

July 26, 2024

Nico Janssen
Jane Beyer
Washington Office of the Insurance Commissioner
302 Sid Snyder Ave
Olympia, WA 98501

Re: PHP Comment on Health Care Benefit Managers (R 2024-02) Prepublication Draft

Providence Health Plan (PHP or Providence) offers these comments to support the Office of the Insurance Commissioner's (OIC or Commissioner) efforts to adopt rules relating to the health care benefit managers. PHP supports the OIC's endeavors to ensure the fair management of Washingtonians' health benefits, as a non-profit organization that strives to achieve equitable health care for all. Since the passage of SB 5601 (2020), codified into Chapters 48.200 and 48.43 of the Revised Code of Washington (RCW), Providence has worked tirelessly to ensure compliance with the state's new oversight of HCBMs.¹ We provide our comments in hopes of improving how the state ensures quality health coverage for its residents.

In recent guidance, the OIC provided an interpretation of RCW 48.200 that extends the scope in which entities must register as a Health Care Benefit Manager.² Further, the Commissioner determined that RCW 48.43.731 requires insurance carriers to file contracts between HCBMs and subcontracted entities that indirectly impact the utilization of health care benefits for enrollees.³ As the OIC codifies these interpretations into Washington Administrative Code (WAC), Providence requests language that offers clarity in carriers' responsibility in transparency to Washington and its members.

Scope of Organizations Relevant to Chapter 284-180 WAC

While Providence does not contest the Commissioner's interpretation of Washington statute relating to HCBMs, the lack of clarity in the prepublication draft will lead to unnecessary reporting that has no benefit to covered Washingtonians. Draft rules currently rely on RCW 48.200.020's use of "directly" in the definition of "health care benefit manager." As this language grants the OIC extended authority over various entities as HCBMs, carriers are unsure as to what contracts may or may not be subject to reporting requirements within RCW 48.43.731. For example, one may interpret the draft rules to require a software development corporation to register as an HCBM, because a carrier uses its word processing software,

¹ 2SSB 5601, 68th Legislature (2nd Sess. 2020); RCW 48.200; RCW 48.43.

² Technical Assistance Advisory 2024-01; RCW 48.200.

³ RCW 48.43.731.

through an enterprise contract, to draft contracts with entities that manage enrollees' benefits. Moreover, carriers' notification to enrollees on contracts with such entities as HCBMs may lead to further confusion. This interpretation would create a deluge of costly work for carriers seeking compliance with WAC – especially when subcontracts are added to statutory reporting requirements. Without a clear scope in which entities are subject to WAC 284-180, carriers will preemptively file documents that are more than necessary for the OIC's purposes so to avoid the risk of civil penalty. Such work requires a significant amount of costly resources, thus increasing the administrative costs included within member premiums – decreasing access to health care coverage.

Providence supports the proposed language provided by the Association of Washington Health Plans, in response to the prepublication draft for R 2024-02, to amend the current draft of WAC 284-180-120. The suggested language offers a clear scope for what entities would qualify as HCBMs and what contracts would be subject to carrier filing and notification requirements. Thus, reducing the number and cost of unnecessary filings that offer no benefit to the Commissioner or Washingtonians.

On behalf of Providence Health Plan, I thank you for the opportunity to comment on the prepublication draft for rules relating to health care benefit managers. We offer our feedback in support of the Commissioner's goals in ensuring equitable access to health coverage for Washingtonians. Please reach out, should you have any questions regarding this comment letter. I appreciate your time and consideration.

Kind regards,

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