



June 20, 2024

Nico Janssen & Jane Beyer
Policy & Legislative Affairs Division
Washington Office of the Insurance Commissioner
P.O. Box 40260
Olympia, WA 98504-0260
Submitted via email to: rulescoordinator@oic.wa.gov

Re: Comments relating to health care benefit managers (R 2024-02)

Dear Mr. Janssen & Ms. Beyer,

On behalf of the Association of Washington Healthcare Plans (AWHP), we thank you for the opportunity to review and provide feedback on the CR-101 relating to Health Care Benefit Managers (HCBM) rulemaking. Implementing the new regulatory framework for HCBMs has been challenging and complex for both health carriers and their HCBM partners. We appreciate the OIC's commitment to improving the process by revisiting the regulations and engaging stakeholders.

AWHP is very concerned about the OIC's broader interpretation of "indirectly" in the HCBM definition in RCW 48.200.020. This interpretation is critically important, and we request that the OIC engage in formal rulemaking to define "directly" and "indirectly" and incorporate this new guidance into the rulemaking process with feedback from carriers.

When an insurer retains ultimate decision-making authority, the receipt of data, services, or information from a vendor does not "impact" the determination or utilization of benefits or access to care. Data and insights gained from the services some vendors provide are used by carriers to arrive at their own decisions. We urge the OIC to align HCBM regulations with the legislative intent and not broaden the scope of HCBM requirements. We fail to see how registration and oversight of every software and data provider will offer additional consumer protections. The draft rule language below incorporates the legislative intent into regulation and will provide carriers with a clearer standard for determining whether a third-party vendor is a HCBM:

WAC 284-180-120

(1) This chapter applies to health care benefit managers as defined in RCW 48.200.020.

(a) This chapter does not apply to persons or entities providing services to, or acting on behalf of, a health carrier or employee benefits programs without authority to exercise broad discretion to affect the determination or utilization of benefits for, or patient access to, health care services, drugs, and supplies or when the health carrier or employee benefit program retains sole decision-making authority.

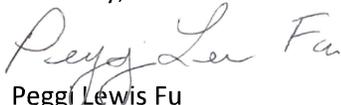
- (2) This chapter does not apply to the actions of health care benefit managers providing services to, or acting on behalf of:
- (a) Self-insured health plans;
 - (b) Medicare plans;
 - (c) Medicaid; and
 - (d) Union plans.

Additionally, we recommend that the OIC use this rulemaking opportunity to incorporate the following guidance provided throughout the implementation process. We believe it is important to codify these clarifications:

- Update WAC 284-180-210(2) to clarify that the chapter does not apply to the actions of HCBMs providing services to or acting on behalf of Medicare Advantage health plans.
- Update WAC 284-180-210(2) to clarify that the chapter applies to standalone dental and vision plans.
- The definition of HCBM under RCW 48.200.020 includes an exception for insurers. However, there was confusion about whether an insurer performing HCBM functions for another entity must also register as an HCBM. We recommend clarifying that insurers are not required to register as an HCBM if they are a Washington State licensed insurance company, even if performing HCBM functions for another insurance entity in the regulation for the future. This clarification is important because, as a licensed insurer in Washington, the OIC already has regulatory oversight.

We appreciate your consideration of our comments and our continued collaboration as the OIC works on this rulemaking project. Please do not hesitate to contact me with any questions or to discuss further.

Sincerely,



Pegg Lewis Fu

Executive Director

Association of Washington Healthcare Plans