



Mike Kreidler- Insurance commissioner

As required by

The Washington State Administrative Procedures Act

Chapter 34.05 RCW

Matter No. **R2023-06**

**CONCISE EXPLANATORY STATEMENT; RESPONSIVENESS
SUMMARY; RULE DEVELOPMENT PROCESS; AND
IMPLEMENTATION PLAN**

Relating to the adoption of

Health Care Benefit Manager Registration

November 20, 2023

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Section 1: Introduction

Revised Code of Washington (RCW) 34.05.325 (6) requires the Office of Insurance Commissioner (OIC) to prepare a “concise explanatory statement” (CES) prior to filing a rule for permanent adoption. The CES shall:

1. Identify the Commissioner's reasons for adopting the rule;
2. Describe differences between the proposed rule and the final rule (other than editing changes) and the reasons for the differences; and
3. Summarize and respond to all comments received regarding the proposed rule during the official public comment period, indicating whether or not the comment resulted in a change to the final rule, or the Commissioner's reasoning in not incorporating the change requested by the comment; and
4. Be distributed to all persons who commented on the rule during the official public comment period and to any person who requests it.

Section 2: Reasons for Adopting the Rule

The purpose of the proposal is to streamline the process for Health Care Benefit Manager (HCBM) registration and renewal and to create greater transparency with disclosure of federal violations. This will improve efficiency for HCBMs, decrease administrative burdens for registration and renewal, while improving HCBM transparency for federal violations.

Currently, the administrative burden for HCBM registration is burdensome and requires a significant amount of documentation. The purpose of this proposed rule is to decrease the burden and streamline it to work more efficiently for registration and renewal. It will also require that HCBMs disclose any federal violations, as the current rule is worded so that they only disclose state level violations. This will help create consistency and transparency for HCBMs when they register and renew in Washington state.

Section 3: Rule Development Process

On August 2, 2023, the CR-101 as filed providing notice of the intent to adopt rules. Comments were accepted till August 18,2023. No interested party meeting was held. No pre-publication draft was released.

On October 4, 2023 the proposed rule (CR-102) was filed. The comment period was open until November 9, 2024. The Commissioner held a public hearing on November 7, 2023 at 3:00 p.m. There was no testimony and no comments were received on the proposed rule. The hearing summary is in Appendix A.

Section 4: Differences Between Proposed and Final Rule

There are no differences between the proposed version that was submitted with the CR-102 and the adopted version.

Section 5: Responsiveness Summary

The OIC received comments and suggestions regarding this rule. The following information contains a summary of the comments, the OIC's response to the comments, and the information about whether the OIC incorporated changes based on the comments.

The OIC received written comments from:

- Association of Washington Health Plans (AWHP)
- Cambia
- National Association of Dental Plans
- Washington State Medical Association (WSMA)

General Comment	Response
CR-101 Comments	
<p>Update WAC 284-180-210(2) to clarify that the chapter does not apply to the actions of health care benefit managers providing services to or acting on behalf of Medicare Advantage health plans. And to clarify that the chapter does apply to standalone dental and vision plans.</p>	<p>This is beyond the intent of the current rulemaking. The scope of this rulemaking was not intended to define, change, or clarify who must apply for HCBM registration and renewal.</p> <p>The Commissioner appreciates these comments but is not engaged in rulemaking for this particular issue at this time.</p>
<p>Recommend regulations to update the definition of HCBM under RCW 48.200.020 to clarify that insurers are not required to register as a HCBM if they are a Washington State licensed insurance company, even if they are performing HCBM functions for another insurance entity.</p>	<p>This is beyond the intent of the current rulemaking. The scope of the rule was not intended to allow changes in definitions to this or other sections of the RCW or WAC.</p> <p>The Commissioner appreciates these comments but is not engaged in rulemaking for this particular issue at this time.</p>
<p>Recommend regulations to update the definition of HCBM under RCW</p>	<p>This is beyond the intent of the current rulemaking. The scope of the rule does</p>

<p>48.200.020 to clarify if hospitals and other provider groups performing HCBM functions must also register as HCBMs.</p>	<p>not intend to allow changes in definitions to this or other sections of the RCW or WAC.</p> <p>The Commissioner appreciates these comments but is not engaged in rulemaking for this particular issue at this time.</p>
<p>Recommend that the OIC maintain a publicly accessible record of basic health care benefit manager activity for compliance purposes located on the OIC’s “registering as a health care benefit manager (HCBM)” webpage.</p>	<p>This is beyond the intent of the current rulemaking. The scope of these rules does not intend to allow for the creation of new monitoring systems for HCBMs.</p> <p>Additionally, on the OIC website on the “Find companies & agents” website page there is already a resource that provides the status (active or inactive) for HCBMs in Washington.</p>
<p>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 and that the OIC set a timeframe for review of a HCBM registration.</p>	<p>This is beyond the intent of the current rulemaking. The scope of this rulemaking was not intended to create new deadlines or timetables for HCBM applications.</p> <p>The Commissioner appreciates the comment but is not engaged in rulemaking for this particular issue at this time.</p>
<p>Recommends that the rule remove the requirement of providing the names of officers and directors in the HCBM and a completed NAIC Form 11 biographical affidavit as part of the HCBM application.</p>	<p>As part of this rule making the NAIC Form 11 biographical affidavit was already being removed from the HCBM application process.</p> <p>The Commissioner thanks you for the comment.</p>
<p>Request that the OIC respond to a filing submission from an HCBM within 30 days (or set similar timeframe).</p>	<p>This is beyond the intent of the current rulemaking. The scope of this rulemaking does not intend to allow the creation of new deadlines or timetables for HCBM applications.</p>

	The Commissioner appreciates the comment but is not engaged in rulemaking for this particular issue.
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Section 6: Implementation Plan

A. Implementation and enforcement of the rule.

Company Supervision will be available to answer questions regarding the changes in procedure and any concerns with filing HCBM registration and renewal applications.

B. How the Agency intends to inform and educate affected persons about the rule.

- The Policy staff will distribute copies of the final rule and the Concise Explanatory Statement to all interested parties and to its standard rulemaking listserv.
- The CR-103 documents will be posted on the Office of the Insurance Commissioner’s website.
- Questions will be addressed by the Office of the Insurance Commissioner staff as follows:

Type of Inquiry	Division
Consumer assistance	None
Rule content	Company Supervision
Authority for rules	Policy and Legislative Affairs
Enforcement of rule	Legal Division
Market Compliance	Company Supervision

C. How the Agency intends to promote and assist voluntary compliance for this rule.

- Policy and Legislative Affairs Division staff will distribute the final rule and the Concise Explanatory Statement (CES) to all interested parties by posting and sharing documents through the OIC’s standard rule making listserv.
- The Rules Coordinator will post the CR-103 documents on the OIC’s website.

D. How the Agency intends to evaluate whether the rule achieves the purpose for which it was adopted.

The OIC will monitor complaints and work closely with interested parties to evaluate the effectiveness.

Appendix A

CR-102 Hearing Summary

Summarizing Memorandum

**To: Mike Kreidler
Insurance Commissioner**

**From: Sydney Rogalla
Presiding Official, Hearing on Rule-making**

Matter No. R2023-06

Topic of Rule-making: Health Care Benefit Manager Registration

This memorandum summarizes the hearing on the above-named rule making, held on November 7, 2023 at 3:00pm in Olympia, WA via Zoom over which I presided in your stead.

The following agency personnel were present:

- Jason Carr
- Sharon Daniels
- Jennifer Kreidler
- Blake Melancon
- Kevin Torgerson

In attendance and testifying:

There were no testimonies.

In attendance and not testifying:

- Krista Carpenter
- Merlene Converse
- Jane Douthit
- Allen Erenbaum
- Robert Hopkins
- Lauren Mackela
- Joanne Najdzin
- Lindsey Robles
- Derek Vlasek
- Stephanie Walker

Contents of the presentations made at hearing:

No presentations were made at the hearing.

The hearing was adjourned.

SIGNED this 7th day of November 2023

*s/
Sydney Y. Rogalla, Presiding Official*