Indian Health Care Provider Evaluation of Washington State Managed Care Organizations: Findings and Recommendations

APPENDIX B: MCO Performance Standards

ATTACHMENT 11

MCO Performance Standards for Contracting, Engaging, and Providing Access for American Indian/Alaska Natives and Indian Health Care Providers

The Health Care Authority (HCA) has developed managed care organization (MCO) standards for performance regarding contracting and engaging with Indian health care providers (IHCP) and providing access to high quality and culturally appropriate services to American Indians and Alaska Natives (AI/ANs). The purpose of these standards is to assist MCOs in serving AI/ANs and the Indian health care delivery system in a manner that assures access and complies with state and federal requirements.

HCA will assess MCO compliance with performance standards utilizing year-round mechanisms for collecting and managing MCO reporting and internal data related to performance indicators, and an annual IHCP survey. HCA shall report on an annual basis to IHCPs on MCO performance for all performance measures. Failure by an MCO to meet one or more of the standards will result in HCA developing and implementing a corrective action plan for the MCO. The corrective action plan shall delineate the time and manner in which each deficiency must be corrected. Failure to complete the corrective action plan within the required number of days may result in sanctions or termination of the contract.

Standard 1.1: Enrollment

Restriction on AI/AN Enrollment in Managed Care
Individuals identifying themselves as AI/AN on their application will be exempted from enrollment in managed care services. AI/AN residing in the MCO's service area will access care within the Fee-For-Service system. The Contractor will make a good faith effort to ensure that AI/AN individuals who are enrolled in the fee-for-service system remain in the fee-for-service system. (Contract Provision 4.13).

Compliance Measures

The Contractor incorrectly enrolls in managed care plans fewer than 2% of all new AI/AN Medicaid enrollees per quarter

Compliance Indicators

- Number of incorrect AI/AN enrollments in managed care plans reported to HCA by IHCPs and AI/ANs is zero (0) in each quarter

Standard 1.2: Payment for Services

IHCP Payment Rate
In accordance with the Section 5006(d) of the American Recovery and Reinvestment Act of 2009, the Contractor is required to allow American Indians and Alaska Natives free access to and make payments for any participating and nonparticipating IHCPs for contracted services provided to AI/AN Enrollees at a

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rate equal to the rate negotiated between the Contractor and the IHCP. If such a rate has not been negotiated, the payment is to be made at a rate that is not less than what would have otherwise been paid to a participating provider who is not an IHCP. (Contract Provision 5.20.5).

Right of Recovery
The Contractor acknowledges that the United States (including the Indian Health Service), each Tribe, and each Tribal Organization has the right to recover from liable third parties, including the Contractor, notwithstanding network restrictions, pursuant to 25 U.S.C. § 1621e. (Contract Provisions 5.20.7).

Prompt Payment to Indian Health Care Providers
The Contractor agrees to make prompt payment to IHCPs, whether such IHCPs are participating providers or non-participating providers. (Contract Provisions 5.20.8).

Compliance Measures – Payment for Services

The Contractor denies access to no (0%) AI/AN enrollees to participating and nonparticipating Indian health care providers in each quarter

The Contractor makes fewer than 2% incorrect payments to IHCPs, at a rate lower than the negotiated rate or the rate that would have been paid to a non-IHCP provider in each quarter

At least 95% of Contractor payments to IHCPs are paid within 60 days of claims submitted to the Contractor, in each quarter

Compliance Indicators - Payment for Services

- Number of cases of denied access to care from IHCPs reported to HCA by IHCPs and AI/ANs is zero (0) in each quarter
- Number of incorrect payments reported to HCA by IHCPs is zero (0) in each quarter
- Number of late payments reported to HCA by IHCPs is zero (0) in each quarter

Standard 1.3: Access to Care and Provider Network

MCO Reporting on IHCP Provider Network Adequacy and AI/AN Access to Care
On a quarterly basis, no later than the 15th of the month following the last day of the quarter, the Contractor shall provide documentation of its provider network, including critical provider types and all contracted specialty providers. This report shall provide evidence that the Contractor has adequate provider capacity to deliver services that meet the timeliness standards described in Subsection 6.12 to all Enrollees and shall ensure sufficient choice and number of community health centers (FQHCs/RHCs) and/or private providers to allow Enrollees a choice of service systems or clinics. The report shall include information regarding the Contractor’s maintenance, monitoring and analysis of the network. The quarterly reports shall include a one page narrative describing the contracting activities in border communities and service areas. (Contract Provisions 6.1.2).

MCO Contracts with IHCPs in Bordering States
To the extent necessary to comply with the provider network adequacy and distance standards required under this Contract, the Contractor shall offer contracts to providers in bordering states. The Contractor’s provider contracts with providers in bordering states must ensure access to necessary care, including inpatient and outpatient services and must coordinate with Oregon and Idaho providers to explore opportunities for reciprocal arrangements that allow Washington, Oregon, and Idaho border

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residents to access care when care is appropriate, available, and cost-effective. (Contract Provisions 6.1.2).

MCO Treatment of IHCP as In-Network
The Contractor will treat every Indian health care provider as an in-network provider, whether participating or not, to ensure timely access to services for Indian enrollees who are eligible to receive services from such providers. (Contract Provision 6.1.8).

MCO Inclusion of IHCP in Provider Directory. Contractors will provide information from the State's Indian health care provider list to the same extent as any network provider including via their online provider directory and through customer service lines. (Contract Provision 6.2.11.14).

Compliance Measures – Access to Care and Provider Network

The Contractor submits network adequacy reports no later than the 15th of the month following the last day of the quarter

The Contractor's quarterly network adequacy reports content demonstrates Contractor meets the regional criteria for network adequacy *(to be determined; e.g., distance, provider to population ratio, appointment lead time, etc.)* for AI/AN enrollees

The Contractor treats every Indian health care provider as an in-network provider

The Contractor includes every Indian health care provider in its online provider directory and customer service information

Compliance Indicators - Access to Care and Provider Network

- Date of submission of Contractor's network adequacy report is no later than the 15th of the month following the last day of the quarter in each quarter
- The Contractor meets network adequacy criteria in each quarter
- Number of cases in which Contractor has not treated IHCPs as in-network providers reported to HCA by IHCPs is zero (0) in each quarter
- Contractor's online provider directory includes every IHCP in Washington

Standard 1.4: Utilization Management Program and Authorization of Services

No Prior Authorization for IHCP Services
The Contractor will not require prior authorization for any services provided by an Indian health care provider to an American Indian/Alaska Native enrollee by referral from an Indian Health Care Provider. (Contract Provision 11.4.7).

IHCP Referrals
The Contractor must honor the referral of an out-of-network IHCP who refers an AI/AN Enrollee to a network provider. (42 C.F.R. § 438.14(b)(6)) (formerly 15.3.2) without requiring prior authorization or a referral from a participating network provider for the same or substantially similar service. (Contract Provision 11.4.8).

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The Contractor will require documentation from IHCPs that is no more burdensome than applicable to non-IHCP providers and/or non-AI/AN enrollees, in order to avoid duplicate visits and delay of treatment. (Contract Provision 11.4.9).

The Contractor will ensure that an AI/AN may self-refer all services under the protections for AI/AN provided in this Contract. (Contract 16.11.7.4).

Compliance Measures – Utilization Management Program and Authorization of Services

The Contractor incorrectly requires prior authorization from fewer than 2% AI/AN enrollees with referrals in each quarter
Description of referral documentation required for IHCPs and non-IHCPs

Compliance Indicators - Utilization Management Program and Authorization of Services

- Number of cases in which Contractor incorrectly requires prior authorization from AI/AN enrollees reported to HCA by IHCPs and AI/ANs is zero (0) in each quarter

Standard 1.5: Care Coordination

MCO Referral to IHCP Health Care and Social Services Programs
The Contractor shall coordinate with, and refer Enrollees to, health care and social services/programs, including, but not limited to Tribal entities (Contract Provision 14.10.1 and 14.1.18).

MCO Coordination with IHCPs in Treatment and Discharge Planning for Children's Long-Term Care
The Contractor's Tribal Liaison and the Enrollee's Indian Health Care Provider shall participate in treatment and discharge planning, including continuity of care in the nearest clinically appropriate setting for all AI/AN Enrollees (including BHSO) admitted for voluntary inpatient psychiatric and/or residential substance use disorder services. (Contract Provision 14.12.5).

MCO Tribal Liaison
The Contractor must designate a tribal liaison to work with Indian Health Care Providers (IHCPs). (Contract Provision 14.16.1).

The Contractor must provide for training of its tribal liaison, conducted by one (1) or more IHCPs and/or the American Indian Health Commission for Washington State and/or the DSHS Indian Policy Advisory Committee, on AI/AN health disparities and needs, the Indian health care delivery system, the government-to-government relationship between the state of Washington and the federally recognized tribes, applicable federal and state laws and regulations, applicable provisions in this Contract, and matters specific to IHCPs. (Contract Provisions 14.16.2).

Cultural Humility Training of MCO Employees/Agents
The Contractor will require staff to receive, at least once per calendar year, cultural humility training that is applicable to the respective AI/AN communities they serve. The Contractor will provide written documentation of efforts to coordinate with tribe(s) and urban Indian health programs in the Contractor's service area, AIHC, IPAC, and/or DSHS Office of Indian Policy (OIP) to obtain this training. The Contractor will coordinate with IHCPs on how to provide culturally appropriate evidence-based AI/AN practices, to include assessments and treatments and/or traditional healing services, with a plan for reimbursement for providing the service, when these services are covered by the Washington Medicaid State Plan as approved by CMS. (Contract Provision 14.16.3)

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Maintenance of the AI/AN IHCP Medical Home.
The Contractor must notify and coordinate care and transitions with any IHCP when the Contractor becomes aware an Enrollee is AI/AN or is receiving care from an IHCP and the Enrollee consents to such notification. To meet this requirement, the Contractor must develop and maintain a process for asking whether an Enrollee is a member of a federally recognized tribe or is receiving care from an IHCP and, if applicable, whether the Enrollee consents to the Contractor notifying such IHCP or federally recognized tribe. The Contractor will provide only the services requested by the IHCP and/or AI/AN enrollee and maintain the IHCP as the AI/AN enrollee's medical home through care coordination with the IHCP including the IHCP's purchased and referred care program (PRC). The Contractor will provide non-IHCP providers with state guidance on the critical role played by IHCPs for the care of AI/AN enrollees. Subject to the AI/AN enrollee's release of information, the Contractor will require non-IHCPs to deliver progress notes, including any referrals made, to the AI/AN enrollee's IHCP medical home. (See 15.3.8) (Contract Provision 14.16.4).

Coordination with IHCP for Voluntary Psychiatric Hospitalization and Residential SUD Services

1. With respect to voluntary psychiatric hospitalization authorization, the Contractor shall (Contract Provision 14.16.5):
    a. Develop and maintain policies and procedures that:
        i. Explain how IHCP request voluntary psychiatric hospitalization authorizations for Enrollees; and (Contract Provision 14.16.5.1.1)
        ii. Authorize only psychiatrists or doctoral level psychologists of the Contractor to deny such request. (Contract Provision 14.16.5.1.2)
    b. Obtain the approval of HCA's tribal liaison for such policies and procedures before they are implemented; and (Contract Provision 14.16.5.2)
    c. Make available to IHCPs information on how to request voluntary psychiatric hospitalization authorizations for Enrollees, including policies and procedures, and how to submit appeals and expedited appeals. (Contract Provision 14.16.5.3)
2. The Contractor's Tribal Liaison and the Enrollee's Indian Health Care Provider shall participate in treatment and discharge planning, including continuity of care in the nearest clinically appropriate setting for all AI/AN Enrollees (including BHSO) admitted for voluntary inpatient psychiatric and/or residential substance use disorder services. (Contract Provision 14.16.6)
3. The following provisions address ongoing barriers for AI/AN when accessing Medicaid services that should be addressed under 42 C.F.R. § 431.55(b)(2)(i). (Contract Provision 14.16.7)
    a. The Contractor will develop protocols with each tribe in the Contractor's service area, for accessing Tribal land to provide crisis services, including coordination of outreach and debriefing of crisis review and outcome with the IHCP mental health provider. The protocols will include agreed upon timeframes and participation for debrief and review, in compliance with HIPAA and 42 C.F.R. Part 2 requirements. (Contract Provision 14.16.7.1).
    b. To the extent permitted by law, the Contractor will make its best efforts to require participating psychiatric hospitals and Evaluation & Treatment (E&T) facilities to notify and coordinate AI/AN discharge planning with IHCPs. (Contract Provision 14.16.7.2).

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Compliance Measures – Care Coordination

- The Contractor refers enrollees to IHCP health care and social services programs, when appropriate
- The Contractor includes the enrollee's IHCP and the Contractor's Tribal Liaison in treatment and discharge planning for all (100%) voluntary inpatient psychiatric and/or residential substance use disorders services in each quarter
- The Contractor staffs the Tribal Liaison function at all times
- Incumbents serving in the Tribal Liaison function more than 1 month complete training conducted by one (1) or more IHCPs and/or the American Indian Health Commission for Washington State and/or the DSHS Indian Policy Advisory Committee, on AI/AN health disparities and needs, the Indian health care delivery system, the government-to-government relationship between the state of Washington and the federally recognized tribes, applicable federal and state laws and regulations, applicable provisions in this Contract, and matters specific to IHCPs at least once
- Contractor employees, including but not limited to: Tribal Liaison, customer service representatives, and care coordination representatives receive cultural humility training no less than once every 12 months
- The Contractor provides a mechanism to track for every enrollee whether they have a IHCP Medical Home
- The Contractor does not reassign enrollees to a non-IHCP Medical Home, unless specifically requested by enrollees through fully informed consent
- The Contractor provides non-IHCP providers with information regarding IHCPs and their key role in care coordination for AI/AN
- The Contractor requires non-IHCP providers to share information and coordinate care with enrollee's IHCP, subject to the enrollee's informed consent and request
- The Contractor obtains HCA approval for policies and procedures regarding voluntary psychiatric hospitalization and substance use disorder residential services
- The Contractor provides their HCA-approved policies and procedures for voluntary psychiatric hospitalization and substance use disorder residential services to IHCPs
- The Contractor develops with the approval of each Tribe in its service area protocols for accessing tribal land to provide crisis services, including coordination of outreach and debriefing of crisis review and outcome with the IHCP
- The Contractor requires participating psychiatric hospitals and Evaluation & Treatment (E&T) facilities to notify and coordinate AI/AN discharge planning with IHCPs, to the extent permitted by law

Compliance Indicators - Care Coordination

- Contractor provides documentation of number of referrals made to IHCP health care and social services programs in cases in each quarter

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- Number of cases in which Contractor has not included the enrollee's IHCP and the Contractor's Tribal Liaison in treatment and discharge planning for voluntary inpatient psychiatric and/or residential substance use disorders services reported by IHCPs or AI/ANs is zero (0) in each quarter
- The Tribal Liaison function is staffed by an incumbent at least 65% of the time in each quarter or by a temporary Acting Tribal Liaison no more than 35% of the time in each quarter
- Contractor provides certificate and date of completion of Tribal Liaison incumbent's training
- Contractor provides certificates and dates of completion for cultural humility training completed by Contractor employees' within the past 12 months
- Contractor manages a mechanism for tracking all (100%) enrollees' IHCP Medical Home
- Contractor includes enrollees' IHCP and the Contractor's Tribal Liaison in treatment and discharge planning for voluntary inpatient psychiatric and/or residential substance use disorders services reported by IHCPs and AI/AN enrollees for all (100%) cases in each quarter
- Contractor reassigns zero (0) enrollees to a non-IHCP Medical Home, without the enrollees specifically requesting reassignment through fully informed consent reported by IHCPs and AI/AN enrollees in each quarter
- The contracts between Contractor and non-IHCP providers includes language regarding IHCPs' key role in care coordination for AI/AN enrollees
- The contracts between Contractor and non-IHCP providers require non-IHCP providers to share information and coordinate care with enrollees' IHCP, subject to the enrollee's informed consent and request
- Contractor provides documentation of when and how they have delivered HCA-approved policies and procedures for voluntary psychiatric hospitalization and substance use disorder residential services to IHCPs
- Protocols are approved by each Tribe in the Contractor's service area for Contractor accessing tribal land to provide crisis services, coordination of outreach and debriefing of crisis review and outcome with the IHCP
- Contracts between Contractor and participating psychiatric hospitals and Evaluation & Treatment (E&T) facilities include language requiring the hospitals and treatment facilities to notify and coordinate AI/AN discharge planning with IHCPs, to the extent permitted by law

Standard 1.6: Managed Care Organization Contracting with Indian Health Care Provider

MCO Offer to Contract and Negotiation with IHCP

If, at any time during the term of this Contract, an IHCP submits a written request to the Contractor at the mailing address set forth on the cover page of this Contract indicating such IHCP's intent to enter into a subcontract with the Contractor, the Contractor must negotiate in good faith with the IHCP. The Contractor will offer and negotiate contracts in good faith to all IHCPs, including any tribal care coordination, transportation, or related providers; the Contractor will acknowledge that IHCPs may not be required to contract with any Contractor. To be offered in good faith, a Contractor must offer contract terms comparable to terms that it offers to a similarly-situated non-IHCP provider, except for

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terms that would not be applicable to an IHCP, such as by virtue of the types of services that an IHCP provides. The Contractor will provide verification of such offers on request for the State to verify compliance with this provision. (Contract Provision 15.1.1).

MCO-IHCP Contract Addendum
Any such subcontract must include the Special Terms and Conditions set forth in the Medicaid and Children's Health Insurance Program (CHIP) Managed Care Addendum for Indian Health Care Providers (the IHCP Addendum) issued by the Centers for Medicare and Medicaid Services (CMS). To the extent that any provision set forth in the subcontract between the Contractor and the IHCP conflicts with the provisions set forth in the IHCP Addendum, the provisions of the IHCP Addendum shall prevail. (Contract Provision 15.1.1.1).

The addendum must reference the HCA's mechanism in Section 15.2.3 for each IHCP to submit complaints to the HCA regarding unresolved issues, including, but not limited to, crisis coordination between the IHCP and the Contractor, for the State to facilitate resolution directly with the Contractor. (Contract Provision 15.1.1.1).

MCO-IHCP Contract Consistency with Federal and State IHCP and AI/AN Protections:
Any subcontracts with IHCP must be consistent with the laws and regulations that are applicable to the IHCP. The Contractor must work with each IHCP to prevent the Contractor's business operations from placing requirements on the IHCP that are not consistent with applicable law or any of the Special Terms and Conditions in the subcontract between the Contractor and the IHCP. (Contract Provision 15.1.2).

Resolution of Issues. The Contractor will include reference in any contract between the Contractor and the IHCP to the Separate Issue Resolution Mechanism maintained by the State under Section 4 of this Agreement. (Contract Provision 15.1.5).

Compliance Measures – Managed Care Organization Contracting with Indian Health Care Provider

- The Contractor offers and negotiate contracts in good faith to all IHCPs
- The Contractor includes in all contracts with IHCPs the Special Terms and Conditions set forth in the Medicaid and Children's Health Insurance Program (CHIP) Managed Care Addendum for Indian Health Care Providers (the IHCP Addendum) issued by the Centers for Medicare and Medicaid Services (CMS)
- The Contractor's subcontracts with IHCPs are consistent with the laws and regulations that are applicable to the IHCP
- The Contractor's subcontract with IHCPs include reference to the Separate Issue Resolution Mechanism maintained by the Health Care Authority

Compliance Indicators - Managed Care Organization Contracting with Indian Health Care Provider

- Number of cases in which Contractor has not negotiated contracts in good faith with IHCPs reported by IHCPs in each quarter is zero (0)
- Contracts between Contractor and IHCPs include the Special Terms and Conditions set forth in the Medicaid and Children's Health Insurance Program (CHIP) Managed Care Addendum for

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Indian Health Care Providers (the IHCP Addendum) issued by the Centers for Medicare and Medicaid Services (CMS)

- Contracts between Contractor and IHCPs include reference to the Separate Issue Resolution Mechanism maintained by the Health Care Authority

Standard 1.7 Engagement with Indian Health Care Provider

MCO IHCP Coordination and Access Plan

No later than April 30 of each year, the Contractor shall submit to the HCA Tribal Affairs Office a report that includes (Contract Provision 15.2.1):

1. A description of Pre-Planning Meeting Activity. Prior to the development of any plan with an IHCP that is required by this section, the Contractor will meet with the State and the IHCP to gather IHCP input for the MCO-IHCP Plan and identify and resolve issues related to the Contractor's performance of services under this Agreement. (Contract Provisions 15.2.1.1).
2. An MCO-IHCP Coordination and Access Plan that describes the outreach activities the Contractor will undertake during the upcoming year to work with IHCPs in developing and implementing various services, financing models, and other activities for the Contractor to (Contract Provision 15.2.1.1):
    a. Support and enhance the care coordination services provided by IHCPs for Enrollees, both American Indian/Alaska Native and non-American Indian/Alaska Native, including coordination with non-IHCP (Contract Provision 15.2.1.2.1);
    b. Improve access for American Indian/Alaska Native Enrollees (including those who do not receive care at IHCPs) to receive trauma-informed care (Contract Provision 15.2.1.2.2); and
    c. A summary of the progress made during the previous year in building relationships, contractual and otherwise, with IHCPs. (Contract Provision 15.2.1.2.3).
    d. Certification that the Contractor (Contract Provision 15.2.1.2.5)
        i. submitted a draft plan to the IHCP and provided thirty(30) days for the IHCP to review and make changes to the plan.
        ii. made a good faith effort to incorporate any IHCP changes to the plan that are consistent with the terms of the contract. Any disagreements regarding the plan must be resolved by the HCA.

MCO Report on IHCP Engagement

No later than the 15th calendar day after the end of each calendar quarter, the Contractor shall submit to the HCA Tribal Affairs Office a report that briefly describes (Contract Provision 15.2.2):

1. IHCPs the Contractor has worked with during the previous quarter (Contract Provision 15.2.2.1);
2. IHCPs with whom the Contractor successfully negotiated collaborative or contractual arrangements during the previous quarter (Contract Provision 15.2.2.2); and

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3. IHCPs to whom the Contractor will reach out during the coming quarter (Contract Provision 15.2.2.3).

Contractor Tribal Liaison

The Contractor's tribal liaison will facilitate resolution of any issue between the Contractor and an IHCP, including but not limited to billing and provider enrollment/credentialing issues; the Tribal Liaison's function may be an additional duty assigned to existing Contractor's staff. The Contractor will document with the State every such issue identified by the Tribal Liaison. The Contractor will make the Tribal Liaison available for training by tribes and UIHPs in the Contractor's service area, the Indian Policy Advisory Committee (IPAC) of the Department of Social and Health Services (DSHS), and/or the American Indian Health Commission for Washington State (AIHC). (Contract Provision 15.2.5).

Compliance Measures – Engagement with Indian Health Care Provider

- The Contractor submits IHCP Coordination and Access Plan report to HCA and IHCPs with all required documentation
- The Contractor's Tribal Liaison facilitates resolution of issues and completes the other duties of the Tribal Liaison function to the satisfaction of IHCPs

Compliance Indicators – Engagement with Indian Health Care Provider

- Date of submission of Contractor's IHCP Coordination and Access Plan report is no later than the 15th calendar day after the end of each calendar quarter
- The Contractor's IHCP Coordination and Access Plan report's content demonstrates that the Contractor meets the substantive intent of the coordination and access planning requirements
- Number of cases where the Contractor's Tribal Liaison has failed to facilitate resolution of issues or to perform other duties of the Tribal Liaison function to the satisfaction of IHCPs, reported by IHCPs is fewer than 2 in each quarter

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