



August 18, 2023

Sydney Rogalla
Washington Office of the Insurance Commissioner
P.O. Box 40260
Olympia, WA 98504-0260
Submitted via email to: rulescoordinator@oic.wa.gov

Re: Health Care Benefit Managers Registration CR-101 Comments (R 2023-06)

Dear Ms. Rogalla,

On behalf of Cambia Health Solutions, Inc. family of insurance companies (“Cambia”), including Regence BlueShield, Regence BlueCross BlueShield of Oregon, Regence BlueShield of Idaho, Asuris Northwest Health, and BridgeSpan Health Company, thank you for the opportunity to provide feedback on the Health Care Benefit Manager (HCBM) registration rulemaking CR-101. We agree that the HCBM registration process requires a significant amount of documentation and support the Office of the Insurance Commissioner’s (OIC) efforts to streamline the process. Additionally, we recommend the OIC use this rulemaking opportunity to incorporate other improvements to the HCBM requirements. Accordingly, this letter includes comments covering the entire OIC oversight program.

Cambia partners with a wide breadth of HCBMs, ranging from large utilization management vendors to pharmacy benefit managers to individual physicians who provide clinical review support. One of the biggest challenges we have observed is applying the HCBM requirements that were designed with large entities in mind to individuals. Therefore, while considering our comments and drafting these rules we ask the OIC to carefully consider these unique, single-person HCBMs and the impact these requirements have on their ability to continue offering their clinical expertise to our industry.

The remainder of our comments pertain to specific sections of existing regulations.

WAC 284-180-110 – Purpose.

WAC 284-180-110(2) states “...Carriers remain responsible for activities of health care benefit managers conducted on their behalf. A carrier may not offer as a defense to a violation of any provision of this chapter that the violation arose from the act or omission of a health care benefit manager or other person acting on behalf of or at the direction of a health care benefit manager.” To ensure adequate oversight of HCBM compliance to these requirements, carriers regularly need data from the OIC to perform validation activities surrounding HCBM registration and renewal. We frequently submit public records requests to

the OIC for access to this information. To avoid this administrative hurdle, we recommend the OIC maintain a publicly accessible record of basic health care benefit manager activity for compliance purposes. For example, an excel spreadsheet or web-based database containing the name of the HCBM, the HCBM's registration application status, registration application received date, registration application approval date, renewal application status, renewal application received date, renewal fee paid date, and renewal application approval date. The OIC's "registering as a health care benefit manager (HCBM)" webpage could serve as the location for this information.

WAC 284-180-220 - Health care benefit manager registration.

WAC 284-180-220 (6) requires HCBMs to receive notice of approval of their registration prior to conducting business in Washington State. Since SB 5601 passed and the OIC's implementing rules were finalized in 2020, it has been a lengthy process to receive approval for a HCBM application and the associated contract filings. Much of this was likely attributed to standing up the OIC's oversight program initially and stakeholders experiencing a steep learning curve with the new requirements. We are grateful that in January 2022, during the initial implementation of the requirements, the OIC granted a safe harbor to HCBMs to continue to conduct business in the state while first-time registrations were processed by your office. However, we strongly believe that a permanent protection is needed in these rules to avoid disruption in HCBM services to our members. We are aware of instances where objections/rejections arose on a HCBM contract filing, and the OIC notified the carrier they must cease doing business with that HCBM. We recommend a provision that allows the OIC to provide conditional approval for the HCBM to continue operating while the carrier and/or HCBM works to resolve objections/concerns or for the carriers to find a new vendor to fulfill the services. Additionally, we respectfully request the OIC set a timeframe for review of a HCBM registration. This will provide the industry a level of certainty to leverage business opportunities and plan operations accordingly. We have provided potential draft language below for this section to address our concerns.

WAC 284-180-220(6)(a) "The commissioner may allow a health care benefit manager to continue operating in the state while the health care benefit manager and/or carrier addresses issues identified by the commissioner in the health care benefit manager's registration, renewal application and/or contract filings."

WAC 284-180-220(7) "If the commissioner takes no action within thirty calendar days after submission, the health care benefit manager registration application is deemed approved, except that the commissioner may extend the approval period an additional thirty calendar days upon giving notice before the expiration of the initial thirty-day period. Approval may be subsequently withdrawn for cause."

WAC 284-180-240 - Providing and updating registration information.

WAC 284-180-240 (1)(b) requires HCBMs to provide the names of officers and directors in the HCBM, along with a completed NAIC Form 11 biographical affidavit as part of the HCBM application. The

biographical affidavit is designed for insurance entities and is part of an insurer's application through the NAIC. HCBMs are inherently non-insurer vendors that do not need to be subject to the NAIC's insurer requirements. Additionally, neither the biographical affidavit nor the HCBM officers and directors are required in the underlying statute. We strongly recommend striking these items in the spirit of reducing the overall amount of documentation required for registration. These requirements specifically are challenging for the individual physicians contracted with carriers to provide their clinical expertise.

WAC 284-180-455/WAC 284-180-460 – Carrier and HCBM filings:

Under current regulations governing provider contract filings, the OIC must respond to a filing submission within 30 days (WAC 284-170-480(3)). We respectfully request a similar provision applicable to carrier and HCBM contract filings. The industry needs a predictable schedule to create business processes and plan operations. For that reason, we propose the following language updates:

WAC 284-180-455(6): If the commissioner takes no action within thirty calendar days after submission, the carrier's form is deemed approved, except that the commissioner may extend the approval period an additional fifteen calendar days upon giving notice before the expiration of the initial thirty-day period. Approval may be subsequently withdrawn for cause.

WAC 284-180-460 (4): If the commissioner takes no action within thirty calendar days after submission, the health care benefit manager's form is deemed approved, except that the commissioner may extend the approval period an additional fifteen calendar days upon giving notice before the expiration of the initial thirty-day period. Approval may be subsequently withdrawn for cause.

Cambia Health Solutions, Inc. has several licensed health insurance carriers in Washington State (Regence BlueShield, Regence BlueCross BlueShield of Oregon, Asuris Northwest Health, BridgeSpan Health Company, and Regence BlueShield of Idaho). Most of our HCBM agreements predate the HCBM requirements and were written at the Cambia Health Solutions, Inc. parent company level. Currently, we are required to file each HCBM agreement multiple times for each corresponding Washington carrier, even though they are the same contract document, and the System for Electronic Rate and Form Filing (SERFF) allows a filing to list more than one company. We would appreciate relief from this duplicative administrative work, which requires multiple SERFF filings, and responding to the same objections on the duplicative filings. For that reason, we respectfully request a new provision in this section of rules allowing a single HCBM contract filing if the HCBM agreement is at the parent/holding company level and applicable to more than one Washington licensed carrier.

Other comments

Throughout the implementation process, the Association of Washington Health Plans (AWHP) partnered with the OIC to address the industry's questions and concerns with the HCBM requirements. We are very grateful for the guidance and answers provided by your office through our trade association. We

understand AWHP is submitting comments and recommending some of that guidance be codified through these rules. We would like to express our support for AWHP's letter.

Thank you for considering our comments. We appreciate the opportunity to work with the OIC to continually improve the HCBM oversight program. Please let me know if you would like to discuss any of our feedback further. I can be reached at Jane.Douthit@Regence.com or (206) 332-5212.

Sincerely,

A handwritten signature in black ink that reads "Jane Douthit". The signature is written in a cursive, flowing style.

Jane Douthit
Cambia Health Solutions
Sr. Public & Regulatory Affairs Specialist