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December 9, 2020

SENT VIA EMAIL: rulescoordinator@oic.wa.gov
Mandy Weeks-Green
Senior Health Policy Analyst
Washington Office of the Insurance Commissioner
P.O. Box 40260
Olympia, WA 98504-0260

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

Dear Ms. Weeks-Green:

Thank you for the opportunity to provide comments on CR-102 R 2020-04 Health Care Benefit Managers proposed rules. Providence Health Plan (PHP) appreciates WA OIC engagement with health carriers and industry and we offer the following feedback:

WAC 284-180-455(5) Carrier Filings Related to Health Care Benefit Managers

Recommendation: Amend draft rules to distinguish between HCBM that perform administrative functions and those that furnish health care services; Amend draft rules to avoid duplicative filing requirements.

The definition of "health care benefit manager" (HCBM) is broad and encompasses everything from entities that provide administrative functions such as claims processing and credentialing to providers and pharmacists that offer health care services[1] to enrollees on behalf of health carriers. PHP understands the legislative intent of SB 5601 to provide greater transparency and accountability for HCBMs, however, we are concerned that the rule as drafted is unnecessarily overbroad and may create administrative inefficiency and confusion.

We recommend that the WA OIC remove sections (4) and (5) and amend (3) to clarify that HCBM agreements that are governed by WAC 284-170 as provider agreements be filed subject to the requirements in that chapter. We believe that this will result in a streamlined and more administratively efficient process while meeting the intent of the law. Furthermore, sections (4) and (5) contain provisions that do not make sense in the context of an entity that solely provides administrative functions to a carrier. For example, an agreement between a claims

[1] 13) "Health care service" or "health service" means that service offered or provided by health care facilities and health care providers relating to the prevention, cure, or treatment of illness, injury, or disease. WAC 284-170-130 (13)

processing entity and a carrier would have no purpose to reference carrier provider networks or compensation agreements. Instead of providing clarity, this requirement is likely to add confusion and unneeded complexity to administrative agreements.

Additionally, there are agreements that would be subject to filing under existing requirements and also under this new section, specifically those agreements with HCBMs that furnish health care services to members. For illustrative purposes, Health Carrier A contracts with PBM B to provide pharmacy benefit management services as well as access to pharmacies and pharmacists to its members. Under the rules as drafted, this agreement would be subject to filing requirements under WAC 284-180 and WAC 284-170. We recommend that WA OIC amend the rules to clarify that the carrier would only need to file this agreement once as a provider agreement filing under WAC 284-170.

[Recommended language below:]

(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 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.

(2) Carriers must maintain health care benefit manager contracts at its principal place of business in the state, or the carrier must have access to all contracts and provide copies to facilitate regulatory review upon twenty days written notices from the commissioner.

(3) ~~Nothing in this section relieves the carrier of the responsibility detailed in WAC 284-170-280 (3) to ensure that all contracts are current and signed if the carrier utilizes a health care benefit manager's providers and those providers are listed in the network filed for approval with the commissioner.~~ Health care benefit manager contracts that furnish covered health care services to enrollees are governed under WAC 284-170. Carriers are not required to duplicate filings required by WAC 284-170-480 under this section.

~~(4) If a carrier enters into a reimbursement agreement that is tied to health outcomes, utilization of specific services, patient volume within a specific period of time, or other performance standards, the carrier must file the reimbursement agreement with the commissioner within thirty days following the effective date of the reimbursement agreement, and identify the number of enrollees in the service area in which the reimbursement agreement applies. Such reimbursement agreements must not cause or be determined by the commissioner to result in discrimination against or rationing of medically necessary services for enrollees with a specific covered condition or disease. If the commissioner fails to notify the carrier that the agreement is~~

~~disapproved within thirty days of receipt, the agreement is deemed approved. The commissioner may subsequently withdraw such approval for cause.~~

~~(5) Health care benefit manager contracts and compensation agreements must clearly set forth the carrier provider networks and applicable compensation agreements associated with those networks so that the provider or facility can understand their participation as an in-network provider and the reimbursement to be paid as a contracted provider in each provider network.~~

Thank you for your time and consideration of PHP's comments. Please contact me if you require additional clarification on a specific issue or would like to discuss the content of this letter.

Sincerely,

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