

September 26, 2022

Washington State Office of the Insurance Commissioner
P.O. Box 40258
Olympia, WA 98504-0258
Submitted via email to: rulescoordinator@oic.wa.gov

Re: Comments on R 2022-05 Cost-Sharing for Prescription Drugs proposed rule

Dear Ms. Jones and rulemaking team,

Kaiser Foundation Health Plan of the Northwest, Kaiser Foundation Health Plan of Washington, and Kaiser Foundation Health Plan of Washington Options, Inc. (collectively “Kaiser Permanente”), appreciate the opportunity to provide feedback to the Office of the Insurance Commissioner (“OIC”) on Cost-Sharing for Prescription Drugs (R 2022-05). Kaiser Permanente is an integrated health care system that covers and cares for more than 760,000 members in Washington State. We are committed to delivering affordable, coordinated, and high-quality care and coverage that supports not only our members but also the communities we serve.

Thank you for adding language to WAC 284-43-5080 (5)(c) allowing carriers the flexibility to write their own language in the certificate of coverage. This will allow carriers to edit the language for reading level and provide the information consistent with the rest of the certificate of coverage.

As previously mentioned in our initial comment letter, we recommend revising the language in WAC 284-43-5080 (5)(a) to more accurately reflect that enrollee payments for medications, either directly or indirectly, are made to a pharmacy. We are concerned that without the recommended language below, the regulation could create unintended consequences not encompassed by the underlying legislation. For example, a manufacturer might directly reimburse an enrollee for certain drug-related expenses. Such direct reimbursement between the manufacturer and enrollee would not constitute “cost-sharing amounts paid by the enrollee directly or on behalf of the enrollee”¹ and our suggested language clarifies that health carriers are not responsible for including such amounts in benefit accrual calculations.

We recommend adding the clarifying language underlined below:

- (a) For the purpose of this subsection, any cost sharing amount paid directly by on behalf of the enrollee by another person for a covered prescription drug, at the time it is accepted by a pharmacy, must be applied in full toward the enrollee’s applicable cost-sharing as defined in WAC 284-43-0160 and out-of-pocket maximum as defined in RCW 48.43.005 consistent with RCW 48.43.435.

¹ SSB 5610, C 228 L22, Mar. 31, 2022

We thank you for the opportunity to provide comments on this proposed rule and for the OIC's willingness to consider our feedback. We look forward to our continued collaboration throughout this rulemaking process. Please do not hesitate to contact us with questions.

Sincerely,



Frankie Kaiser

Regulatory Affairs Consultant

Kaiser Foundation Health Plan of Washington

1300 SW 27th ST
Renton, WA 98057-2435
(206) 635-5974 (cell)
Frankie.E.Kaiser@kp.org



Merlene Converse

Senior Regulatory Consultant

Kaiser Foundation Health Plan of the Northwest

Government Relations
500 NE Multnomah Street, Suite 100
Portland, OR 97232
(503) 936-3580 (cell)
Merlene.S.Converse@kp.org