



**CONTRACEPTIVE COVERAGE
IN WASHINGTON STATE'S
QUALIFIED HEALTH PLANS:**

A Progress Report

August 2017

Report prepared by
Northwest Health Law Advocates

Special thanks to Insurance Commissioner Mike Kreidler for his support for this report.

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I. EXECUTIVE SUMMARY

This report is an update to the April 2015 “Contraceptive Coverage in Washington State’s Qualified Health Plans: A “Secret Shopper” Survey and Review of Carrier Filings and Formularies” report¹ by Northwest Health Law Advocates (NoHLA) and NARAL Pro-Choice Washington. In spring 2015, NoHLA and NARAL conducted a study to determine the extent to which Washington State health insurance carriers were complying with the Affordable Care Act (ACA) requirement that carriers cover *all* FDA-approved contraceptive methods without cost-sharing for all women with reproductive capacity.² The study focused on the eight carriers that sold Qualified Health Plans (QHPs) on Washington Healthplanfinder (www.wahealthplanfinder.org) in 2014. Our initial study included three components: (1) a review of carriers’ filings with the Office of the Insurance Commissioner (OIC), (2) “secret shopper” calls to each carrier, and (3) a review of carrier formularies. The report found that while the carriers stated that all FDA-approved methods of contraception are covered and do not require cost-sharing, both their formularies and their customer service and sales representatives’ responses likely confused customers.

Since May 2015, NoHLA has encouraged each of the carriers to ensure that they were making progress on resolving the specific issues identified in the April 2015 report. On October 7, 2015 and May 9, 2017, we met again with Insurance Commissioner Kreidler and the carriers to discuss their progress related to the report’s recommendations.

The carriers have made much progress:

- Seven of the nine carriers now list medical methods in their formularies;
- Eight carriers have created comprehensive contraceptive coverage informational flyers for consumers;
- Four carriers now cover over-the-counter emergency contraception with no cost-sharing regardless of whether the member has a prescription; and
- Seven carriers have a specific contraceptive waiver or exemption process and one carrier has removed all medical management for contraceptives eliminating the need for a contraceptive waiver.

However, some significant issues remain:

- Representatives of all carriers except one are not uniformly providing accurate contraceptive coverage and cost-sharing information;
- One carrier does not include all medical methods of contraception in its formulary and others place certain methods on higher coverage tiers; and
- One carrier lacks a specific contraceptive waiver or exemption process and others have not publicized their waiver process.

In this follow-up report, we discuss the areas of improvement and remaining issues generally. We then provide carrier-specific information based on additional secret shopper calls and formulary reviews in April through July 2017. We also include results from Regence BlueShield, a carrier that newly joined the Washington State Qualified Health Plan (QHP) market in 2016 and was not in the original 2015 study.

¹ Available at <http://nohla.org/wordpress/wp-content/uploads/2016/07/NoHLA-NARAL-ContCovWAQHPs.pdf>.

² U.S. Dep’t of Health and Human Serv., Health Resources Serv Admin., Women’s Preventive Services Guidelines (July 2011), available at <http://www.hrsa.gov/womensguidelines/>. The list of methods is available on the FDA Birth Control Guide, available at <https://www.fda.gov/downloads/forconsumers/byaudience/forwomen/freepublications/ucm517406.pdf>.

Based on these results, we make the following recommendations to insurers who are deficient or have not fully addressed the above areas:

2017 Recommendations for Carriers

- Provide additional training to customer service and sales representatives to ensure they give consumers accurate coverage and cost-sharing information.
- Maintain current, accurate, ACA-compliant, formularies that clearly indicate that cost-sharing does not apply to listed contraceptives.
- Include medical methods of contraception in formularies.
- Create a contraceptive cost-sharing waiver process if none is in place; or publicize the existing process.
- Cover over-the-counter emergency contraception without a prescription at no cost to enrollees.

II. CARRIER RESPONSES TO AUTHORS' APRIL 2015 RECOMMENDATIONS

The April 2015 report included specific recommendations to carriers, which we believed would ensure both their compliance with the ACA contraceptive coverage requirement and their provision of comprehensive and correct information to consumers. We are pleased to report that on the whole, carriers have made significant progress on the majority of the recommendations. Below are the six recommendations with a summary of carrier responses and progress. (Carrier-specific information is provided in Section V.)

- 1) ***Train Customer-Facing Representatives:*** *All sales and customer service representatives should receive training on the contraceptive benefits that carriers provide. Contraception coverage is very important to consumers, especially to women of reproductive age. Consumers need to be able to obtain accurate, detailed information on the availability of contraceptive options, both before they purchase an insurance plan and when questions arise after they enroll in a plan. Carrier representatives must give clear and reliable information about what QHPs cover and any restrictions on coverage.*

All carriers³ committed in writing to provide additional training and all carriers confirmed that those trainings were completed by October 2015. Most carriers provided us with comprehensive details about the training components. Of the carriers who provided information, many provided training for all member-facing departments. For example, Coordinated Care retrained all sales representatives, the nurses who staff the advice line, and added an online refresher training. However, some carriers' representatives continue to provide inaccurate and incomplete information to callers.

- 2) ***Maintain Current, Accurate, ACA-Compliant, Online Formularies:*** *Carriers should ensure that their formularies are up-to-date, accurate, and compliant with the ACA requirement regarding*

³ All carriers excluding Regence which entered the Washington QHP market in 2016 and was not included in the original 2015 study.

contraception. Some FDA-approved contraceptive methods are not listed in carrier formularies or appear to require cost-sharing. Additionally, carrier formularies should be available online through direct links and easily found on carrier websites and in print materials.

All carriers committed in writing to review their formularies. They updated their formularies in a variety of ways: by adding medical methods, further explaining the formulary tiers, confirming that contraceptives are preventive medications, or adding comprehensive contraceptive one-pagers that describe the benefit. All carriers then confirmed that the formularies were current, accurate, and compliant. However, as of August 2017, some carriers' online and downloadable formularies still contain inaccurate or incomplete information.

- 3) **List Medical Methods of Contraception in Formularies:** *Carrier formularies should list medical methods of contraception. Carriers should make it easier for consumers to find information about medical methods of contraception, specifically IUDs and subdermal implants, which are not generally listed in drug formularies. Incorrect information about these methods from carrier representatives coupled with their exclusion from formularies could lead consumers to assume that they are not covered.*

All carriers committed in writing to review their formulary decisions regarding medical methods and now most carrier formularies include them. However, BridgeSpan and Regence only include some medical methods in their formulary.

- 4) **Cost-Sharing Waiver Process:** *Carriers should create and publicize a contraceptive waiver process. If a covered generic contraceptive drug or device is medically inappropriate as determined by a woman's health care provider, the carrier is required to cover the branded or non-preferred brand version and waive cost-sharing.⁴ This determination is to be made solely by the woman and her health care provider; neither should be required to submit any medical evidence to the carrier. Women and providers must be made aware of the contraceptive waiver process.*

Federal guidance released after the publication of our April 2015 report confirmed that carriers must cover all 18 FDA-approved methods, but may limit coverage to only one type of each method, an approach known as reasonable medical management. However, the guidance underscores the requirement that carriers must create a separate process or waiver whereby women can gain access quickly to the appropriate contraceptive type without cost-sharing.⁵ Most carriers created new waiver

⁴ The requirement of a waiver procedure is described in tri-agency guidance on ACA Implementation. See waiver question 14, U.S. Dep'ts of Labor, Health & Human Serv. & Treasury, Frequently Asked Questions about Affordable Care Act Implementation Part XII (February 20, 2013), available at <http://www.dol.gov/ebsa/faqs/faq-aca12.html#5>.

⁵ If a covered generic contraceptive drug or device within 1 of the 18 covered methods is medically inappropriate as determined by a woman's health care provider, the issuer is required to cover the branded or non-preferred brand version and waive cost-sharing. See [question 1](#), U.S. Dep'ts of Labor, Health & Human Serv. & Treasury, Frequently Asked Questions about Affordable Care Act Implementation Part XXVII (May 11, 2015) and [waiver question 14](#), U.S. Dep'ts of Labor, Health & Human Serv. & Treasury, Frequently Asked Questions about Affordable Care Act Implementation Part XII (February 20, 2013). This determination is to be made solely by the woman and her health care provider, which requires a process separate from established procedures for prior authorization or medical necessity determinations where the issuer determines whether a request will be covered.

or exceptions processes used exclusively for contraceptive requests, or created processes that (while different) meet the requirements set out in the May 11, 2015, federal guidance. Community Health Plan of Washington has removed medical management and covers all types of all methods of contraception eliminating the need for a waiver process. However, Molina does not have a specific contraceptive waiver process in place and uses its general non-formulary exceptions process.

- 5) **Clarify OIC filings:** *Carriers should review the language used in filings with OIC to ensure that contraceptive benefits are easily determined and do not appear limited. Currently, some information about contraceptive benefits is only found in carriers' OIC filings. These public documents should accurately, concisely, and neutrally describe the covered contraceptive benefits.*

All carriers committed to review their OIC filings and most confirmed that the 2016 contraceptive benefits were in compliance. Some carriers enhanced their filing language regarding contraceptive coverage. For example, BridgeSpan supplemented their description of the contraceptive coverage benefit in their 2016 OIC filing. For this update, we chose not to review 2017 filings and rather focused our attention on consumer-facing materials and communications with carrier representatives.

- 6) **Emergency Contraception:** *Carriers should provide Emergency Contraception without cost-sharing regardless of whether a woman has obtained a prescription. Although they are not required to do so, it is beneficial to enrollees to have this option and likely to be cost-effective. The ACA requires emergency contraception to be covered when prescribed by a provider.⁶*

We are pleased to report that Coordinated Care, Kaiser Foundation Health Plan of Washington (formerly Group Health), Kaiser Foundation Health Plan of the Northwest, and Molina have decided to cover over-the-counter emergency contraception without cost-sharing, regardless of whether the member has a prescription. Other carriers have said that they are considering whether to cover over-the-counter emergency contraception without a prescription with no cost-sharing but have not yet made changes to their policies and one carrier does not intend to cover emergency contraception without a prescription for members to avoid cost-sharing.

III. UPDATED RECOMMENDATIONS

In light of the findings from our formulary review and spot-check calls, work remains to be done in all areas of our original recommendations except for OIC filings. Specifically, we recommend that carriers:

This is because providers and not issuers decide whether a non-covered contraceptive type must be covered. The May 11th guidance states “If an individual’s attending provider recommends a particular service or FDA approved item based on a determination of medical necessity with respect to that individual, the plan or issuer must cover that service or item without cost sharing.” A provider is defined as “An attending provider means an individual who is licensed under applicable state law, who is acting within the scope of the provider’s license, and who is directly responsible for providing care to the patient relating to the recommended preventive services. Therefore, a plan, issuer, hospital, or managed care organization is not an attending provider”. Additionally, the question of medical necessity is broader in this context and, again, highlights the role of the provider: “Medical necessity may include considerations such as severity of side effects, differences in permanence and reversibility of contraceptives, and ability to adhere to the appropriate use of the item or service, as determined by the attending provider”. Therefore, because issuers are not providers they cannot deny a request for a non-covered contraceptive type from a provider based on medical appropriateness.

⁶ Plan B (Levonorgestrel) and Ella (Ulipristal Acetate) are listed as separate methods on the FDA Birth Control Guide, available at <https://www.fda.gov/downloads/forconsumers/byaudience/forwomen/freepublications/ucm517406.pdf>.

- Provide additional training to customer service and sales representatives to ensure they give consumers accurate coverage and cost information;
- Maintain current, accurate, ACA-compliant, formularies that clearly indicate that cost-sharing does not apply to listed contraceptives;
- Include medical methods of contraception in formularies;
- Create a contraceptive cost-sharing waiver process if none is in place; or publicize the existing process; and
- Cover over-the-counter emergency contraception without a prescription at no cost to enrollees.

Not all recommendations apply to all carriers. Specific carrier recommendations follow in section VI.

IV. SPOT CHECK SURVEY PURPOSE AND METHODS

Our original study highlighted the need for carriers to provide training to their sales and customer service representatives so they can clearly and accurately respond to questions regarding QHP contraceptive benefits. All carriers confirmed that they provided additional training to representatives between April and October 2015. In order to monitor whether these efforts have resulted in improved communications, we gathered additional “secret shopper” data through a spot-check survey in June and July 2017. We narrowed the original survey questions to focus on the contraceptive methods for which representatives had given the most incorrect information in 2015. Volunteers from NoHLA and Legal Voice made “spot check” calls to sales and customer service representatives from eight of the nine insurance carriers that offered QHPs on Washington Healthplanfinder (www.wahealthplanfinder.org) in 2017: BridgeSpan Health Company, Coordinated Care, Kaiser Foundation Health Plan of the Northwest (KFHPNW), Kaiser Foundation Health Plan of Washington (KFHPW, formerly Group Health), LifeWise Health Plan of Washington, Molina Health Care of Washington, Premera Blue Cross, and Regence BlueShield.⁷ The callers used a condensed version of the original script or in some cases the full script, and conducted at least five calls per carrier.

V. KEY FINDINGS

Since spring 2015, many carriers have made great strides in responding to our recommendations and are now providing more accurate information to consumers through their formularies and customer and sales representatives. Some carriers have exceeded expectations and gone beyond the contraceptive mandate, providing coverage for over-the-counter emergency contraception without a prescription. However, some carriers still provide inaccurate or incomplete information about their contraceptive benefit. It also appears that carrier decisions regarding formulary design⁸ may negatively affect their representatives’ ability to provide accurate information to consumers.

A. Customer Service and Sales Representatives Still Providing Inaccurate Information

⁷ No spot-check calls were conducted to Community Health Plan of Washington (CHPW) representatives as the carrier is leaving the Exchange at the end of the 2017 plan year.

⁸ Such as placing contraceptives on different tiers or excluding some medical methods.

The spot check survey highlighted the carriers' progress but demonstrated that training issues still need to be addressed. Overall, carrier representatives are better able to respond to questions about the contraceptive benefit than they were previously. In fact, many customer service and sales representatives stated correctly that all FDA-approved methods of contraception were covered without cost-sharing. However, the accuracy of information provided by carrier representatives ranged from completely accurate to largely inaccurate. We discuss those discrepancies in Section V, which details the carrier-specific findings.

Customer service and sales representatives provided better information but still struggled with specific FDA-approved methods:

- All representatives from Kaiser Foundation Health Plan of Washington (formerly Group Health) stated uniformly that all methods are covered without a copayment.
- Representatives from the other carriers told callers that medical methods of contraception are not covered or that insertion/removal of IUDs are not covered.
- Representatives from multiple carriers told callers that both Plan B and Ella (emergency contraception) require copayments.
- Some representatives would not answer questions regarding contraceptive coverage unless the caller provided personal health information.

B. Carrier Formularies Contain a Mix of Plan Information

Carrier formularies generally include prescription drugs organized into tiers based on cost-sharing requirements, usually copayments or coinsurance. As the ACA requires carriers to cover all FDA-approved methods of contraception without cost-sharing, contraceptive drugs should appear on the lowest formulary tier or be subject to no cost-sharing. When we reviewed 2017 formularies for this update, we found that carrier formularies still contain a mix of information for ACA-compliant and grandfathered (non-ACA compliant) plans although the latter is a small percentage of available plans. These blended formularies can be confusing for consumers. While some carriers have responded by including statements that some plans do not include copayments for contraceptives, that information typically appears at the beginning of a formulary and not on the pages where specific methods of contraception are listed.⁹ Higher tier placement may also result in representatives providing incorrect information.

Some FDA-approved methods still appear on formulary tiers requiring cost-sharing:

- BridgeSpan and Regence list the ring and Ella (emergency contraception) on Tier 3 and brand name Depo Provera (injection) on Tier 4.¹⁰
- Community Health Plan of Washington lists IUDs and implants as non-formulary on its downloadable formulary.
- Kaiser Foundation Health Plan of the Northwest lists contraceptives on multiple tiers throughout its formulary. However, in the beginning of its formulary KFHPNW lists all ACA covered contraceptives and specifies there is no cost-sharing.¹¹

⁹ See, e.g., Bridgespan/Regence formulary language p.2, *available at* <https://ctr.rxportal.mycatamaranrx.com/rxclaim/CTR/EHB5.pdf> ["Under some plans, Preventive Care drugs (including contraceptives) are not subject to cost share requirements, regardless of tier placement."].

¹⁰ We understand that BridgeSpan/Regence is moving to a new pharmacy benefit manager and hope that higher tier placement will no longer be a problem.

¹¹ See https://healthy.kaiserpermanente.org/static/health/pdfs/formulary/nw/wa_marketplace_formulary.pdf.

Not all medical methods of contraception are listed in all formularies:

As some FDA-approved contraceptive devices are considered “medical benefits” rather than “prescription benefits,” some carriers chose not to list all medical methods of contraception in their formularies.

- BridgeSpan/Regence do not list either IUDs or subdermal implants in their formulary.

C. Concerns Related to Specific FDA-approved Methods of Contraception

The April 2015 study suggested that consumers were receiving inaccurate or incomplete information about emergency contraception and medical methods (subdermal implants and IUDs). The spot check survey revealed that some carrier representatives were still providing inaccurate information about these methods.

Emergency Contraception:

- Callers’ questions about Plan B and Ella continue to elicit some incorrect responses even though both are FDA-approved methods that must be covered without cost-sharing when prescribed.¹²
- Representatives from five carriers incorrectly stated that (1) no emergency contraception is covered, (2) only Plan B is covered, or (3) copayments are required.
- All formularies now list emergency contraception as a covered method. However, BridgeSpan and Regence list Ella on Tier 3, which makes it appear to require a copayment. Only if someone looks at the preamble to the formulary would they learn that is not the case.

Subdermal Implants & IUDs:

- Representatives from several plans gave conflicting information about whether their plans cover IUDs or implants and which types are covered.
- Some representatives stated that all contraceptives other than pills require prior authorization.
- Some representatives warned there might be copayments associated with the office visits for insertion and removal of an IUD or implant.
- BridgeSpan and Regence do not list IUDs or subdermal implants in their formulary.

VI. CARRIER SPECIFIC FINDINGS

Most of the carriers made significant progress in response to the findings of our April 2015 report. In addition, they welcomed our involvement in their efforts to provide better, more comprehensive information to their current customers and consumers shopping for QHP coverage.

A. BridgeSpan and Regence

BridgeSpan and Regence share a parent company, customer services representatives, formulary, and pharmacy benefits management. As such, our findings for Regence and BridgeSpan are identical.

¹² Plan B has generic versions (Take Action, Next Choice One Dose, and My Way) while Ella does not. Carriers are allowed to cover generic Plan B unless a woman’s provider states that the generic would be medically inappropriate.

Regence entered the Washington Health Benefit Exchange in 2016 and was not a part of the original 2015 study.

1. BridgeSpan Response to Original Report

BridgeSpan has addressed many of our recommendations. After the March 2015 meeting with Commissioner Kreidler, the carrier reported that its contraceptive benefits complied with the contraceptive mandate and revised its OIC filing to include enhanced policy language about contraception.¹³ In June 2015, BridgeSpan retrained all customer service representatives and updated marketing materials to provide greater clarity about the contraceptive benefit.

2. BridgeSpan/Regence Formulary and Contraceptive Coverage Flyer

BridgeSpan/Regence's formulary does not list IUDs or the contraceptive implant and lists contraceptives on different tiers, which may give the impression cost-sharing is required for different contraceptive products. BridgeSpan/Regence has addressed these issues by creating a flyer entitled "Women's ACA Contraceptive Covered Products."¹⁴

The flyer states that BridgeSpan/Regence covers options in each FDA approved contraceptive category at no cost, lists all available contraceptive products – including IUDs and the contraceptive implant – and separates products covered under the pharmacy benefit from those covered under the medical benefit. Injections are listed under both the pharmacy and medical benefit. The flyer also outlines BridgeSpan/Regence's specific contraceptive waiver process. A link to the flyer is available on BridgeSpan/Regence's online formulary, and the carrier intends to update the preamble to its downloadable formulary with information contained in the flyer by late 2017. A "Contraceptives Covered List" link is available under birth control on both BridgeSpan's preventive care webpage and Regence's preventive care list for members page; both send consumers to the OmedaRx webpage where a link to the flyer is available.

3. BridgeSpan/Regence Waiver Process

Both the formulary and the contraceptive coverage flyer contain language regarding an exceptions process for approving non-formulary contraceptives without cost-sharing.¹⁵ In 2015, BridgeSpan confirmed that brand-name contraceptives will be provided without cost-sharing when those products are used as a "preventative service (for contraception)" and "the prescribing provider has certified that the generic alternative is medically inappropriate (as determined by the prescribing provider, in consultation with the patient). Certification may be a written statement, a verbal statement, or by the submission of a completed Prescriber Certification form (see Appendix 1)."¹⁶ This information was sent to all providers in the BridgeSpan network.

¹³ BridgeSpan 2017 OIC filing, OIC Tracker ID: 302981, Company Tracker ID: WWB0117PHSAIE, SERFF Tracker ID: RGWA-130522336 at p.99 of 2542, explaining that all FDA approved contraceptives are covered as part of the preventive care benefit.

¹⁴ Available at <https://www.omedarx.com/files/PPACA%20Contraceptive%20Products%2007-2017.pdf>.

¹⁵ See PDF formulary, p.3, available at <https://ctr.rxportal.mycatamaranrx.com/rxclaim/CTR/EHB5.pdf> and Women's ACA Contraceptive Covered Products flyer, p.1, available at <https://www.omedarx.com/files/PPACA%20Contraceptive%20Products%2007-2017.pdf>.

¹⁶ See OmedaRX, Medication Policy Manual Policy No: dru399, Topic: Cost-Share Exception Criteria for Contraceptives (May 8, 2015) Effective Date: June 1, 2015. The 2017 policy is available at <https://www.omedarx.com/files/dru399.pdf> and is now

4. BridgeSpan/Regence Spot Check Calls

BridgeSpan/Regence representatives provided mixed responses to callers regarding contraceptive coverage. Four representatives gave entirely accurate responses. Four representatives said either Plan B or all emergency contraception was not covered. One representative said both the patch and the injection were not covered. Two representatives said there was a doctor's fee for IUD or implant insertion, and one representative thought there might be a fee for IUD removal.

5. Recommendations for BridgeSpan/Regence

BridgeSpan/Regence has taken significant positive steps toward ensuring that consumers understand its contraceptive benefit, including the creation of a contraceptive waiver process and a contraceptive coverage flyer. However, customer service needs improvement. We recommend that the carrier provide additional and continuing training to customer service and sales representatives about coverage for all forms of FDA approved contraceptives including emergency contraception and IUDs, and the absence of cost-sharing for IUD insertion and removal. We further recommend a direct link to the contraceptive coverage flyer be available on BridgeSpan/Regence's webpage and encourage the carrier to consider covering over-the-counter emergency contraception without a prescription at no cost to members.

B. Community Health Plan of Washington (CHPW)

1. CHPW Response to Original Report

In response to our recommendations, in April 2015, CHPW representatives provided supplemental trainings about contraceptive coverage for their representatives and added details about IUDs and implants to the member handbook to clarify coverage.

2. CHPW Formulary and Contraceptive Coverage Flyer

The CHPW formulary is available as either a downloadable document, or an online searchable database. We appreciate CHPW's creation of a new tier, Tier 5, which is described as "Affordable Care Act approved preventive services that have no member cost share." Many FDA-approved forms of contraception are now located on Tier 5 in the searchable formulary but others continue to be listed on different tiers. Further, the downloadable formulary continues to list some contraceptive drugs and devices on different tiers, and continues to list IUDs and the implant as non-formulary, which requires a provider to request an exception to obtain benefit coverage.¹⁷ Additionally, some contraceptive drugs in the searchable formulary are omitted from the downloadable formulary. The inconsistencies between the two formularies may lead consumers to assume a contraceptive product is not covered. In response to our concerns, CHPW has made changes to the searchable formulary to clearly communicate which contraceptives are fully covered under ACA compliant plans. Unfortunately, CHPW does not anticipate it

described as "Cost-Share Exception Criteria for Preventative Medications" although there is no indication that this change affects contraceptive authorization.

¹⁷ CHPW downloadable formulary, available at https://legacy.fchn.com/splash/CHE/PDF/2017_Formulary.pdf.

will be able to make changes to the downloadable formulary before they leave the Marketplace at the end of 2017.

CHPW has created a Women's Contraceptive Coverage one-pager which clearly lists the types of all contraceptive drugs and devices covered at no cost-share to CHPW members.¹⁸

3. CHPW Waiver Process

CHPW has removed all medical management requirements from its contraceptive benefit. Thus, there is no need for an exception or waiver process for contraceptives.

4. CHPW Spot Check Calls

As CHPW is leaving the Exchange Marketplace at the end of the 2017 plan year, we did not conduct any spot-check calls with CHPW representatives.

5. Recommendations for CHPW

CHPW has taken significant positive steps toward ensuring that consumers understand its contraceptive coverage benefit including removing all medical management requirements. If CHPW intends to participate in the Exchange Marketplace in the future, we recommend the carrier provide additional and continuing training to customer service and sales representatives about all covered contraceptive methods, including emergency contraception and IUDs. We further recommend that CHPW reconsider its decision to require a prescription for a member to obtain over-the-counter emergency contraception at no cost.

C. Coordinated Care

1. Coordinated Care Response to Original Report

In our original report we identified many instances in which Coordinated Care did not provide correct or complete information to consumers. Since then, Coordinated Care made an effort to address every report recommendation. The carrier revised its 2016 OIC filing and updated language on its website accordingly. Sales center staff, nurse advice line staff, and all member-facing staff who return calls received additional training on the contraceptive benefit, and in September 2015 online training became available.

2. Coordinated Care Formulary and Contraceptive Coverage Flyer

Coordinated Care has updated its formulary to add medical methods of contraception. All methods of contraception are listed on Tier 0, and the formulary now explains Tier 0 contains preventive drugs which require no cost-share. Additionally, Coordinated Care has taken the extra step of making emergency contraception available over-the-counter without a prescription, at no cost to members.

¹⁸ *Community HealthEssentials Plus: Women's Contraceptive Coverage*, COMMUNITY HEALTH ESSENTIALS PLUS OFFERED BY COMMUNITY HEALTH PLAN OF WASHINGTON, https://legacy.fchn.com/splash/CHE/PDF/WomensContraceptiveCoverage_pro3.pdf.

The carrier has also created a contraceptive coverage one-page flyer for providers and internal staff that details all forms of contraception available to members at no cost, including over-the-counter emergency contraception. The flyer was last shared with providers and internal staff in November 2016 and is scheduled for circulation again in the next few months. The carrier has agreed to make the flyer available to members by posting it online.

3. **Coordinated Care Waiver Process**

Coordinated Care has implemented a streamlined contraception exception process: if a provider determines that a member requires a non-formulary contraceptive, the provider requests prior authorization for the specific drug and the requests are automatically approved.

4. **Coordinated Care Spot Check Calls**

Of the Coordinated Care representatives who responded to questions from spot-check callers, most provided accurate information. Two representatives consistently stated that all FDA-approved forms of contraception were available with no cost-share. Another representative provided inaccurate information on coverage of IUDs and emergency contraception. One representative would not answer any of the caller's questions regarding contraceptive coverage and referred the caller to the formulary.

5. **Recommendations for Coordinated Care**

Coordinated Care successfully addressed many of our concerns. The carrier responded to every one of our recommendations, including coverage for over-the-counter emergency contraception with no cost-sharing without a prescription. Sales and customer service representatives received additional trainings and contraceptive benefit information is now included in new employee training. Based on recent spot-check calls, we recommend that the carrier provide customer service and sales representatives with additional and continuing training about coverage for all forms of FDA approved contraceptives including IUDs and emergency contraception.

D. **Kaiser Foundation Health Plan of Washington (formerly Group Health)**

1. **KFHPW Response to Original Report**

Kaiser Foundation Health Plan of Washington (KFHPW) fully addressed all the recommendations in our April 2015 report. KFHPW provided additional training to its sales and customer service representatives and now includes contraceptive benefit information in its new employee training. The carrier also audited customer service calls and conducted its own spot-check calls to sales representatives to ensure its representatives were providing accurate information.

2. **KFHPW Formulary and Contraceptive Coverage Flyer**

KFHPW's formulary now contains a Tier P for preventive drugs and preferred contraceptives, and the formulary states all Tier P drugs are covered in full. All contraceptive drugs and devices are now listed

on Tier P.¹⁹ Additionally, KFHPW now covers emergency contraception over-the-counter without a prescription, at no cost to members. They created a one-page flyer that describes the contraception benefits available to members and plan to include language describing coverage for over-the-counter emergency contraception.

3. KFHPW Waiver Process

The carrier has developed a more streamlined contraception exception process eliminating its policy requiring a member to try a preferred contraceptive before covering in full a non-preferred contraceptive. A provider may complete a specific contraception waiver form in order for a non-formulary contraceptive to be covered in full. If a member requests coverage for a non-formulary contraceptive, the carrier will contact the attending provider and suggest a preferred generic or therapeutically equivalent product. If the provider determines the generic is not medically appropriate, a contraception waiver form must be completed for the contraceptive to be covered in full.

4. KFHPW Spot Check Calls

KFHPW representatives provided entirely accurate information to spot-check callers, stating all FDA-approved contraceptive products are covered without a copay.

5. Recommendations for KFHPW

KFHPW has successfully addressed our concerns. The carrier responded to all of our recommendations, including coverage for over-the-counter emergency contraception with no cost-sharing without a prescription.

E. Kaiser Foundation Health Plan of the Northwest (Southwest Washington)

1. KFHPNW Response to Original Report

Kaiser Foundation Health Plan of the Northwest (KFHPNW) responded to all of our recommendations. The carrier created an 8-page contraceptive brochure for its staff and provided additional training on the contraceptive benefit to member services and sales staff. KFHPNW also created a Women's Contraceptive Benefits flyer to educate members and consumers on available contraceptive coverage.²⁰

2. KFHPNW Formulary and Contraceptive Coverage Flyer

The KFHPNW formulary has been updated to list all ACA covered contraceptive drugs and devices in one place in a separate section in the beginning of the formulary.²¹ Contraceptives are listed on multiple tiers throughout the formulary. However, KFHPNW clarifies in the beginning of the formulary that

¹⁹ See <https://www.ghc.org/static/pdf/public/formulary/if-formulary-specialty.pdf> and <https://www.ghc.org/static/pdf/public/formulary/if-formulary.pdf>.

²⁰ Available at https://healthy.kaiserpermanente.org/static/health/en-us/pdfs/nw/KP_NW_Womens_Contraceptive_Benefits.pdf.

²¹ See https://healthy.kaiserpermanente.org/static/health/pdfs/formulary/nw/wa_marketplace_formulary.pdf.

contraceptives “ ... are also listed in the main formulary section because a provider may prescribe the drugs to treat other medical conditions. When a drug is prescribed for a purpose other than contraception, cost shares and the ‘Requirements/Limits’ column apply.” This language along with the full list of covered contraceptives in the same place at the beginning of the formulary may help to mitigate consumer confusion that could otherwise occur.

KFHPNW now covers emergency contraception over-the-counter without a prescription, at no cost to members. The carrier has provided information on this benefit on their Women’s Contraceptive Benefits flyer.

3. KFHPNW Contraceptive Waiver Process

The carrier has a contraceptive waiver or exception process. If a provider determines that a non-preferred contraceptive drug is medically appropriate, the non-formulary contraceptive will automatically be approved and covered at no cost to the member.

4. KFHPNW Spot Check Calls

Kaiser Foundation Health Plan of the Northwest representatives provided mixed responses to callers regarding contraception coverage. Two representatives gave entirely accurate responses. Another representative stated Ella was not a covered form of emergency contraception. One representative stated that all FDA-approved contraceptive drugs and devices were covered, but could not confirm how that applied to specific contraceptive products. One caller was unable to get firm information on covered contraception after spending over an hour on the phone with various representatives. One representative refused to provide any information on contraceptive coverage unless the caller provided personal medical information.

5. Recommendations for KFHPNW

Based on the formulary review and spot-check survey results, we strongly recommend that Kaiser provide additional and continuing training to customer service and sales representatives about all covered contraceptive methods, including emergency contraception and IUDs. We appreciate KFHPNW adopting our recommendation to cover over-the-counter emergency contraception with no cost-sharing without a prescription.

F. LifeWise and Premera

LifeWise Health Plan of Washington and Premera Blue Cross are members of the Premera family of companies, which share customer services representatives, formulary, and pharmacy benefits management. As such, our findings for LifeWise and Premera Blue Cross are identical.

1. LifeWise/Premera Response to Original Report

LifeWise/Premera representatives responded to our report recommendations. In April 2015, the carrier provided an email refresher to carrier representatives and completed revisions to its 2016 OIC filings. Additionally, LifeWise/Premera completed a self-assessment and held in-team reviews and discussions.

The carrier also developed an internal contraceptive coverage document to be used by representatives to explain the benefit.

2. LifeWise/Premera Formulary and Contraceptive Coverage Flyer

LifeWise/Premera created a preventive benefits flyer which states that birth control, among other services, is covered at no cost under the preventive services benefit.²² Additionally, LifeWise/Premera created a Family Planning section for its Women's Health webpage that states that all FDA-approved methods of birth control are covered under most plans, and lists all covered drugs and devices.²³ We have suggested that the carrier include a reference to the Women's Health webpage on its preventive benefits flyer, which the carrier is taking under consideration.

LifeWise/Premera's formulary now includes all contraceptive methods including injections. Contraceptives are categorized as 'ACA Preventive Drug(s)' which are available at no cost to members. LifeWise/Premera maintains only an online searchable formulary for ACA compliant plans. The formulary is searchable only by typing in a drug name or browsing under therapeutic classes, which requires the consumer to have that specialized information. 'Contraceptives' comprise one therapeutic class, but many other contraceptives are listed under 'Hormones and Synthetic Substitutes' and injections are listed under 'Progestins.' At our suggestion, LifeWise/Premera is planning to add a note on the formulary directing consumers to all sections of the formulary where contraceptives are listed.

LifeWise/Premera requires a prescription before a member can get coverage for over-the-counter emergency contraception. The carrier recently informed us that they are currently examining whether to change this policy.

3. LifeWise/Premera Contraceptive Waiver Process

LifeWise/Premera has simplified its contraceptive waiver process in response to our recommendation, creating a specific check box on its Pharmacy Formulary Exception fax form to authorize non-formulary contraceptives. Additionally, at the point of sale, a prescription for a non-formulary contraceptive drug stating "dispense as written" is sufficient to document the provider's determination of medical necessity. The carrier intends to share a reminder of how the exception process works through a future provider news brief but did not provide information on when the news brief is expected to be published.

4. LifeWise/Premera Spot Check Calls

LifeWise/Premera representatives provided mixed responses to callers regarding contraception coverage. Two representatives gave entirely accurate responses. Three representative said members had to pay a fee to have an IUD inserted, and the same representatives also stated the Paragard IUD was not covered. Two other representatives stated copays applied to oral contraceptives and the patch. Two representatives also stated neither the injection nor the contraceptive ring was covered. Three representatives stated emergency contraception was not covered.

²² Available at <https://www.premera.com/documents/022325.pdf>.

²³ See <https://www.premera.com/wa/member/stay-healthy/womens-health/family-planning/>.

5. Recommendations for LifeWise/Premera

LifeWise/Premera have addressed many of our concerns. However, based on results from spot-check calls we strongly recommend LifeWise/Premera provide additional and continuing training to customer service and sales representatives about all covered contraceptive methods. We encourage LifeWise/Premera to cover over-the-counter emergency contraception without a prescription, which they are currently considering.

G. Molina

1. Molina Response to Original Report

Molina has responded to some of our findings and recommendations. For other recommendations, Molina has said they are exploring or intending to make changes or did not fully respond.

Molina had previously stated that medical methods of contraception were not included in its formulary. Despite the Mirena IUD being included in both 2015 and 2016 formularies, the carrier continued to insist that no medical methods were included in the formulary. In order to resolve this issue, the Washington State Attorney General's Office opened an investigation and on April 5, 2016, entered into an Assurance of Discontinuance with Molina, pursuant to the Consumer Protection Act (RCW 19.86.100). The agreement required Molina to amend its formularies and/or preferred drug lists for all of its Washington health plans to list all IUDs, including all copper and progestin-based IUDs. The Paragard copper IUD is no longer listed on the formulary as requiring prior authorization.

2. Molina Formulary and Contraceptive Coverage Flyer

Molina's formulary now lists all contraceptive methods and devices on Tier PREV, defined as Preventive Services, with no copay.²⁴ Molina covers over-the-counter emergency contraception without a prescription at no cost to members. A quantity limit of four tabs per year applies to all emergency contraception. Molina has agreed to provide information on this benefit in the contraceptive benefits flyer it intends to release for the 2018 plan year.

Molina does not currently have a contraceptive benefits flyer. As a result of our inquiries, as of July 2017 Molina has committed to creating a contraceptive flyer by January 2018. The carrier does not provide information on contraceptive coverage on its webpage. They are evaluating whether to add family planning/contraceptive coverage information on the Women's Wellness page and will consider posting the contraceptive coverage flyer online.

3. Molina Contraceptive Coverage Waiver Process

²⁴ 2017 Formulary Washington (List of Covered Drugs) 54-58, MOLINA HEALTHCARE, <http://www.molinahealthcare.com/members/wa/en-US/PDF/Marketplace/formulary-2017.pdf>.

Molina does not have a specific contraception exception process.²⁵ Molina maintains that its general non-formulary exception process is “applicable to contraceptives” and is used to “ensure simplicity” for its members. In a letter to the Insurance Commissioner dated November 3, 2016, Molina indicates that if a preventive service non-formulary item is approved, no cost-sharing is imposed. However, in subsequent communication Molina representatives did not clarify what the approval process is for non-formulary contraceptives, stating only that the exception form is routed to its Contact Center and then processed.

4. Molina Spot Check Calls

Molina representatives provided mixed responses to callers regarding contraceptive coverage. One representative provided the caller with entirely accurate information. Another representative stated all FDA-approved contraceptives were covered but could not confirm which types of contraception were covered. One representative repeatedly refused to give the caller any information about covered contraception on ACA compliant plans. Another representative stated all oral contraceptives were covered, but all other contraceptive methods required prior authorization or a copay.

5. Recommendations for Molina

Molina should create a specific contraceptive waiver or exemption process unless all types of contraceptive methods are already provided without cost-sharing, without an authorization requirement. Based on the formulary review and spot check survey results, we strongly recommend that Molina provide additional and continuing training to customer service and sales representatives about all covered contraceptive methods. We further recommend Molina create consumer-facing contraceptive coverage materials and look forward to seeing its contraceptive coverage flyer in January 2018. We appreciate Molina adopting our recommendation to cover over-the-counter emergency contraception with no cost-sharing without a prescription.

VII. CONCLUSION

Since our original study in 2015, carriers selling QHPs in Washington State have made significant progress in responding to our report recommendations. Carriers have made changes to their formularies and created consumer-facing informational materials to further explain contraceptive benefits. In 2017, more representatives were able to answer questions about contraceptive coverage correctly than in 2015. We appreciate that some carriers are now covering emergency contraception without a prescription, a practice we recommend to expedite women’s access in a time of need. However, there is still work to be done. Carriers must correct the deficiencies identified in this report, including continued training to sales and customer service representatives to ensure that consumers receive accurate information about contraceptive coverage. We will continue to periodically review carriers’ compliance with the ACA’s contraceptive mandate.

²⁵ The requirement of a waiver procedure is described in tri-agency guidance on ACA Implementation. See waiver question 14, U.S. Dep’t of Labor, Health & Human Serv. & Treasury, Frequently Asked Questions about Affordable Care Act Implementation Part XII (February 20, 2013), available at <https://www.dol.gov/sites/default/files/ebsa/about-ebsa/our-activities/resource-center/faqs/aca-part-xii.pdf#5>.