



August 10, 2021

Jane Beyer, Senior Health Policy Advisor  
Washington State Office of the Insurance Commissioner  
P.O. Box 40255  
Olympia, Washington 98504-0255  
Submitted via email to: [rules@oic.wa.gov](mailto:rules@oic.wa.gov)

RE: First Stakeholder Draft for R 2021-09 Administrative Hearing – Optimizing Discovery and Authorizing Electronic Services, Comments from Coordinated Care Corporation, NAIC# 95831

Dear Ms. Beyer,

Coordinated Care Corporation (“CCC”) appreciates the opportunity to provide feedback to the Office of the Insurance Commissioner (“OIC”) on the first stakeholder draft issued on July 20, 2021 for R-2021-09 Administrative Hearings- Optimizing Discovery and Authorizing Electronic Service.

First, CCC finds the limitations on discovery very concerning. In particular, the exclusion of deposition of the insurance commissioner or deputy insurance commissioner in an administrative hearing given the fact that most enforcement determinations are based on facts concluded by the insurance commissioner or deputy insurance commissioner. The exclusion of deposition casts doubt on transparency and fairness as it eliminates the insurer’s ability to peer into the rationale underlying the insurance commissioner or the deputy commissioner’s determination. In addition, the proposed draft excluding deposition discovery provides no alternative for insurers to understand the rationale of any enforcement decisions made by the OIC. The overall import of this proposed draft language is that insurers will be adversely be impacted by OIC decisions based on undiscoverable errors in interpretation of law or fact.

Second, we understand RCW 34.05.446(3)<sup>1</sup> as providing a mechanism for optimizing discovery to avoid any delays in an administrative hearing. The legislation gives the presiding officer discretion to limit discovery when it may result in undue expense or delay in the proceedings<sup>2</sup>. Requesting an additional limitation on discovery impinges on procedural fairness in an administrative hearing for an insurer.

Based on the foregoing, we recommend that the OIC should not make any changes to existing requirements for discovery under WAC 284-02-070(2).

Thank you for consideration of our comments. Please let me know if you have any questions. You may reach me at [elizabeth.abekah@coordinatedcarehealth.com](mailto:elizabeth.abekah@coordinatedcarehealth.com).

Sincerely,

A handwritten signature in black ink, appearing to read "Liz Abekah".

Liz Abekah  
Compliance Specialist

<sup>1</sup> RCW 34.05.446(3) - Except as otherwise provided by agency rules, the presiding officer may decide whether to permit the taking of depositions, the requesting of admissions, and all other procedures authorized by rules 26 through 36 of the superior court civil rules. The presiding officer may condition use of discovery on a showing of necessity and unavailability by other means. In exercising such discretion, the presiding officer shall consider: (a) Whether all parties are represented by counsel; (b) whether undue expense or delay in bringing the case to hearing will result; (c) whether the discovery will promote the orderly and prompt conduct of the proceeding; and (d) whether the interests of justice will be promoted.

<sup>2</sup> *ibid*