



November 26, 2024

Commissioner Mike Kreidler  
Washington State Office of the Insurance Commissioner  
302 Sid Snyder Avenue SW  
Olympia WA 98504

Email: [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov)

**Sent Via Email**

Re: R-2024-02 Health Care Benefit Managers – Proposed Rule

Dear Commissioner Kreidler:

I write on behalf of the Pacific Health Coalition (PHC) in response to the Washington State Office of the Insurance Commissioner (OIC) Proposed Rule for Health Care Benefit Managers (HCBMs), R-2024-02. The Proposed Rule would amend state law concerning the business practices of HCBMs, related to the 2024 Legislative Session enactment of Engrossed Second Substitute Senate Bill 5213 (Chapter 242, Laws of 2024). The PHC seeks clarification in the rule-making process of the application of the law to ERISA-regulated self-insured group health plans.

The PHC negotiates discounts with area hospitals, physicians and provider groups, as well as vision, prescription benefit managers on behalf of PHC member plans. Member plans in Washington State cover over 140,000 plan lives through self-

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insured group health plans subject to regulation under the Employee Retirement Income Security Act of 1974 (ERISA). Member plans consist of Taft-Hartley plans, government health plans and single employer plans. PHC member plans are concerned about the impact of E2SSB 5213 on their ability to contract with prescription benefit managers (PBMs) to administer their prescription drug plans within the state.

The Final Bill Report, effective June 6, 2024 stated, in part, the following, as the law relates to self-insured group health plans governed by ERISA:

*The act neither expands nor restricts the entities subject to laws regulating HCBMs, including PBMs. These laws continue to be inapplicable to a person or entity providing services to, or acting on behalf of, a union or employer administering a self-funded group health plan governed by the federal Employee Retirement Income Security Act of 1974 (ERISA).*

The Final Bill Report goes on to state that *self-funded group health plans regulated by ERISA may elect to participate in the PBM regulations in this act.*

On behalf of the PHC member plans, I seek clarification from OIC in the rule making process that self-insured, ERISA-regulated group health plans, which do not opt into the law, are permitted to continue to administer their prescription drug benefits pursuant to their existing PBM contracts under the law. I urge the OIC to clearly define the reach of the regulation as it applies to ERISA-governed self-insured plans.

Sincerely,

***Bonnie Payson***

Bonnie Payson  
Executive Director  
Pacific Health Coalition