



September 15, 2020

Mandy Weeks-Green
Washington State Office of the Insurance Commissioner
P.O. Box 40260
Olympia, WA 98504
Submitted via email to: rulescoordinator@oic.wa.gov

Re: R 2020-04 health care benefit managers rulemaking stakeholder draft

Dear Ms. Weeks-Green,

On behalf of Cambia Health Solutions family of insurance companies, including Regence BlueShield, Asuris Northwest Health, and BridgeSpan Health Company, thank you for the opportunity to comment on the stakeholder draft of the health care benefit managers rule as well as the opportunities to engage in stakeholder conversations prior to a CR-102 of the draft rule being published. We look forward to partnering with the OIC to ensure effective implementation of the new requirements mandated by 2SSB 5601. To this end, our internal subject matter experts have reviewed the legislation itself and the OIC's stakeholder draft and would like to offer the following comments for your consideration.

WAC 284-180-130 Definitions.

In subsection (6), the stakeholder draft points to the definition of a health care benefit manager (HCBM) in RCW 48.200.020. This definition of HCBM from 2SSB 5601 is broad, stating "Health care benefit manager means 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..." (emphasis added). The use of "indirectly" in the definition has significant impact on how far reaching the definition could be. We believe the legislative intent was to regulate entities who explicitly have decision making power or influence that impacts patient care and/or benefits. There is an opportunity for the OIC to provide meaningful clarity through rulemaking regarding the intent of the definition for HCBMs. Without further clarity or guidance, such a broad definition could theoretically apply to many entities beyond the intent of the legislature, which would inundate the OIC with applications and contracts for review. As requested by the OIC during the stakeholder meeting held on September 9, 2020, we have provided a few examples of contracted vendor types that should not be subject to the HCBM requirements:

- (1) Data transmitting vendors. For example, we contract with a vendor that provides a data feed from hospital systems for member admissions, discharge and transfers data.

Their role is limited to a data feed and we consume the data into our utilization management processes.

- (2) Data hosting vendors. We contract with multiple vendors that simply host member information and other data critical to our business operations.
- (3) Population identification vendors. We contract with multiple vendors that identify a subpopulation within our member population that would benefit from certain services.

In all the examples provided above, members are not impacted by vendor participation. We recommend the OIC incorporate the full statutory definition of a HCBM into the rule language and add additional examples of entities that are not considered a HCBM. Such examples could include an employee of a health carrier or employee benefits program with regard to their services to or actions on behalf of that health carrier or employee benefits program and an entity that transmits, in any format or medium, data created by others to a health carrier or employee benefits program without the entity's review or analysis of the content of the data transmitted. We believe it is critical for the OIC to clearly carve out entities that do not make determinations impacting member benefits or access to care.

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

This section requires HCBMs to receive the notice of approval of their registration application from the OIC prior to conducting business in the state. Many of the entities required to register with the OIC starting January 1, 2022 are currently contracted with carriers and operating in Washington. We are concerned the impact this requirement could have in the initial year of the program and recommend that OIC clarify that this requirement will not prevent entities from continuing operations in Washington while completing registration.

Additionally, the language in this section requires HCBMs to register with the OIC starting January 1, 2022 but the initial registration will only be valid until June 30, 2022, requiring HCBMs to apply for a renewal only a few short months later in March. We suggest the OIC allow the initial HCBM registration to extend until June 20, 2023 so that entities are not required to both register and renew within the same calendar year.

WAC 284-180-330 Required Notices.

Generally, we believe the carrier notice requirements in the stakeholder draft are reasonable and appreciate the OIC incorporating carrier input into this section. However, we are concerned with the turnaround time in subsection (1) to update the HCBM information on our websites within three business days of any change. Additional time is necessary for programming the content changes on the website, especially in scenarios where we rely on third-party vendors to make the content updates. We recommend the OIC align the turnaround time requirement with similar requirements for updating and ensuring accuracy of carrier provider directories. We propose the following language updates:

- (1) Carriers must post on their website information that identifies each health care benefit manager contracted with the carrier and identify the services provided by the benefit manager. The information must be easy to find on the carrier's website with a link from the webpage utilized for enrollees. The carrier is required to update the information on their website **at least monthly** ~~within three business days of~~ **with** any change, such as addition or removal of a benefit manager or a change in the services provided by a benefit manager.

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

The HCBM contract requirements in subsection (5) appear to be taken directly from existing health carrier provider contract filing regulations (WAC 284-170-480(7)). We do not think the requirement to include provider network information is applicable or appropriate in the context of carrier contracts with HCBMs. For that reason, we strongly suggest the OIC remove subsection (5) entirely.

Other suggested revisions.

- WAC 284-180-240(1)(h): We recommend using the language from 2SSB 5601 to remain consistent with the requirement in the underlying legislation and to add a reasonable look back period. We suggest updating the provision to read, "Identify if the health care benefit manager has **violated any insurance law, or violated any rule, subpoena, or order of the commissioner or of another state's insurance commissioner within the previous five calendar years.** ~~committed any violations in this or any state or been the subject of an order from a department of insurance or other state agency.~~
- WAC 284-180-240(3)(b): To correct typos, we recommend the provision be modified to read: (b) "Any material change in the information provided to ~~the~~ obtain ~~nor~~ renew a registration must be filed within thirty days of the change by benefit managers using the commissioner's electronic system."
- WAC 284-180-320(1): We recommend the first sentence of the provision be modified to read "If the commissioner requests records for inspection for a purpose other than to resolve an appeal under RCW 48.200, a health care benefit manager must make the records available to the commissioner within fifteen **working** days from the date on the request."

Thank you for considering our comments. Please feel free to contact me with any questions or to discuss our feedback. I can be reached at Jane.Douthit@Regence.com or (206) 332-5212.

Sincerely,



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