



November 26, 2024

Jane Beyer
Office of the Insurance Commissioner
302 Sid Snyder Ave SW
Olympia, WA 98504
rulescoordinator@oic.wa.gov

Re: WSR 24-11-126 - Comment on CR-102 Relating to Health Care Benefit Managers (HCBM)

Dear Ms. Beyer:

The Washington State Pharmacy Association (WSPA) is very appreciative of the care and effort the OIC staff put into creating these rules. It is evident that our feedback has been incorporated. Below we offer additional suggestions to strengthen and clarify the rule to protect patients and pharmacies. Thank you for the opportunity to provide these comments. The WSPA collaborated with a subcommittee of members to formulate our feedback.

Additionally, one of our subcommittee members also has pharmacies in Oregon and we wanted to bring to your attention an issue they experienced there in the event you might be able to address it in these rules. The member pharmacy appealed an underpaid list drug, and the appeal was upheld. When the pharmacy reversed and re-process the claim, the PBM did not pay the pharmacy more – instead it increased the patient coinsurance, and the pharmacy would have to contact the patient to receive the increased reimbursement. This is challenging for the pharmacy, and very likely represents a change in the contracted patient out of pocket costs. It is our hope that the OIC can ensure that this would not happen in Washington following an appeal.

WAC 284-180-507 Comments

(1) We have concerns with limiting the appeals duration to 90 days. Previously we suggested changing wording to “during the last two years.” PBMs often retroactively adjust claims, often on a quarterly basis. A 90 day limit would not allow pharmacies to audit the final price paid for a medication. Additionally, RCW 48.200.220 gives PBMs 24 months to audit medications filled by a pharmacy, why should the pharmacy lookback window be smaller? While we still suggest the limit of 24 months, we suggest a compromise of 180 days minimum to allow for the quarterly adjustment period.

(8)(a) We strongly support the strengthened language of this section. Thank you.

(9) We have questions about the new wording in this section. What was the reason for including “The commissioner will presume that a reasonable adjustment applied prospectively for a period of at least

90 days from the date of an upheld appeal is not a knowing or willful violation of chapter 48.200 RCW under RCW 48.200.290.”? Does it mean the OIC will just assume adjustments were made, and that the PBM isn’t violating the OIC’s authority? We would like clarity on this topic. The OIC should be able to request the proof of a price adjustment and logic behind a price if the pharmacy does not see an appropriate adjustment based on an appeal.

Thank you for the opportunity to comment on the rules for enforcement of the HCBM Chapter. We are available for further discussion and look forward to participating in stakeholder meetings.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jenny Arnold', with a stylized, cursive script.

Jenny Arnold, PharmD, BCPS
Chief Executive Officer