

Memorandum

To: Annalisa Gellermann, Chief Deputy

From: Melanie Anderson, Deputy Commissioner, Consumer Protection

Date: June 10, 2019

Subject: Kaiser Foundation Health Plan of Washington Investigative Report

Attached please find the final investigative report prepared by the Office of the Insurance Commissioner's Regulatory Investigations Unit (RIU). This memo provides contextual information on emergency services in San Juan County, followed by a summary of the report and its findings.

Emergency Air Transport in San Juan County

Consistent with the challenges faced by most rural counties, medical services available in San Juan County are relatively limited. They consist of:

- Five small health clinics on three islands, which do not have evening or weekend hours;
- A critical access hospital designated as a Level IV trauma center by the state Department of Health that is located on San Juan Island (PeaceHealth Peace Island Medical Center);
- Locally-operated emergency medical services (EMS) providing basic and advanced life support services. Specifically, there are 11 ground ambulances: two on Lopez Island, three on Orcas Island, four on San Juan Island, and two on Shaw Island.

When urgent care is required, patients may be transported on the Washington state ferry system that serves four of the San Juan Islands. Customers in labor are directed to be transported on the ferries via ambulance. Private ambulance services can be used for ground transport to Skagit, Snohomish and Whatcom counties. If an individual has an emergency and driving themselves is faster than calling an ambulance, ferry terminal staff can approve emergency medical preferential loading.

County ambulances could transport consumers on a ferry. However, local officials recognize the limited capacity to provide this support. Permitting ground ambulance transport to the

mainland via a ferry could take an ambulance out of rotation on the island for up to six to eight hours, after factoring in transport to the ferry landing, awaiting ferry departure, ferry travel time to Anacortes, potential transport from the Anacortes ferry terminal to the nearest appropriate hospital (if a private ambulance is not available) and the return ferry trip back to the home base for the ambulance.

The limited number of on-island medical services after hours, as well as the limited capacity to allow ambulances to leave the island create a challenging healthcare environment. This may explain the increased reliance of island residents on air ambulance.

The standard cost for emergency air transport is much higher than for ground ambulance transport. For example, in 2018 Medicare reimbursement rates for air ambulance ran four to 10 times higher than ground ambulance reimbursement rates.

San Juan Island residents often participate in membership plans with the air ambulance transport organization on the island. The plans cover the cost of air transport that isn't covered by their insurance company, e.g. deductibles. The membership plan only pays when the air transport is covered by the member's insurance plan, based on medical necessity. The membership is not considered insurance, and OIC has no authority to regulate or oversee these membership plans.

States do not have the authority to regulate the rates, routes or service of air ambulance providers; this is entirely under federal jurisdiction (see Airline Deregulation Act).

States *can* regulate the medical component of air ambulance services, and license them. In Washington, air ambulance licensure is regulated by the Department of Health.

Another complication is that consumers faced with a medical "emergency" interact with at least two different systems, each with independent and different standards and protocols: San Juan County Emergency Medical System (EMS) and the insurance carrier. Depending on the circumstances, there may be additional systems involved, including the ferry system, the air ambulance transport company, and a private ground ambulance company. Each of these entities has a separate "decision-maker", an expert at their own system who has no power to obligate the others. So, for example, a local doctor could recommend immediate treatment, and San Juan County EMS could determine that it meets the criteria for air ambulance, but the carrier could (correctly) decide that the incident is not a qualifying emergency. Consumers who have been "approved" by one system, and ultimately denied by another, experience legitimate frustration and anger with the system.

Investigation Summary

This investigation was prompted by complaints regarding Kaiser Foundation Health Plan of Washington's (KFHPW) denial of air ambulance claims in San Juan County received from the

San Juan County Board of Health, the office of Congressman Rick Larsen, and a consumer. There were two complaints:

1. KFHPW unfairly denied claims for emergency air transport off the San Juan Islands to the mainland

KFHPW received 41 claims for emergency air transport services between September, 2018 and March, 2019. Our investigator individually reviewed each claim to determine if the decisions were consistent with KFHPW's coverage criteria for emergency air transport services.

Of the 41 claims, KFHPW initially approved 17, and initially denied 24. Our investigator found that six of the denied claims should have been approved (Kaiser notified OIC during the course of the investigation that based on their own review, five of those claims had been approved and the sixth was reversed on appeal). Our investigator confirmed that the remaining 18 denials were consistent with KFHPW's coverage criteria. As a result, the investigation did not substantiate the complaint of unfairly denied claims.

2. KFHPW has changed its policy to require preauthorization for emergency air transport out of the hospital setting

I attended a public meeting on this topic on San Juan Island with Sr. Health Policy Advisor Jane Beyer to discuss the issue. At that meeting, consumers and county officials- including the Medical Director for San Juan County- observed that the number of denials from KFHPW for air ambulance claims increased sharply beginning in September 2018. In part, this was alleged to be a result of a change in policy to require preauthorization.

The OIC investigation revealed that the number of air ambulance claims had increased by 86% in the most recent six months, as compared to the prior two six-month periods. Denials during this period also increased from roughly 5% and 12% in the prior two six-month periods (respectively) to 56% in the most recent six months. Our investigation found that KFHPW's medical necessity and prior authorization criteria did not change during that timeframe. The rate of denials increased during the most recent six-month period, but we found the majority were justified. The ones we determined were not justified were reviewed and reversed by the company or on appeal. We were not able to assess the reason for the increase in claims.

The OIC is committed to doing its part in assisting where it can to address some of the unique issues that exist in San Juan County. The limited number of on-island medical services after hours, as well as the limited capacity to allow ambulances to leave the island, create a challenging healthcare environment.