

**California Department of Insurance**  
**Filing Instructions for Alternate Access Delivery System (Waiver) Requests**  
**v.1, May 18, 2016**

<b>General</b>	
Pursuant to 10 CCR § 2240.7(a) and (e), any Alternate Access Delivery System (Waiver) Request and supporting documentation must be submitted for consideration to, and approval by, the Department. The Department will post approved waivers or alternate access delivery systems on its website, as required by 10 CCR §2240.7(f). Once submitted, do not file any new/revised documents unless as part of your response to an objection letter, or with approval from the primary reviewer.	
<u>Disclaimer:</u> These filing instructions are for informational purposes only. The legal requirements may be paraphrased for purposes of brevity, therefore please review the applicable statute and regulations to ensure compliance with state law. Insurers should speak to their legal counsel in the event that they have questions about the laws referenced herein. Filing in reliance upon these filings instructions does not mean that the request will be approved.	
<u>Cover letter:</u> As a part of an alternate access delivery system request, include a cover letter specifically setting forth the insurer's request that includes the following: <ul style="list-style-type: none"> <li>• Explicitly cite the applicable paragraph or paragraphs in subdivision (b) of section 2240.7 under which the alternate access delivery system request is sought.</li> <li>• Alternate access delivery system requests must be resubmitted on an annual basis per 10 CCR § 2240.7(a). Specify if this is a renewal of a previously approved alternate access delivery system request, and whether there are any differences in the provider and facility types and geographic areas for which waivers were granted by the Department the previous year.</li> <li>• Specify the time period applicable to the alternate access delivery system request. (i.e., one year, when the issues that require the waiver to be put in place have been resolved, etc.)</li> </ul>	
<b>The Application for an Alternate Access Delivery System Request Shall Include:</b>	
10 CCR §§ 2240.7(d)(1) & 2240.7(c)(3)	<b>A description of the affected area and covered persons in that area impacted by the request and how the insurer determined the absence of providers or facilities.</b> <ul style="list-style-type: none"> <li>• Include a citation to the specific network adequacy standard that was not met.</li> <li>• Specify the provider or facility type for which a waiver is sought, the geographic area covered by the waiver at the county level, or if smaller than a county, the zip code level, and how many covered persons will be impacted by the request.</li> </ul>

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	<ul style="list-style-type: none"> <li>Explain the reason why there is an absence in the insurer's network of the particular type of provider or facility for which the waiver is sought.</li> </ul> <p><b>Demonstrate a reasonable basis for not meeting any standard set forth in 10 CCR § 2240.7, et seq.</b></p> <ul style="list-style-type: none"> <li>As a part of this demonstration include any additional documentation not specifically set forth in these instructions that is necessary to support the request.</li> </ul>		
10 CCR § 2240.7(d)(3)	<p><b>Specify the reason or reasons for a waiver set forth under 10 CCR 2240.7(b).</b></p> <ul style="list-style-type: none"> <li>Include a citation to the specific paragraph or paragraphs in subdivision (b) of section 2240.7 under which the alternate access delivery system request is sought.</li> <li>Include the following waiver specific documentation, as applicable:</li> </ul>		
	<table border="1"> <tr> <td>10 CCR § 2240.7(b)(1)</td><td> <p><b><u>Absence of Practicing Providers:</u> A waiver request based on absence of practicing providers located within sufficient geographic proximity based upon the time or distance standards of the regulation shall include the following:</b></p> <ul style="list-style-type: none"> <li>Include a description of how the insurer determined there is an absence of the type of provider or facility that is the subject of the waiver in the affected area.</li> <li>Include an estimate of the percentage of practicing providers or facilities (of the type that is the subject of the waiver) in the affected area are included in the insurer's network.</li> </ul> </td></tr> </table>	10 CCR § 2240.7(b)(1)	<p><b><u>Absence of Practicing Providers:</u> A waiver request based on absence of practicing providers located within sufficient geographic proximity based upon the time or distance standards of the regulation shall include the following:</b></p> <ul style="list-style-type: none"> <li>Include a description of how the insurer determined there is an absence of the type of provider or facility that is the subject of the waiver in the affected area.</li> <li>Include an estimate of the percentage of practicing providers or facilities (of the type that is the subject of the waiver) in the affected area are included in the insurer's network.</li> </ul>
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	<table border="1"> <tr> <td>10 CCR § 2240.7(b)(2)</td><td> <p><b><u>Inability to Contract:</u> An alternate access delivery system request may be based upon failure to contract, i.e., there are sufficient numbers or types of providers or facilities in the service area to meet the standards required by this article, but the insurer was unable to contract with sufficient providers or facilities to meet the applicable network adequacy standard. The alternate access delivery system request must demonstrate, through substantial evidence that, after good faith efforts, an insurer is unable to contract with sufficient providers or facilities to meet the network access standards set forth in 10 CCR § 2240.7, et seq. Include the following:</b></p> <ul style="list-style-type: none"> <li>Identify providers and facilities with whom an unsuccessful attempt to contract was made. If a contract was offered, identify contract offer dates and a record of the communication between the insurer and provider.</li> <li>Include information such as whether contract negotiations are still in progress or the extent to which you are not able to agree on contract terms. Specify the time period of negotiations.</li> </ul> </td></tr> </table>	10 CCR § 2240.7(b)(2)	<p><b><u>Inability to Contract:</u> An alternate access delivery system request may be based upon failure to contract, i.e., there are sufficient numbers or types of providers or facilities in the service area to meet the standards required by this article, but the insurer was unable to contract with sufficient providers or facilities to meet the applicable network adequacy standard. The alternate access delivery system request must demonstrate, through substantial evidence that, after good faith efforts, an insurer is unable to contract with sufficient providers or facilities to meet the network access standards set forth in 10 CCR § 2240.7, et seq. Include the following:</b></p> <ul style="list-style-type: none"> <li>Identify providers and facilities with whom an unsuccessful attempt to contract was made. If a contract was offered, identify contract offer dates and a record of the communication between the insurer and provider.</li> <li>Include information such as whether contract negotiations are still in progress or the extent to which you are not able to agree on contract terms. Specify the time period of negotiations.</li> </ul>
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		<ul style="list-style-type: none"> <li>Specify and include documentation of good faith efforts taken to contract.</li> <li>If a contract was not offered, explain why the insurer did not offer to contract. Documentation must be as specific as possible.</li> <li>The assessment of whether the insurer has made good faith efforts to contract is an assessment of the efforts to contract, not an assessment of the particular terms being offered by either party. Evidence regarding the parties' positions on particular terms, or the reasonableness of terms, should not be included.</li> </ul>
	10 CCR § 2240.7(b)(3)	<p><b><u>Unavailability of Provider or Facility:</u></b> A waiver request based upon an insurer's provider network that has been previously approved, and a provider or facility subsequently becomes unavailable within the service area shall include the following:</p> <ul style="list-style-type: none"> <li>Specify why the provider or facility is no longer available. If applicable, include any efforts to contract and demonstrate good faith efforts as specified by 10 CCR § 2240.7(b)(2).</li> <li>Include a copy or a reference to the SERFF file number for the notice sent to the Department pursuant to 10 CCR § 2240.4(d).</li> <li>Specify steps taken to come into compliance with the network adequacy requirements set forth in 10 CCR § 2240.7, et seq. Include a corrective action plan to come into compliance with the standards set forth in 10 CCR § 2240.7, et seq.</li> </ul>
	10 CCR § 2240.7(b)(4)	<p><b><u>Innovative Network Design:</u></b> A waiver request based upon an innovative network design, such as primary care medical homes, "Centers of Excellence," or accountable care organizations, but only where the innovative network design is shown to provide a benefit to consumers, shall include the following:</p> <ul style="list-style-type: none"> <li>Specify the type of plan design being proposed (i.e., ACO, Centers for Excellence or other type of innovative benefit).</li> <li>Demonstrate that the design will provide a benefit to consumers.</li> <li>Demonstrate that the proposed alternate access delivery system will provide covered persons with access to medically necessary care on a reasonable basis without detriment to their health.</li> </ul>
10 CCR § 2240.7(d)(5)	<p><b>Detail the alternate access delivery system proposal, and include a description of how the proposed alternate access delivery system will satisfy the each of the standards set forth in 10 CCR 2240.7(c).</b></p>	

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10 CCR § 2240.7(d)(4)	<p><b>Specify any identified issues or risks that may prevent the alternate access delivery system from providing covered persons with access to medically necessary care on a reasonable basis without detriment to their health.</b></p> <ul style="list-style-type: none"> <li>Specify steps and/or protocols put in place to minimize or eliminate these risks.</li> </ul>
10 CCR § 2240.7(d)(2)	<p><b>Alternatives that were considered, including but not limited to, telemedicine or phone consultation.</b></p> <ul style="list-style-type: none"> <li>Specify the alternatives and if they were rejected, the reason why.</li> </ul>
<p><b>Supporting Documentation Required for All Alternate Access Delivery System Requests</b></p>	
10 CCR § 2240.7(c)(1)	<p><b>Demonstrate that the alternate access delivery system will provide covered persons with access to medically necessary care on a reasonable basis without detriment to their health.</b></p> <ul style="list-style-type: none"> <li>Describe the proposed alternate access delivery system and explain how it will provide covered persons in affected areas with access to the type of provider or facility for which the waiver is sought.</li> </ul>
10 CCR § 2240.7(c)(2)	<p><b>Demonstrate that appropriate procedures are in place to ensure that covered persons obtain all covered services in the alternate access delivery system at no greater cost to the covered persons than if the services were obtained from network providers or facilities.</b></p> <ul style="list-style-type: none"> <li>Include a description of the cost sharing for which covered persons in affected areas will be held responsible if the alternate access delivery system is accessed.</li> </ul>
10 CCR § 2240.7(c)(3)	<p><b>Include an explanation of why the proposed alternate access delivery system provides covered persons with a sufficient number of the appropriate types of providers or facilities to which the network adequacy standard in question applies.</b></p> <ul style="list-style-type: none"> <li>Include information concerning the availability of providers or facilities in the affected area made available to covered persons as part of the alternate access delivery system. Hospitals in affected areas that are part of the alternate access delivery system must be identified by name and address.</li> <li>Include information on the average travel distance to a provider or facility made available to covered persons as part of the alternate access delivery system (of the type that is the subject of the waiver) that is closest to covered persons in the affected area.</li> </ul>
10 CCR § 2240.7(c)(4)(A)-(B)	<p><b>Demonstrate how the insurer will assist covered persons to locate providers and facilities in a manner that assures both availability and accessibility.</b></p>

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	<ul style="list-style-type: none"> <li>• Include updated policies and procedures specifying how consumer service representatives handling calls related to networks will assist covered persons in affected areas to access the alternate access delivery system.</li> </ul>
10 CCR § 2240.7(c)(4)(A)	<p><b>Demonstrate that covered persons are able to obtain health care services from a provider or facility within the closest reasonable proximity of the covered person in a timely manner appropriate for the covered person's health needs.</b></p> <ul style="list-style-type: none"> <li>• Explain any limitations that will be imposed on covered persons' access to the alternate access delivery system in affected areas, including the maximum distance a covered person in an affected area would be required to travel to access covered services from a network provider or facility.</li> </ul>
10 CCR § 2240.7(c)(4)(B)	<p><b>Specify any strategies such as use of out-of-county or out-of-service-area providers or facilities, providing regular scheduled or as-needed transportation from areas within a designated area to those providers or facilities to ensure that such providers or facilities remain reasonably accessible, and exceptions to network standards based upon rural locations in the service area.</b></p> <ul style="list-style-type: none"> <li>• Include this information if applicable to the proposed alternate access delivery system.</li> </ul>