

April 8, 2022

The Honorable Mike Kreidler
Washington State Office of the Insurance Commissioner
P.O. Box 40258
Olympia, WA 98504-0258

RE: Second stakeholder draft for health care sharing ministries (R 2021-17)

Dear Commissioner Kreidler:

Thank you for the opportunity to submit comments in regards to the second stakeholder draft for health care sharing ministries (HCSMs). As stated in comments submitted in August of 2021, our organizations support your department's efforts and are pleased to see the second draft is largely similar to the first.

The Patient Coalition of Washington and organizations listed below represent millions of patients and consumers who face serious, acute, and chronic health conditions. We have a unique perspective on what individuals and families need to prevent disease, cure illness, and manage chronic health conditions. The diversity of our organizations and the populations we serve enable us to draw upon a wealth of knowledge and expertise that is an invaluable resource as we work to find solutions to expand access to high-quality coverage.

We appreciate your department's efforts to clarify the exemption for HCSMs and the sale of HCSM plans by licensed producers. The proliferation of "insurance-like" products, including HCSMs, in recent years is of significant concern for our organizations. HCSMs are exempt from many important consumer protections and as a result, penalize people with pre-existing conditions and chronic illnesses. We applauded your office's ongoing efforts to protect patients and consumers through close monitoring and taking action to reign in entities that are engaging in deceptive business practices and selling health insurance illegally. These actions and enforcements help protect patients and consumers in Washington from substandard insurance products. Your work in this area is recognized and appreciated.

HCSMs pose risks to patients and consumers

In 2021, many of our organizations issued a report finding that HCSMs have adopted features closely resembling traditional insurance coverage, and they are often marketed as a low-cost alternative to Affordable Care Act (ACA) plans.¹ The report went on to describe how consumers may enroll in HCSMs thinking that they are purchasing comprehensive coverage and without fully understanding the financial risks of a product that provides no guarantee of paid claims. Even the services that are purportedly "covered" are limited and expose enrollees to substantial risk. HCSMs typically do not cover pre-existing conditions and routinely exclude coverage for key services, such as mental health and substance use disorder services, preventive services and prescription drug coverage. Patients who receive a serious or life threatening diagnosis while enrolled in an HCSM plan may face coverage denials for all care leaving them responsible for devastating medical expenses.

¹ *Under-Covered: How "Insurance-Like" Products Are Leaving Patients Exposed*. March 2021.
https://www.ils.org/sites/default/files/National/undercovered_report.pdf

HCSMs also note that they provide “last dollar” payment for medical bills and require that members first exhaust all other options, including other coverage, workers’ compensation, charity and government entitlements (for those with certain lower incomes).² Further, members whose claims are denied have no right to appeal to an independent reviewer with medical expertise as they would under ACA-compliant coverage.³

Increase transparency and data reporting for HCSMs

We support the enhanced oversight as described in the new WAC 284-43-8220 section of the stakeholder draft that requires HCSMs to provide a timely response to your office regarding inquiries of compliance and potential violations. As HCSMs continue to expand, our organizations recommend that HCSMs should be required to disclose plan data, marketing practices, broker incentives, enrollment information, and complaint information to state and federal regulators. Specifically, state regulators must have information on HCSMs marketing in their states in order to evaluate whether their operations constitute the business of insurance, to watch for deceptive marketing, and to monitor enrollment.

Prohibit sales of HCSMs through brokers

Using brokers to enroll members in HCSM contributes to consumer confusion and increases enrollment in inadequate coverage. Marketing tactics, including advertising during open enrollment for ACA plans, the use of brokers to sell memberships, and claims that HCSMs are a low-cost alternative, suggest HCSMs are not just targeting individuals who would never buy commercial insurance for religious reasons. The pursuit of non-religiously affiliated individuals indicates that some HCSMs are deviating from the statutory intent of current law to expand their market share.⁴ As such, our organizations would be supportive of efforts to prohibit brokers from selling HCSMs and other insurance-like products.

Improve consumer disclosure of HCSM limitations

Many consumers may not understand the limitations of HCSMs and may erroneously believe that these products provide comprehensive coverage. While disclosure alone is not an adequate solution to the risks posed by the proliferation of HCSMs, we urge the OIC to require HCSMs to provide full disclosures in consumer-friendly language regarding the limitations of coverage. Consumer disclosure should be provided both in writing and verbally; be available in a number of commonly spoken languages for any geographic area and conveyed in a culturally competent manner; be of sufficient font size using bold text and boxes to aid consumers in identifying critical information and ensure readability; explicitly say that a HCSM plan is not comprehensive, including a list of essential health benefit services that are not provided.⁵

Conclusion

Our organizations represent millions of patients, individuals, caregivers, and families who need access to quality and affordable healthcare regardless of their income or geographic location. We appreciate the

² Volk, J., Curran, E., & Giovannelli, J. (2018, August). Health Care Sharing Ministries: What Are the Risks to Consumers and Insurance Markets? The Commonwealth Fund. <https://www.commonwealthfund.org/publications/fund-reports/2018/aug/health-care-sharing-ministries>

³ *Under-covered* (2021).

⁴ *Ibid.*

⁵ *Ibid.*

opportunity to provide input on the on the proposed stakeholder draft. We stand ready to work with you on this issue in the coming months.

If we can be of further assistance, please do not hesitate to contact any of our organizations. For questions or to discuss our comments further, please contact Lucy Culp at lucy.culp@lls.org or Erin Dziedzic at erin@dzpublicaffairs.com.

Sincerely,

Patient Coalition of Washington
American Cancer Society Cancer Action Network
American Diabetes Association
American Heart Association
American Lung Association
Epilepsy Foundation Washington
Hemophilia Federation of America
Leukemia & Lymphoma Society
National Multiple Sclerosis Society
National Organization for Rare Disorders