Health Care & Wellness.

1 AN ACT Relating to improving access to appropriate mental health
2 and substance use disorder services by updating Washington's mental
3 health parity law and ensuring coverage of medically necessary care;
4 amending RCW 48.43.016, 48.43.091, 48.43.410, 48.43.520, 48.43.535,
5 48.43.761, and 48.43.830; adding a new section to chapter 48.43 RCW;
6 creating new sections; repealing RCW 48.20.580, 48.21.241, 48.41.220,
7 48.44.341, and 48.46.291; and providing effective dates.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** (1) The legislature finds that:
10 (a) Access to mental health and substance use disorder treatment
11 is critical to the health and well-being of individuals with these
12 conditions and that access to appropriate care is important to
13 reducing preventable emergency department visits, hospitalizations,
14 and physical health care costs associated with significant
15 comorbidities;
16 (b) Health insurance coverage is essential to ensuring that
17 individuals can access needed mental health and substance use
18 disorder treatment and that health carriers should make medical
19 necessity determinations based on the objective needs of the patient;
20 and

(c) The mental health and substance use disorder workforce faces a number of administrative barriers and undue financial risks with respect to participation in health carriers' provider networks that should be alleviated.

(2) Therefore, it is the intent of the legislature to increase access to mental health and substance use disorder treatment by updating Washington's mental health parity requirements, requiring that medical necessity determinations be consistent with generally accepted standards of care and recommendations from nonprofit health care provider associations, requiring consistent rules for both mental health and substance use disorders, and eliminating harmful barriers to care.

NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43 RCW to read as follows:

(1) For the purposes of this section:

(a) "Clinical review criteria" means any criteria, standards, protocols, or guidelines used by a health carrier to conduct utilization review.

(b) "Core treatment" means a standard treatment or course of treatment, therapy, service, or intervention indicated by generally accepted standards of mental health and substance use disorder care for a condition or disorder.

(c) "Generally accepted standards of mental health and substance use disorder care" means standards of care and clinical practice that are generally recognized by health care providers practicing in relevant clinical specialties such as psychiatry, psychology, clinical sociology, social work, addiction medicine and counseling, and behavioral health treatment. Valid, evidence-based sources establishing generally accepted standards of care include peer-reviewed scientific studies and medical literature, and recommendations of nonprofit professional associations including, but not limited to, patient placement criteria and clinical practice guidelines, recommendations of federal government agencies, and drug labeling approved by the United States food and drug administration.

(d) "Medically necessary" means a service or product addressing the specific needs of a patient, for the purpose of screening, preventing, diagnosing, managing, or treating an illness, injury, condition, or its symptoms, including minimizing the progression of an illness, injury, condition, or its symptoms, in a manner that is:

1 (i) In accordance with generally accepted standards of mental
2 health and substance use disorder care;
3 (ii) Clinically appropriate in terms of type, frequency, extent,
4 site, and duration of a service or product; and
5 (iii) Not primarily for the economic benefit of the insurer or
6 purchaser or for the convenience of the patient, treating physician,
7 or other health care provider.
8 (e) "Mental health services" means:
9 (i) For health benefit plans issued or renewed before January 1,
10 2021, medically necessary outpatient and inpatient services provided
11 to treat mental disorders covered by the diagnostic categories listed
12 in the most current version of the diagnostic and statistical manual
13 of mental disorders, published by the American psychiatric
14 association, on June 11, 2020, or such subsequent date as may be
15 provided by the insurance commissioner by rule, consistent with the
16 purposes of chapter 6, Laws of 2005, with the exception of the
17 following categories, codes, and services: (A) Substance related
18 disorders; (B) life transition problems, currently referred to as "V"
19 codes, and diagnostic codes 302 through 302.9 as found in the
20 diagnostic and statistical manual of mental disorders, 4th edition,
21 published by the American psychiatric association; (C) skilled
22 nursing facility services, home health care, residential treatment,
23 and custodial care; and (D) court-ordered treatment, unless the
24 insurer's medical director or designee determines the treatment to be
25 medically necessary;
26 (ii) For a health benefit plan or a plan deemed by the
27 commissioner to have a short-term limited purpose or duration, or to
28 be a student-only health plan that is guaranteed renewable while the
29 covered person is enrolled as a regular, full-time undergraduate
30 student at an accredited higher education institution, issued or
31 renewed on or after January 1, 2021, medically necessary outpatient
32 services, residential care, partial hospitalization services, and
33 inpatient services provided to treat mental health and substance use
34 disorders covered by the diagnostic categories listed in the most
35 current version of the diagnostic and statistical manual of mental
36 disorders, published by the American psychiatric association, on June
37 11, 2020, or such subsequent date as may be provided by the insurance
38 commissioner by rule, consistent with the purposes of chapter 6, Laws
39 of 2005; and

(iii) For a health benefit plan or a plan deemed by the commissioner to have a short-term limited purpose or duration, or to be a student-only health plan that is guaranteed renewable while the covered person is enrolled as a regular, full-time undergraduate student at an accredited higher education institution, issued or renewed on or after January 1, 2026, medically necessary outpatient services, residential care, partial hospitalization services, inpatient services, and prescription drugs provided to treat mental health or substance use disorders covered by:

(A) The diagnostic categories listed in the most current version of the diagnostic and statistical manual of mental disorders, published by the American psychiatric association, on June 11, 2020, or such subsequent date as may be provided by the insurance commissioner by rule, consistent with the purposes of chapter 6, Laws of 2005; or

(B) The diagnostic categories listed in the mental, behavioral, and neurodevelopmental chapters of the version available on January 13, 2025, of the international classification of diseases adopted by the federal department of health and human services through 42 C.F.R. Sec. 162.002 or any subsequent version as determined by the insurance commissioner in rule consistent with this section and the goals listed in section 1 of this act.

(f) "Nonprofit professional association" means a not-for-profit health care provider professional association or specialty society that is generally recognized by clinicians practicing in the relevant clinical specialty and issues peer-reviewed guidelines, criteria, or other clinical recommendations developed through a transparent process.

(g) "Utilization review" means the prospective, concurrent, or retrospective assessment of the medical necessity and appropriateness of the allocation of health care resources and services of a provider or facility, given or proposed to be given to an enrollee or group of enrollees.

(2) Each health plan providing coverage for medical and surgical services shall provide coverage for:

(a) Mental health services. The copayment or coinsurance for mental health services may be no more than the copayment or coinsurance for medical and surgical services otherwise provided under the health plan. Wellness and preventive services that are provided or reimbursed at a lesser copayment, coinsurance, or other

1 cost sharing than other medical and surgical services are excluded
2 from this comparison. If the health plan imposes a maximum
3 out-of-pocket limit or stop loss, it shall be a single limit or stop
4 loss for medical, surgical, and mental health services. If the health
5 plan imposes any deductible, mental health services shall be included
6 with medical and surgical services for the purpose of meeting the
7 deductible requirement. Treatment limitations or any other financial
8 requirements on coverage for mental health services are only allowed
9 if the same limitations or requirements are imposed on coverage for
10 medical and surgical services; and

11 (b) Prescription drugs intended to treat any of the disorders
12 covered in this section to the same extent, and under the same terms
13 and conditions, as other prescription drugs covered by the health
14 plan.

15 (3) Utilization review and clinical review criteria must be
16 consistent with generally accepted standards of mental health and
17 substance use disorder care.

18 (4) In conducting utilization reviews relating to service
19 intensity or level of care placement, continued stay, or transfer or
20 discharge, the health carrier shall apply relevant age-appropriate
21 patient placement criteria from nonprofit professional associations
22 and shall authorize placement at the service intensity and level of
23 care consistent with that criteria. The health carrier may not apply
24 different, additional, conflicting, or more restrictive criteria. If
25 the assessed level of placement is not available, the health carrier
26 shall authorize the next higher level of care. In the event of
27 disagreement with the provider, as part of the adverse benefit
28 determination, the health carrier shall provide full detail of its
29 assessment to the provider and the covered person.

30 (5) A health carrier may not limit benefits or coverage for
31 medically necessary mental health services on the basis that those
32 services should or could be covered by a public entitlement program
33 including, but not limited to, special education or an individualized
34 education program, medicaid, medicare, supplemental security income,
35 or social security disability insurance, and may not include or
36 enforce a contract term that excludes otherwise covered benefits on
37 the basis that those services should or could be covered by a public
38 entitlement program.

1 (6) This section applies to any health care benefit manager, as
2 defined in RCW 48.200.020 or contracted provider that performs
3 utilization review functions on a health carrier's behalf.
4 (7) A health carrier may not adopt, impose, or enforce terms in
5 its policies or provider agreements, in writing or in operation, in a
6 manner that undermines, alters, or conflicts with the requirements of
7 this section.
8 (8) If a health carrier provides any benefits for a mental health
9 condition or substance use disorder in any classification of
10 benefits, it shall provide meaningful benefits for that mental health
11 condition or substance use disorder in every classification in which
12 medical or surgical benefits are provided. For purposes of this
13 subsection, whether the benefits provided are considered "meaningful
14 benefits" is determined in comparison to the benefits provided for
15 medical conditions and surgical procedures in the classification and
16 requires, at a minimum, coverage of benefits for that condition or
17 disorder in each classification in which the health carrier provides
18 benefits for one or more medical conditions or surgical procedures. A
19 health carrier does not provide meaningful benefits under this
20 subsection unless it provides benefits for a core treatment for that
21 condition or disorder in each classification in which the health
22 carrier provides benefits for a core treatment for one or more
23 medical conditions or surgical procedures. If there is no core
24 treatment for a covered mental health condition or substance use
25 disorder with respect to a classification, the health carrier is not
26 required to provide benefits for a core treatment for such condition
27 or disorder in that classification, but shall provide benefits for
28 such condition or disorder in every classification in which medical
29 or surgical benefits are provided.
30 (9) The requirements related to the mental health parity and
31 addiction equity act, 89 Fed. Reg. 77586 (September 23, 2024), are
32 incorporated in this section in their entirety.
33 (10) If a health care provider or a current or prospective
34 covered person requests one or more nonquantitative treatment
35 limitation parity compliance analyses that the health carrier is
36 required to have completed by 29 U.S.C. Sec. 1185a or 42 U.S.C. Sec.
37 300gg-26, the health carrier shall provide the requested analyses
38 free of charge. The health carrier shall include in each of their
39 health plan policies and mental health and substance use disorder
40 provider contracts a notification of the right to request

1 nonquantitative treatment limitation analyses free of charge. The
2 notification must include information on how to request the analyses.
3 In addition to any other action authorized under RCW 48.02.080,
4 48.05.185, 48.44.166, and 48.46.135, failure by a health carrier to
5 provide the full requested analyses shall result in a penalty of $100
6 per day, which shall be collected by the commissioner and remitted to
7 the requestor.

8 (11) If the commissioner determines that a health carrier has
9 violated this section, the commissioner may, after appropriate notice
10 and opportunity for hearing as required under chapters 48.04 and
11 34.05 RCW, by order, assess a civil monetary penalty not to exceed
12 $5,000 for each violation, or, if a violation was willful, a civil
13 monetary penalty not to exceed $10,000 for each violation. The civil
14 monetary penalties available to the commissioner pursuant to this
15 section are not exclusive and may be sought and employed in
16 combination with any other remedies available to the commissioner
17 under RCW 48.02.080. Beginning January 1, 2031, and every five years
18 thereafter, the penalty amounts specified in this section must be
19 adjusted based on the weighted cumulative average rate of change in
20 premium rates for the individual, small, and large group markets for
21 the previous five years.

22 (12) A violation of this section shall also be considered a
23 violation of RCW 48.43.0128.

24 (13) This section does not prohibit a requirement that mental
25 health services be medically necessary, if a comparable requirement
26 is applicable to medical and surgical services.

27 **Sec. 3.** RCW 48.43.016 and 2020 c 193 s 2 are each amended to
28 read as follows:

29 (1) A health carrier or its contracted entity that imposes
30 different prior authorization standards and criteria for a covered
31 service among tiers of contracting providers of the same licensed
32 profession in the same health plan shall inform an enrollee which
33 tier an individual provider or group of providers is in by posting
34 the information on its website in a manner accessible to both
35 enrollees and providers.

36 (2)(a) A health carrier or its contracted entity may not require
37 utilization management or review of any kind including, but not
38 limited to, prior, concurrent, or postservice authorization for an
39 initial evaluation and management visit and up to six treatment

visits with a contracting provider in a new episode of care for each of the following: Chiropractic, physical therapy, occupational therapy, acupuncture and Eastern medicine, massage therapy, outpatient mental health care, outpatient substance use disorder care, or speech and hearing therapies. Visits for which utilization management or review is prohibited under this section are subject to quantitative treatment limits of the health plan. Notwithstanding RCW 48.43.515(5) this section may not be interpreted to limit the ability of a health plan to require a referral or prescription for the therapies listed in this section.

(b) For visits for which utilization management or review is prohibited under this section, a health carrier or its contracted entity may not:

(i) Deny or limit coverage on the basis of medical necessity or appropriateness; or

(ii) Retroactively deny care or refuse payment for the visits.

(3) A health carrier shall post on its website and provide upon the request of a covered person or contracting provider any prior authorization standards, criteria, or information the carrier uses for medical necessity decisions.

(4) A health care provider with whom a health carrier consults regarding a decision to deny, limit, or terminate a person's covered health care services must hold a license, certification, or registration, in good standing and must be in the same or related health field as the health care provider being reviewed or of a specialty whose practice entails the same or similar covered health care service.

(5) A health carrier may not require a provider to provide a discount from usual and customary rates for health care services not covered under a health plan, policy, or other agreement, to which the provider is a party.

(6) Nothing in this section prevents a health carrier from denying coverage based on insurance fraud.

(7) For purposes of this section:

(a) "New episode of care" means treatment for a new condition or diagnosis for which the enrollee has not been treated by a provider of the same licensed profession within the previous ninety days and is not currently undergoing any active treatment.

(b) "Contracting provider" does not include providers employed within an integrated delivery system operated by a carrier licensed under chapter 48.44 or 48.46 RCW.

Sec. 4. RCW 48.43.091 and 1999 c 87 s 1 are each amended to read as follows:

(1) Every health carrier that provides coverage for any ((~~outpatient~~)) mental health ((~~service~~)) services, as defined in section 2 of this act, shall comply with the following requirements:

((~~(1)~~)) (a) In performing a utilization review of mental health services for a specific enrollee, the utilization review is limited to accessing only the specific health care information contained in the enrollee's record.

((~~(2)~~)) (b) In performing an audit of a provider that has furnished mental health services to a carrier's enrollees, the audit is limited to accessing only the records of enrollees covered by the specific health carrier for which the audit is being performed, except as otherwise permitted by RCW 70.02.050 ((~~and 71.05.630~~)).

(c) A health carrier shall approve coverage of mental health services that are the subject of a prescription drug exception request, an enrollee grievance, or appeal, or a prior authorization request if the health carrier does not respond to the request, grievance, or appeal within the time frames applicable under RCW 48.43.420, 48.43.530, or 48.43.830.

(2) A health carrier may not request a refund of amounts paid to a provider from that provider for mental health services more than 180 days after the date of payment, except in cases of fraud.

Sec. 5. RCW 48.43.410 and 2019 c 171 s 2 are each amended to read as follows:

For health plans delivered, issued for delivery, or renewed on or after January 1, 2021, clinical review criteria used to establish a prescription drug utilization management protocol must be evidence-based and updated on a regular basis through review of new evidence, research, and newly developed treatments. For prescription drugs prescribed to treat mental health or substance use disorder conditions, clinical review criteria must meet the requirements of section 2 of this act.

Sec. 6. RCW 48.43.520 and 2000 c 5 s 8 are each amended to read as follows:

(1) Carriers that offer a health plan shall maintain a documented utilization review program description and written utilization review criteria based on reasonable medical evidence. The program must include a method for reviewing and updating criteria. Carriers shall make clinical protocols, medical management standards, and other review criteria available upon request to participating providers. For mental health services, as defined in section 2 of this act, clinical review criteria must meet the requirements of section 2 of this act.

(2) The commissioner shall adopt, in rule, standards for this section after considering relevant standards adopted by national managed care accreditation organizations and state agencies that purchase managed health care services.

(3) A carrier shall not be required to use medical evidence or standards in its utilization review of religious nonmedical treatment or religious nonmedical nursing care.

Sec. 7. RCW 48.43.535 and 2022 c 263 s 4 are each amended to read as follows:

(1) There is a need for a process for the fair consideration of disputes relating to decisions by carriers that offer a health plan to deny, modify, reduce, or terminate coverage of or payment for health care services for an enrollee. For purposes of this section, "carrier" also applies to a health plan if the health plan administers the appeal process directly or through a third party.

(2) An enrollee may seek review by a certified independent review organization of a carrier's decision to deny, modify, reduce, or terminate coverage of or payment for a health care service or of any adverse determination made by a carrier under RCW 48.49.020, 48.49.030, or sections 2799A-1 or 2799A-2 of the public health service act (42 U.S.C. Secs. 300gg-111 or 300gg-112) and implementing federal regulations in effect as of March 31, 2022, after exhausting the carrier's grievance process and receiving a decision that is unfavorable to the enrollee, or after the carrier has exceeded the timelines for grievances provided in RCW 48.43.530, without good cause and without reaching a decision.

(3) The commissioner must establish and use a rotational registry system for the assignment of a certified independent review

organization to each dispute. The system should be flexible enough to ensure that an independent review organization has the expertise necessary to review the particular medical condition or service at issue in the dispute, and that any approved independent review organization does not have a conflict of interest that will influence its independence.

(4) Carriers must provide to the appropriate certified independent review organization, not later than the third business day after the date the carrier receives a request for review, a copy of:

(a) Any medical records of the enrollee that are relevant to the review;

(b) Any documents used by the carrier in making the determination to be reviewed by the certified independent review organization;

(c) Any documentation and written information submitted to the carrier in support of the appeal; and

(d) A list of each physician or health care provider who has provided care to the enrollee and who may have medical records relevant to the appeal. Health information or other confidential or proprietary information in the custody of a carrier may be provided to an independent review organization, subject to rules adopted by the commissioner.

(5) Enrollees must be provided with at least five business days to submit to the independent review organization in writing additional information that the independent review organization must consider when conducting the external review. The independent review organization must forward any additional information submitted by an enrollee to the plan or carrier within one business day of receipt by the independent review organization.

(6) The medical reviewers from a certified independent review organization will make determinations regarding the medical necessity or appropriateness of, and the application of health plan coverage provisions to, health care services for an enrollee. The medical reviewers' determinations must be based upon their expert medical judgment, after consideration of relevant medical, scientific, and cost-effectiveness evidence, and medical standards of practice in the state of Washington. Except as provided in this subsection, the certified independent review organization must ensure that determinations are consistent with the scope of covered benefits as outlined in the medical coverage agreement. Medical reviewers may

override the health plan's medical necessity or appropriateness standards if the standards are determined upon review to be unreasonable or inconsistent with sound, evidence-based medical practice. For reviews of mental health services, as defined in section 2 of this act, the medical reviewers must conduct reviews and make determinations in a manner consistent with the requirements of section 2 of this act.

(7) Once a request for an independent review determination has been made, the independent review organization must proceed to a final determination, unless requested otherwise by both the carrier and the enrollee or the enrollee's representative.

(a) An enrollee or carrier may request an expedited external review if the adverse benefit determination or internal adverse benefit determination concerns an admission, availability of care, continued stay, or health care service for which the claimant received emergency services but has not been discharged from a facility; or involves a medical condition for which the standard external review time frame would seriously jeopardize the life or health of the enrollee or jeopardize the enrollee's ability to regain maximum function. The independent review organization must make its decision to uphold or reverse the adverse benefit determination or final internal adverse benefit determination and notify the enrollee and the carrier or health plan of the determination as expeditiously as possible but within not more than seventy-two hours after the receipt of the request for expedited external review. If the notice is not in writing, the independent review organization must provide written confirmation of the decision within forty-eight hours after the date of the notice of the decision.

(b) For claims involving experimental or investigational treatments, the independent review organization must ensure that adequate clinical and scientific experience and protocols are taken into account as part of the external review process.

(8) Carriers must timely implement the certified independent review organization's determination, and must pay the certified independent review organization's charges.

(9) When an enrollee requests independent review of a dispute under this section, and the dispute involves a carrier's decision to modify, reduce, or terminate an otherwise covered health service that an enrollee is receiving at the time the request for review is submitted and the carrier's decision is based upon a finding that the

health service, or level of health service, is no longer medically necessary or appropriate, the carrier must continue to provide the health service if requested by the enrollee until a determination is made under this section. If the determination affirms the carrier's decision, the enrollee may be responsible for the cost of the continued health service.

(10) Each certified independent review organization must maintain written records and make them available upon request to the commissioner.

(11) A certified independent review organization may notify the office of the insurance commissioner if, based upon its review of disputes under this section, it finds a pattern of substandard or egregious conduct by a carrier.

(12)(a) The commissioner shall adopt rules to implement this section after considering relevant standards adopted by national managed care accreditation organizations and the national association of insurance commissioners.

(b) This section is not intended to supplant any existing authority of the office of the insurance commissioner under this title to oversee and enforce carrier compliance with applicable statutes and rules.

Sec. 8. RCW 48.43.761 and 2024 c 366 s 7 are each amended to read as follows:

(1) Except as provided in subsection (2) of this section, a health plan issued or renewed on or after January 1, ((~~2021~~)) 2026, may not require an enrollee to obtain prior authorization for withdrawal management services or inpatient or residential substance use disorder or mental health treatment services in a behavioral health agency licensed or certified under RCW 71.24.037.

(2)(a) A health plan issued or renewed on or after January 1, ((~~2021~~)) 2026, must:

(i) Provide coverage for no less than two business days, excluding weekends and holidays, in a behavioral health agency that provides inpatient or residential mental health or substance use disorder treatment prior to conducting a utilization review; and

(ii) Provide coverage for no less than three days in a behavioral health agency that provides withdrawal management services prior to conducting a utilization review.

(b)(i) The health plan may not require an enrollee to obtain prior authorization for the services specified in (a) of this subsection as a condition for payment of services prior to the times specified in (a) of this subsection.

(ii) Once the times specified in (a) of this subsection have passed, the health plan may initiate utilization management review procedures if the behavioral health agency continues to provide services or is in the process of arranging for a seamless transfer to an appropriate facility or lower level of care under subsection (6) of this section. For a health plan issued or renewed on or after January 1, ((~~2025~~)) 2026, if a health plan authorizes inpatient or residential mental health or substance use disorder treatment services pursuant to (a)(i) of this subsection following the initial medical necessity review process under (c)(iii) of this subsection, the length of the initial authorization may not be less than 14 days from the date that the patient was admitted to the behavioral health agency. Any subsequent reauthorization that the health plan approves after the first 14 days must continue for no less than seven days prior to requiring further reauthorization. Nothing prohibits a health plan from requesting information to assist with a seamless transfer under this subsection.

(c)(i) The behavioral health agency under (a) of this subsection must notify an enrollee's health plan as soon as practicable after admitting the enrollee, but not later than ((~~twenty-four~~)) 24 hours after admitting the enrollee. The time of notification does not reduce the requirements established in (a) of this subsection.

(ii) The behavioral health agency under (a) of this subsection must provide the health plan with its initial assessment and initial treatment plan for the enrollee within two business days of admission, excluding weekends and holidays, or within three days in the case of a behavioral health agency that provides withdrawal management services.

(iii) After the time period in (a) of this subsection and receipt of the material provided under (c)(ii) of this subsection, the plan may initiate a medical necessity review process. Medical necessity ((~~review~~)) reviews for a primary diagnosis of substance use disorder must be based on the standard set of criteria established under RCW 41.05.528. Medical necessity reviews for a primary diagnosis of a mental health disorder other than a substance use disorder must comply with the requirements of section 2 of this act. In a review

for inpatient or residential substance use disorder treatment services, a health plan may not make a determination that a patient does not meet medical necessity criteria based primarily on the patient's length of abstinence. If the patient's abstinence from substance use was due to incarceration, hospitalization, or inpatient treatment, a health plan may not consider the patient's length of abstinence in determining medical necessity. If the health plan determines within one business day from the start of the medical necessity review period and receipt of the material provided under (c)(ii) of this subsection that the admission to the facility was not medically necessary and advises the agency of the decision in writing, the health plan is not required to pay the facility for services delivered after the start of the medical necessity review period, subject to the conclusion of a filed appeal of the adverse benefit determination. If the health plan's medical necessity review is completed more than one business day after the start of the medical necessity review period and receipt of the material provided under (c)(ii) of this subsection, the health plan must pay for the services delivered from the time of admission until the time at which the medical necessity review is completed and the agency is advised of the decision in writing.

(3)(a) The behavioral health agency shall document to the health plan the patient's need for continuing care and justification for level of care placement following the current treatment period, based on the standard set of criteria established under RCW 41.05.528, with documentation recorded in the patient's medical record.

(b) For a health plan issued or renewed on or after January 1, 2025, for inpatient or residential mental health or substance use disorder treatment services, the health plan may not consider the patient's length of stay at the behavioral health agency when making decisions regarding the authorization to continue care at the behavioral health agency.

(4) Nothing in this section prevents a health carrier from denying coverage based on insurance fraud.

(5) If the behavioral health agency under subsection (2)(a) of this section is not in the enrollee's network:

(a) The health plan is not responsible for reimbursing the behavioral health agency at a greater rate than would be paid had the agency been in the enrollee's network; and

(b) The behavioral health agency may not balance bill, as defined in RCW 48.43.005.

(6) When the treatment plan approved by the health plan involves transfer of the enrollee to a different facility or to a lower level of care, the care coordination unit of the health plan shall work with the current agency to make arrangements for a seamless transfer as soon as possible to an appropriate and available facility or level of care. The health plan shall pay the agency for the cost of care at the current facility until the seamless transfer to the different facility or lower level of care is complete. A seamless transfer to a lower level of care may include same day or next day appointments for outpatient care, and does not include payment for nontreatment services, such as housing services. If placement with an agency in the health plan's network is not available, the health plan shall pay the current agency until a seamless transfer arrangement is made.

(7) The requirements of this section do not apply to treatment provided in out-of-state facilities.

(8) For the purposes of this section "withdrawal management services" means twenty-four hour medically managed or medically monitored detoxification and assessment and treatment referral for adults or adolescents withdrawing from alcohol or drugs, which may include induction on medications for addiction recovery.

Sec. 9. RCW 48.43.830 and 2023 c 382 s 1 are each amended to read as follows:

(1) Each carrier offering a health plan issued or renewed on or after January 1, 2024, shall comply with the following standards related to prior authorization for health care services and prescription drugs:

(a) The carrier shall meet the following time frames for prior authorization determinations and notifications to a participating provider or facility that submits the prior authorization request through an electronic prior authorization process, as designated by each carrier:

(i) For electronic standard prior authorization requests, the carrier shall make a decision and notify the provider or facility of the results of the decision within three calendar days, excluding holidays, of submission of an electronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been

provided to the carrier to make a decision, the carrier shall request any additional information from the provider or facility within one calendar day of submission of the electronic prior authorization request.

(ii) For electronic expedited prior authorization requests, the carrier shall make a decision and notify the provider or facility of the results of the decision within one calendar day of submission of an electronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the carrier to make a decision, the carrier shall request any additional information from the provider or facility within one calendar day of submission of the electronic prior authorization request.

(b) The carrier shall meet the following time frames for prior authorization determinations and notifications to a participating provider or facility that submits the prior authorization request through a process other than an electronic prior authorization process:

(i) For nonelectronic standard prior authorization requests, the carrier shall make a decision and notify the provider or facility of the results of the decision within five calendar days of submission of a nonelectronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the carrier to make a decision, the carrier shall request any additional information from the provider or facility within five calendar days of submission of the nonelectronic prior authorization request.

(ii) For nonelectronic expedited prior authorization requests, the carrier shall make a decision and notify the provider or facility of the results of the decision within two calendar days of submission of a nonelectronic prior authorization request by the provider or facility that contains the necessary information to make a determination. If insufficient information has been provided to the carrier to make a decision, the carrier shall request any additional information from the provider or facility within one calendar day of submission of the nonelectronic prior authorization request.

(c) In any instance in which a carrier has determined that a provider or facility has not provided sufficient information for making a determination under (a) and (b) of this subsection, a carrier may establish a specific reasonable time frame for submission

1 of the additional information. This time frame must be communicated
2 to the provider and enrollee with a carrier's request for additional
3 information.

4 (d) The carrier's prior authorization requirements must be
5 described in detail and written in easily understandable language.
6 The carrier shall make its most current prior authorization
7 requirements and restrictions, including the written clinical review
8 criteria, available to providers and facilities in an electronic
9 format upon request. The prior authorization requirements must be
10 based on peer-reviewed clinical review criteria. The clinical review
11 criteria must be evidence-based criteria and must accommodate new and
12 emerging information related to the appropriateness of clinical
13 criteria with respect to black and indigenous people, other people of
14 color, gender, and underserved populations. The clinical review
15 criteria must be evaluated and updated, if necessary, at least
16 annually. Clinical review criteria used for purposes of reviewing and
17 decided upon prior authorization requests related to mental health
18 services, as defined in section 2 of this act, must meet the
19 requirements of section 2 of this act.

20 (2)(a) Each carrier shall build and maintain a prior
21 authorization application programming interface that automates the
22 process for in-network providers to determine whether a prior
23 authorization is required for health care services, identify prior
24 authorization information and documentation requirements, and
25 facilitate the exchange of prior authorization requests and
26 determinations from its electronic health records or practice
27 management system. The application programming interface must support
28 the exchange of prior authorization requests and determinations for
29 health care services beginning January 1, 2025, and must:

30 (i) Use health level 7 fast health care interoperability
31 resources in accordance with standards and provisions defined in 45
32 C.F.R. Sec. 170.215 and 45 C.F.R. Sec. 156.22(3)(b);

33 (ii) Automate the process to determine whether a prior
34 authorization is required for durable medical equipment or a health
35 care service;

36 (iii) Allow providers to query the carrier's prior authorization
37 documentation requirements;

38 (iv) Support an automated approach using nonproprietary open
39 workflows to compile and exchange the necessary data elements to
40 populate the prior authorization requirements that are compliant with

the federal health insurance portability and accountability act of 1996 or have an exception from the federal centers for medicare and medicaid services; and

(v) Indicate that a prior authorization denial or authorization of a service less intensive than that included in the original request is an adverse benefit determination and is subject to the carrier's grievance and appeal process under RCW 48.43.535.

(b) Each carrier shall establish and maintain an interoperable electronic process or application programming interface that automates the process for in-network providers to determine whether a prior authorization is required for a covered prescription drug. The application programming interface must support the exchange of prior authorization requests and determinations for prescription drugs, including information on covered alternative prescription drugs, beginning January 1, 2027, and must:

(i) Allow providers to identify prior authorization information and documentation requirements;

(ii) Facilitate the exchange of prior authorization requests and determinations from its electronic health records or practice management system, and may include the necessary data elements to populate the prior authorization requirements that are compliant with the federal health insurance portability and accountability act of 1996 or have an exception from the federal centers for medicare and medicaid services; and

(iii) Indicate that a prior authorization denial or authorization of a drug other than the one included in the original prior authorization request is an adverse benefit determination and is subject to the carrier's grievance and appeal process under RCW 48.43.535.

(c) If federal rules related to standards for using an application programming interface to communicate prior authorization status to providers are not finalized by the federal centers for medicare and medicaid services by September 13, 2023, the requirements of (a) of this subsection may not be enforced until January 1, 2026.

(d)(i) If a carrier determines that it will not be able to satisfy the requirements of (a) of this subsection by January 1, 2025, the carrier shall submit a narrative justification to the commissioner on or before September 1, 2024, describing:

1 (A) The reasons that the carrier cannot reasonably satisfy the
2 requirements;
3 (B) The impact of noncompliance upon providers and enrollees;
4 (C) The current or proposed means of providing health information
5 to the providers; and
6 (D) A timeline and implementation plan to achieve compliance with
7 the requirements.
8 (ii) The commissioner may grant a one-year delay in enforcement
9 of the requirements of (a) of this subsection (2) if the commissioner
10 determines that the carrier has made a good faith effort to comply
11 with the requirements.
12 (iii) This subsection (2)(d) shall not apply if the delay in
13 enforcement in (c) of this subsection takes effect because the
14 federal centers for medicare and medicaid services did not finalize
15 the applicable regulations by September 13, 2023.
16 (e) By September 13, 2023, and at least every six months
17 thereafter until September 13, 2026, the commissioner shall provide
18 an update to the health care policy committees of the legislature on
19 the development of rules and implementation guidance from the federal
20 centers for medicare and medicaid services regarding the standards
21 for development of application programming interfaces and
22 interoperable electronic processes related to prior authorization
23 functions. The updates should include recommendations, as
24 appropriate, on whether the status of the federal rule development
25 aligns with the provisions of chapter 382, Laws of 2023. The
26 commissioner also shall report on any actions by the federal centers
27 for medicare and medicaid services to exercise enforcement discretion
28 related to the implementation and maintenance of an application
29 programming interface for prior authorization functions. The
30 commissioner shall consult with the health care authority, carriers,
31 providers, and consumers on the development of these updates and any
32 recommendations.
33 (3) Nothing in this section applies to prior authorization
34 determinations made pursuant to RCW 48.43.761.
35 (4) For the purposes of this section:
36 (a) "Expedited prior authorization request" means a request by a
37 provider or facility for approval of a health care service or
38 prescription drug where:
39 (i) The passage of time:

1 (A) Could seriously jeopardize the life or health of the 2 enrollee;

3 (B) Could seriously jeopardize the enrollee's ability to regain 4 maximum function; or

5 (C) In the opinion of a provider or facility with knowledge of 6 the enrollee's medical condition, would subject the enrollee to 7 severe pain that cannot be adequately managed without the health care 8 service or prescription drug that is the subject of the request; or

9 (ii) The enrollee is undergoing a current course of treatment 10 using a nonformulary drug.

11 (b) "Standard prior authorization request" means a request by a 12 provider or facility for approval of a health care service or 13 prescription drug where the request is made in advance of the 14 enrollee obtaining a health care service or prescription drug that is 15 not required to be expedited.

16 NEW SECTION. **Sec. 10.** The insurance commissioner may adopt 17 rules:

18 (1) Necessary to administer and implement this act;

19 (2) Specifying data testing requirements to determine plan design 20 and in-operation parity compliance for quantitative and 21 nonquantitative treatment limitations, including but not limited to 22 prior authorization, concurrent review, retrospective review, 23 credentialing standards, and reimbursement rates. Such data testing 24 requirements may utilize independent generally recognized benchmarks 25 to determine parity compliance;

26 (3) Specifying requirements relating to increases in network 27 reimbursement rates for mental health services to remedy a health 28 carrier's network inadequacies; and

29 (4) To ensure consistent utilization review and application of 30 clinical review criteria to meet the requirements of this act, 31 including identification of clinical review criteria that are 32 consistent with generally accepted standards of mental health and 33 substance use disorder care.

34 NEW SECTION. **Sec. 11.** Sections 1 through 9 of this act take 35 effect January 1, 2026.

NEW SECTION. **Sec. 12.** The following acts or parts of acts, as now existing or hereafter amended, are each repealed, effective January 1, 2026:

(1) RCW 48.20.580 (Mental health services—Definition—Coverage required, when) and 2020 c 228 s 2 & 2007 c 8 s 1;

(2) RCW 48.21.241 (Mental health services—Group health plans—Definition—Coverage required, when) and 2020 c 228 s 3, 2007 c 8 s 2, 2006 c 74 s 1, & 2005 c 6 s 3;

(3) RCW 48.41.220 (Mental health services—Definition—Coverage required, when) and 2020 c 228 s 4 & 2007 c 8 s 6;

(4) RCW 48.44.341 (Mental health services—Health plans—Definition—Coverage required, when) and 2020 c 228 s 5, 2007 c 8 s 3, 2006 c 74 s 2, & 2005 c 6 s 4; and

(5) RCW 48.46.291 (Mental health services—Health plans—Definition—Coverage required, when) and 2020 c 228 s 6, 2007 c 8 s 4, 2006 c 74 s 3, & 2005 c 6 s 5.

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