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August 6, 2020

Transmitted by electronic mail to: [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov)

Jane Beyer, Senior Health Policy Advisor  
Office of the Insurance Commissioner  
PO Box 40260  
Olympia, WA 98504-0260

Re: R2020-07 – Stakeholder Draft Rule; Balance Billing Protection Act

Dear Ms. Beyer:

Thank you for providing Aetna, a CVS Health Company, the opportunity to comment on the proposed rule for the implementation of the Balance Billing Protection Act. We have reviewed the draft rule and offer the following comments for your consideration.

**WAC 284-43B-040 Determining Whether an Enrollee's Health Plan is Subject to the Requirements of the Act.**

Section (1)(b) will require health carriers to modify their Health Care Claim Payment and Remittance Advice (835) transaction to include the carrier's arbitration contact information. Currently, our 835 transaction returns the main contact number for our Provider Service Center, which exists to respond to a wide variety of provider inquiries, including answering claim questions, verify benefits and eligibility, answering prior authorization questions, responding to appeal and claim re-work needs, and more.

We strongly recommend against a requirement to implement a dedicated "arbitration" contact information in the 835 transaction for the following reasons:

1. Implementing dedicated arbitration contact information in the 835 transaction would be a very complicated, time-consuming, and expensive effort because coding and programming would necessarily be required so that the arbitration contact information would appear only on a claim that is eligible for arbitration.
2. The 835 transaction is used nationally and regulating its content at the individual state level could lead to adverse impacts in other jurisdictions. We note for the OIC that numerous states such as CO, MO, ME, NJ, NV, VA and TX have enacted similar surprise billing arbitration laws.

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3. Aetna's explanation of benefits already includes messages that explain how a provider may initiate an arbitration request. Our message reads as follows: *Written notice of your decision to initiate arbitration must be provided to Aetna at: WAArbitration@aetna.com.*
4. The OIC or One Health Port could easily maintain a list of arbitration contacts on their webpage.

**WAC 284-43B-070 Self-funded Group Health Plan Opt In.**

Self-funded plan sponsors often provide coverage in numerous states and jurisdictions. Managing the opt-in process for their plan, due to the different methods and timing to opt-in, is challenging for a plan sponsor. It would be helpful for the OIC to send notice of receipt of a plan sponsor's election form to the carrier, health plan, or third-party administrator. The OIC's website which includes a list of self-funded plan sponsors is difficult to search and use because of inconsistent data entry. Further enhancements are needed in order to make this listing useful.

Thank you for considering our comments. If you have any questions, please contact me.

Sincerely,



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