



June 20, 2024

Nico Janssen  
Jane Beyer  
Washington Office of the Insurance Commissioner  
302 Sid Snyder Ave  
Olympia, WA 98501  
Submitted via email to: [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov)

Re: Health Care Benefit Managers CR-101 Comments (R 2024-02)

Dear Mr. Janssen & Ms. Beyer,

On behalf of Cambia Health Solutions, Inc. family of insurance companies (“Cambia”), including Regence BlueShield, Regence BlueCross BlueShield of Oregon, Regence BlueShield of Idaho, Inc., Asuris Northwest Health, and BridgeSpan Health Company, thank you for the opportunity to provide feedback on the Health Care Benefit Manager rulemaking CR-101. Washington’s Health Care Benefit Manager law (Chapter 48.200 RCW) was effective January 1, 2022. With more than two years of complex implementation to learn from, we believe this rulemaking provides the optimal opportunity to incorporate improvements to the general requirements. Accordingly, this letter includes comments covering the entire OIC oversight program.

**WAC 284-180-120 Applicability and Scope.**

The most challenging aspect of implementation remains interpreting the broad statutory definition of a Health Care Benefit Manager (HCBM). The definition of HCBM in RCW 48.200.020(4) states “Health care benefit manager means a person or entity providing services to, or acting on behalf of, a health carrier or employee benefits programs, that directly or **indirectly** impacts the determination or utilization of benefits for, or patient access to, health care services, drugs, and supplies...” (emphasis added). Without further clarity, the use of the term “indirectly” in this definition creates ambiguity ripe for misinterpretation and varied application in the industry. That fact became evident with the recent OIC regulatory activity surrounding the Change Health Care cybersecurity event and application of HCBM requirements. Cambia urges the OIC to use this rulemaking to clarify the statute’s scope and provide guidance to all affected entities regarding the real-world application of the HCBM definition. Without additional guidance, carriers may only ultimately understand the OIC’s interpretation through enforcement action. If found out of compliance, carriers are asked to cease doing business with these entities, which can have a significant impact on carriers’ ability to remain functionally operational and continue doing business in Washington.

Pursuant to RCW 48.200.010, the legislative intent of the HCBM statute is to focus oversight on HCBMs that “exercise broad discretion” and are “making health care decisions on behalf of carriers.” Based on the legislature’s language, we believe their intent was to regulate entities who explicitly have decision making power that impacts patient care and/or benefits. To help narrow the interpretation of the statutory HCBM definition and ensure it is commensurate with the legislative intent, we suggest the following language for incorporation into the OIC’s regulations:

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.

**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, there were instances where the process was quite lengthy 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 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 with 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 284-180-455/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, Inc.). 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

Early in 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](mailto: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 style with a long, sweeping tail on the "t".

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