



September 15, 2020

Mandy Weeks-Green, Senior Health Policy Analyst
Washington Office of the Insurance Commissioner (OIC)
P.O. Box 40260
Olympia, WA 98504

Delivered via electronic mail to: rulescoordinator@oic.wa.gov

Re: Stakeholder Draft (R2020-04) Health Care Benefit Managers

Dear Ms. Weeks-Green,

Thank you for the opportunity to review the stakeholder draft for the Health Care Benefit Managers (HCBM) rulemaking (R2020-04). We appreciate OIC's collaborative process in proposed rulemaking and consideration of our comments in developing the rule. On behalf of Molina Healthcare, please find the following comments:

WAC 284-180-130: Definitions

(6) "Health care benefit manager" has the same meaning as the definition of health care benefit manager in RCW 48.200.020."

Molina's Comments:

OIC has referenced the statutory definition outlined in RCW 48.200.020. The statute defines a HCBM as "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 . . ."

Molina finds the broad language used to define HCBMs concerning as it relates to entities within the same holding company system. Although certain types of entities are excluded from the definition of "health care benefit manager" under RCW 48.200.020(4)(c), such as an "health maintenance organization" or "issuer," as drafted it could arguably still capture other related entities, such as a parent company or affiliate of an HMO or issuer, that assists with these types of functions.

Molina respectfully requests that the OIC exclude from the definition of "health care benefit manager" those relationships that are already governed by other sections of law and disclosed to the OIC under such laws, particularly those that already are captured by the Insurer Holding Company Act (RCW 48.31B).

Molina also welcomes any clarification from OIC on the entities and individuals intended to qualify as HCBM, and the associated registration fees and filing requirements required with the designation. As

written, there is concern the registration fees could potentially be interpreted as applying to individual employees of carriers and their contracted affiliates. Molina requests confirmation that the exclusion for HMOs, issuers, or similar entities from the definition of HCBM also extends to all employees working on behalf such entities.

WAC 284-180-405: Definitions in this Subchapter

“(4) "Form" means a: (a) "Health Care Benefit Management Contract" or "Contract" as defined in means any written agreement describing the rights and responsibilities of the parties, such as carriers, health care benefit managers, providers, pharmacy, pharmacy services administration organization, and employee benefit program conforming to the Chapter of RCW 48.200 and this chapter including (i) All forms that are part of the contract and (ii) All amendments to the contract.

Molina’s Comments:

Under Section (4)(a) the term “contract” is defined to include providers. Similar to our comments above, Molina respectfully requests that OIC consider removing provider contracts from the definition of “health care benefit manager” as those provider contracts are already governed by provider contracting laws and filed with the OIC under WAC 284-170-480. Including provider contracts in the definition would result in duplicative and administratively burdensome reporting for both OIC and Molina.

WAC 284-180-455: Carrier filings related to health care benefit managers

“(1) A carrier must file all contracts and contract amendments with a health care benefit manager within thirty days following the effective date of the contract or contract amendment. If a carrier negotiates, amends, or a modifies a contract or a compensation agreement that deviates from a previously filed contract, then the carrier must file that negotiated, amended, or modified contract or agreement with the commissioner within thirty days following the effective date. The commissioner must receive the filings electronically in accordance with this subchapter.”

Molina’s Comments:

Section (1) states that filings need to be made within 30 days of effective date of the contract or amendment. Molina seeks confirmation that filings are not required for agreements already in effect unless they are amended. Molina would also appreciate clarification on whether template agreements can be filed so as to require filing of contracts only if they deviated from the template.

Again, we appreciate the opportunity to provide feedback on the stakeholder draft. Thank you for your consideration of Molina’s comments, and if there are any questions, we would be happy to discuss.

Sincerely,

Gretchen Gillis
Director of Government Contracts
Molina Healthcare of Washington