AMENDATORY SECTION

WAC 284-43-130 Definitions.

(XX) "Indian Health Care Provider" means:

(a) the Indian Health Service, an agency operated by the U.S. Department of Health and Human Services established by the Indian Health Care Improvement Act, Section 601, 25 USC § 1661;

(b) an Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. §1603(14), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the Indian Self-Determination and Education Assistance Act (ISDEAA), 25 U.S.C. §450 et seq.;

(c) a tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. §1603(26), that operates a health program under a contract or compact to carry out programs of the Indian Health Service pursuant to the ISDEAA, 25 U.S.C. §450 et seq.;

DRAFT

(d) an Indian tribe, as defined in the Indian Health Care Improvement Act, Section 4(14), 25 U.S.C. §1603(14), or tribal organization, as defined in the Indian Health Care Improvement Act, Section 4(26), 25 U.S.C. §1603(26), that operates a health program with funding provided in whole or part pursuant to 25 U.S.C. § 47 (commonly known as the Buy Indian Act); or,

(e) an urban Indian organization that operates a health program with funds in whole or part provided by Indian Health Service under a grant or contract awarded pursuant to Title V of the Indian Health Care Improvement Act, Section 4(29), 25 U.S.C. §1603(29).

DRAFT

AMENDATORY SECTION

WAC 284-43-200 Network adequacy – General standards

(7) To provide adequate choice to ((~~covered persons~~)) enrollees who are American Indian/Alaska Natives, each health ((~~carrier shall~~)) issuer must maintain arrangements that ensure that American Indian/Alaska Natives who are ((~~covered persons~~)) enrollees have access to covered medical and behavioral health services provided by ((~~to~~)) Indian ((~~and tribal~~)) health care providers as defined in WAC 284-43-130(xx) (~~services and facilities that are part of the Indian health system~~)). ((~~Carriers shall~~)) Issuers must ensure that such ((~~covered persons~~)) enrollees may obtain covered medical and behavioral health services from the Indian health ((~~system~~)) care provider at no greater cost to the ((~~covered person~~)) enrollee than if the service were obtained from network providers and facilities, even if the Indian health ((~~system~~)) care provider is not a contracted provider. As set forth in Section 206(a) of the Indian Health Care Improvement Act, 25 U.S.C. 1621e(a), the issuer shall reimburse the Indian health care provider the reasonable charges billed or, if higher, the highest amount the

DRAFT

issuer would pay for equivalent care and services furnished by nongovernmental providers who are within that service area even if the Indian health care provider is not a contract provider. Pursuant to Sec. 206(c), 25 U.S.C. 1621e(c), no provision of any State, or of any political subdivision of a State and no provision of any contract, insurance or health maintenance organization policy, employee benefit plan, self-insurance plan, managed care plan, or other health care plan or program entered into or renewed after November 23, 1988, shall prevent or hinder the right of recovery of an Indian health care provider under this section. Issuers shall incorporate the Washington State Indian Health Care Provider Addendum defined in WAC 284-43- (XXX, which sets forth the special protections and provisions in federal law for Indian health care providers, in the contracts with Indian health care providers. ((~~Carriers~~)) Issuers are not responsible for credentialing Indian health care providers ((~~and facilities that are part of the Indian health system~~)). Nothing in this subsection prohibits ((~~a carrier~~)) an issuer from limiting coverage to those health services that meet ((~~carrier~~)) issuer standards for medical necessity, care management, and claims administration ((~~or from limiting payment to that amount~~

DRAFT

~~payable if the health service were obtained from a network provider or facility~~)).

NEW SECTION

WAC 284-43-201 Alternate network standards. (1) An issuer may propose a network adequacy standard as an alternate to the requirements of this subchapter for the commissioner's review and approval.

(a) Copayments and deductible requirements must apply to alternate network standards at the same level they are applied to in-network services. This means that the alternate network standard may result in issuer payment of billed charges to ensure network adequacy. Alternate network adequacy standards, or alternate network standards, address such provider network strategies as use of out-of-state and out of county or service area providers, agreements to pay billed charges when a critical provider is not part of the network, exceptions to network standards based on rural locations in the service area, or limitations on authority to refer enrollees to specialty care.

DRAFT

(b) An issuer must demonstrate in its alternate network standard proposal a reasonable basis for not meeting a standard as part of its filing for approval of an alternate network standard, and include an explanation of why the alternate network standard provides a sufficient number or type of the provider, practitioner, or facility to which the standard applies to enrollees.

(c) An issuer must demonstrate a plan and practice to assist enrollees to locate available and accessible contracted providers in neighboring service areas consistent with patterns of practice for obtaining health care services in a timely manner appropriate for the enrollee's health needs.

(d) An issuer must arrange for the provision of specialty services from specialists outside the contracted network if such specialists are not available within the network and the services are medically necessary for the enrollee's condition.

(e) An issuer must comply with WAC 284-43-200(7) requirements for American Indian/Alaska Natives who are enrollees.

DRAFT

NEW SECTION

WAC 284-43-221 Essential community providers—Definition.

(6) ((~~Federally designated 638 Tribal Health programs, and Title V Urban Indian Health programs~~)) Indian health care providers defined in WAC 284-43-130(xx);

NEW SECTION

WAC 284-43-222 Essential community providers—Network adequacy.

(3) The following minimum standards apply to establish adequate qualified health plan inclusion of essential community providers:

(b) Issuers must offer one hundred percent of ((~~urban tribal health centers and Indian health centers~~)) Indian health care providers (as defined in WAC 284-43-130(xx))in a service area ((~~included in~~)) a provider network contract on a basis that satisfies RCW 43.71.065 and WAC 284-43-200(7).

DRAFT

NEW SECTION

WAC 284-43-XXX Washington State Indian Health Care Provider Addendum.

(1) "Washington State Indian Health Care Provider Addendum" is an addendum to an issuer's network contract that specifies the special protections and provisions in federal law and rule for contracting with Indian health care providers;

(2) Office of the Insurance Commissioner adopts by reference the Washington State Indian Health Care Provider Addendum;

(3) The Office of the Insurance Commissioner reserves the right to amend the Washington State Indian Health Care Provider Addendum using the rulemaking process.

DRAFT