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2015 APR -2 A 10:44

April 2, 2015

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VIA EMAIL AND FIRST-CLASS MAIL

Hearings Unit
Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255
Email: hearings@oic.wa.gov

Re: Demand for Hearing

To Whom It May Concern:

We represent Cambia Health Solutions ("Cambia"). We write to formally demand a hearing before an administrative law judge ("ALJ"), pursuant to RCW 48.04.010 *et seq.*, to challenge the Office of Insurance Commissioner's ("OIC's") disapproval of Regence BlueShield's ("Regence's") 2014 rate and form filings ("the Filings") for the Northwest Marine Trade Association and the Northwest Marine Trade Association Health Trust (collectively, "NMTA"). A copy of the OIC's decision subject to this Demand for Hearing is attached. Cambia understands that NMTA has also filed a Demand for Hearing to challenge the attached decision, and Cambia supports consolidation of this matter with NMTA's appeal.

Cambia is a non-profit corporation that sells health insurance through several subsidiaries, including Regence. NMTA offers benefit plans through Regence that the separate employers included in NMTA ("Participating Employers") offer for purchase by their employees and the employees' eligible dependents ("Members"). The OIC's rejection of the Filings directly impacts Regence and Cambia (as well as NMTA, the Participating Employers, and the Members), warranting a hearing pursuant to RCW 48.04.010(1)(b).

The OIC takes issue with the fact that the Regence plans include multiple Rate Categories for each plan design, established at the Participating Employer level with potentially different monthly premiums for different Participating Employers. The OIC erroneously treats NMTA as a single employer, asserting that it must file a single rate at the association level. In its disapproval, the OIC stated:



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[Y]our rates, filed for various employers, are unreasonable in relation to the amount charged for the contract for one single employer, Northwest Marine Trade Association. Therefore, your rate and form filings are disapproved and closed under the authority of RCW 48.44.020(3).^[1]

Cambia challenges the OIC's decision on the following general grounds:

- There is no basis under state law for the OIC's position that a Bona Fide Association ("BFA") like NMTA must be treated as a single employer for purposes of rating.
 - No state statute or regulation prohibits separately rating Participating Employers based on non-discriminatory criteria, or requires that all Participating Employers be rated in one pool when coverage is offered through a BFA.
 - The OIC's reliance on RCW 48.44.020(3) to disapprove the Filings is misguided. To the extent it even applies, that statute provides authority only for the OIC to "disapprove any contract if the benefits provided therein are unreasonable in relation to the amount charged for the contract." (Emphasis added.) The attached disapproval notice does not address benefits provided under the plans.
- Neither is there any basis under federal law for the OIC's position that a BFA must be treated as a single employer for purposes of rating.
 - The rating factors utilized by Regence were consistent with federal regulations and guidance. For example, the regulations implementing the Public Health Service Act include provisions prohibiting discrimination against individuals on the basis of health factors (which were not used for these plans). The regulations permit rating at the Participating Employer level, regardless of whether a BFA is involved. *See* 45 CFR § 146.121(c).
 - Rating at the Participating Employer level has been an established practice for BFAs in Washington to which the OIC has never previously objected. There has been no recent change in the law that would compel a different response from the OIC.

¹ See attached decision.



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- The OIC's disapproval of the Filings lacks any basis in state or federal law and will unfairly prejudice Regence and Cambia, NMTA, its Participating Employers, and their Members.
- The OIC attempts to impose a remedy that is unworkable. Specifically, the OIC asserts: "As a result of this disapproval, it is necessary for all current enrollees to be transitioned to a compliant plan as soon as possible. The OIC's disapproval of Regence's 2014 Filings cannot logically obligate Regence to transfer current enrollees (who are enrolled in Regence's 2015 plans) to new plans. Moreover, if the OIC's proposed remedy is implemented, Members may be forced to move to plans with substantially reduced benefits and/or higher premiums.

The OIC's rejection of the Filings is without any foundation in state or federal law; is contrary to the long-established practice condoned by the OIC; and, if the OIC's illogical remedy were imposed, would unfairly prejudice thousands of Washington citizens in direct contravention of the primary purpose of the Affordable Care Act: to provide individuals with access to affordable health care. For the above reasons, Cambia hereby formally demands a hearing before an ALJ.

Very truly yours,

Maren R. Norton

Enclosure

SERFF - System for Electronic Rate and Form Filing

Monday, March 23, 2015
3:47 PM

Disposition for B861-129416259

Close

SERFF Tracking Number: B861-129416259 **State:** Washington

Filing Company: Regence BlueShield **State Tracking Number:** 267175

Company Tracking Number: 100000049CMR, 100000049CDR, 100000049CVR

TOI: H16G Group Health - Major Medical **Sub-TOI:** H16G.002C
Large Group Only - Other

Product Name: Rate Filing Full Negotiated Association or member-governed true employer group under 29 U.S.C Section 1002(5) of ERISA - Northwest Marine Trade Association

Project Name:

Disposition Date: 01/15/2015

Implementation Date:

Status:

Disapproved

HHS Status:

HHS Denied

State Review:

Reviewed by Actuary

Comments: Your rate and form filings for Northwest Marine Trade Association are disapproved and closed under the authority of RCW 48.44.020(3).

The rating methodology and rates filed on behalf of Northwest Marine Trade Association and the Northwest Marine Trade Association Health Trust are inconsistent with the fact that you filed one single large employer group.

In the rate schedule, there are 4 Rate Categories for each plan design. For example, for the Enhanced E10 Plan, an employee age between 35 to 49 can be charged a monthly rate ranging from \$498.42 to \$688.50. In our rate objections, we asked you to explain in detail how you define a Rate Category and the factors used to assign an employee to a Rate Category. We also asked you to provide detailed calculations of the rates assigned to each Rate Category. Your response to the first objection letter indicated that you have separately rated various "member groups" within Northwest Marine Trade Association. You also stated at the Association renewal, each "custom rated group" is assigned a unique rate increase that is added to their current rates. This means that your rates filed are for various "employers" - contrary to your form filing for one employer only.

We also asked you to identify the bona fide employment-based classifications upon which the 4 Rate Categories are based (per 26 CFR § 54.9802-1(d).) (Examples for bona fide employment-based classifications include current versus former employees, and employees located in different geographic areas.) You stated that "each subgroup" may be treated separately as each subgroup is an independent ongoing business. You further stated that each subgroup is managed separately from other subgroups and "employment" criteria, "employment" needs, benefit mix, may be unique to each subgroup. Your response reiterated that you have separately rated various "member groups." Your response also failed to identify how each Risk Level is related to bona fide employment-based classifications.

This tells us that your rates, filed for various employers, are unreasonable in relation to the amount charged for the contract for one single employer, Northwest Marine Trade Association. Therefore, your rate and form filings are disapproved and closed under the authority of RCW 48.44.020(3).

As a result of this disapproval, it is necessary for all current enrollees to be transitioned to a compliant plan as soon as possible. Please contact the Deputy Insurance Commissioner for Rates and Forms to discuss your plan to transition current enrollees to a compliant plan, including the proposed notice and replacement rate schedule.

Item Type	Item Name	Item Status	Public Access
Supporting Document	Disability Associations		Yes
Supporting Document	Disability Rates		Yes
Supporting Document	HCSC Rates		Yes
Supporting Document	PPACA Exemption Request		Yes
Supporting Document	HIPAA AHP Certification Letter		Yes
Supporting Document	Transition of Care Questionnaire		Yes
Rate	Pooled rate filing full negotiated		Yes

Schedule Items

[Close](#)

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