



December 9, 2020

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P.O. Box 40260  
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Submitted via email to: [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov)

Re: Comments on Health Care Benefit Managers CR-102 Proposed Rule (R 2020-04)

Dear Ms. Weeks-Green:

On behalf of the Association of Washington Healthcare Plans (AWHP), we would like to offer the following comments on the Office of the Insurance Commissioner's (OIC) CR-102 proposed rule for the Health Care Benefit Managers (HCBM) rulemaking (R 2020-04). We appreciate the OIC incorporating some of our suggested changes from the stakeholder draft into this proposed rule, but still remain concerned with several provisions that lack clarity and will be challenging to implement.

**WAC 284-180-130 Definitions**

The definition for "Health care benefit manager" remains unchanged from the stakeholder draft. The statutory definition being cited is ambiguous, in particular the language that classifies a HCBM as an entity that ". . . **indirectly** impacts the determination or utilization of benefits for, or patient access to, health care services, drugs, and supplies . . ." (emphasis added). Rulemaking offers the Commissioner the opportunity to implement the legislation with clarity to ensure consistent implementation. At present, the ambiguity that results from repeating the statutory language in the rule means that entities and carriers will be guessing about whether the requirements apply to them. This language could seemingly apply to numerous vendors who contract with health carriers but play no material role in impacting enrollee benefits or access to care. We believe the legislative intent was to capture those entities that materially impact patient benefits or care, and note that Senator Short confirmed this interpretation during the OIC's stakeholder meeting held on September 9, 2020.

There is still an opportunity for the OIC to include language describing what entities or individuals would not qualify as a HCBM. For example, this could include: entities that transmit data to a health carrier without any analysis or decision-making impacting patient benefits or access to care; entities that license software to a health carrier (such as claims repricing software); credentialing entities; and other entities that do not make determinations impacting enrollee benefits or access to care.

**WAC 284-180-220 Health Care Benefit Manager Registration**

The timeline for initial HCBM registration creates a confusing standard with the renewal process established in WAC 284-180-230. It appears that if a HCBM newly registers by January 1, 2022, their initial registration will only be valid from January 1, 2022 until June 30, 2022 (effectively six months).

The HCBM will then be required to renew their registration shortly after their initial registration, by March 1, 2022, which effectuates their registration from July 1, 2022 until June 30, 2023. This creates a system where newly registered HCBMs are paying twice in short succession for their registration. We suggest the OIC clarify this language to create an equitable registration process that does not penalize new HCBM registrants.

**WAC 284-180-455 Carrier Filings Related to Health Care Benefit Managers**

The OIC continues to include the language in section (5), which borrows language from current requirements applicable to health carrier provider contract filings. We continue to emphasize that many HCBMs do not contract as part of a health plan network, but with the issuer as a whole. We struggle to see how this section will provide useful information for the OIC, and instead would appear to create a significant amount of work to revise health plan contracts. We urge the OIC to remove this section, or alternatively clarify that this section only applies to HCBMs that provide health care services to enrollees in specific plan networks.

Further, if the filing requirement is retained, we ask that the regulation specifically extend the same protections to proprietary financial information to these agreements that is extended to provider contract compensation information.

**WAC 284-180-460 Health Care Benefit Manager Filings**

Similar to our comments for the section above, we recommend removing section (3) or clarifying that this section only applies to HCBMs that provide health care services to enrollees in specific plan networks.

We appreciate your consideration of our comments and the OIC's stakeholder process for this rulemaking effort. Please don't hesitate to contact me with any questions or to discuss.

Sincerely,

Chris Bandoli  
Executive Director