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600 University Street, Suite 3600
Seattle, Washington 98101
main 206.624.0900
fax 206.386.7500
www.stoel.com

April 15, 2015

MAREN R. NORTON
Direct (206) 386-7607
maren.norton@stoel.com

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") and Asuris Northwest Health's ("Asuris") 2014 rate and form filings ("the Filings") for the Washington Farm Bureau and the Washington Farm Bureau Health Care Trust (collectively, "Farm Bureau"). Copies of the OIC's decisions subject to this Demand for Hearing are attached.

Cambia is a non-profit corporation that sells health insurance through several subsidiaries, including Regence and Asuris. Farm Bureau offers benefit plans through Regence and Asuris that the separate employers included in Farm Bureau ("Participating Employers") offer for purchase by their employees and the employees' eligible dependents ("Members"). The OIC's rejection of the Filings directly impacts Regence, Asuris, and Cambia (as well as Farm Bureau, 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 and Asuris plans include multiple Rate Bands for each plan design, established at the Participating Employer level with potentially different monthly premiums for different Participating Employers. The OIC erroneously treats Farm Bureau as a single employer, asserting that it must file a single rate at the association level. In its disapprovals, 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, Washington Farm Bureau. 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 decisions on the following general grounds:

- There is no basis under state law for the OIC's position that a Bona Fide Association ("BFA") like Farm Bureau 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 notices do 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 and Asuris 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 decisions.



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- The OIC's disapproval of the Filings lacks any basis in state or federal law and will unfairly prejudice Regence, Asuris, and Cambia, Farm Bureau, 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."² The OIC's disapproval of Regence's and Asuris' 2014 Filings cannot logically obligate Regence and Asuris to transfer current enrollees (who are enrolled in Regence's and Asuris' 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

Enclosures

² See Attached Decisions.

SERFF Tracking #: B861-129452085 State Tracking #: 269440 Company Tracking #: 10000012BMA1-10000012BMA44

State: Washington Filing Company: Asuris Northwest Health
TO/Sub-TO: H16G Group Health - Major Medical/H16G.002C Large Group Only - Other
Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA Washington Farm Bureau
Project Name/Number: /10000012BMA1-10000012BMA44

Disposition

Disposition Date: 01/15/2015

Implementation Date:

Status: Disapproved

HHS Status: HHS Denied

State Review: Reviewed by Actuary

Comment: Your rate and form filings for Washington Farm Bureau are disapproved and closed under the authority of RCW 48.44.020(3).

The rating methodology and rates filed on behalf of Washington Farm Bureau and the Washington Farm Bureau Health Care Trust are inconsistent with the fact that you filed one single large employer group.

In the rate schedule, there are 75 Rate Bands for each plan design. For example, for the Copay 80 250 Plan, an employee can be charged a monthly rate ranging from \$264.59 to \$1,736.34. In our rate objections, we asked you to explain in detail how you define a Rate Band 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 Washington Farm Bureau. You also indicated that a risk factor, a factor assigned at an underwriter's discretion, is built in your rate model. 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 75 Rate Bands 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, Washington Farm Bureau. 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.

Rate data does NOT apply to filing.

SERFF Tracking #: B861-129452085 State Tracking #: 269440 Company Tracking #: 100000012BMA1-100000012BMA44

State: Washington Filing Company: Asuris Northwest Health
 TO/Sub-TO: H16G Group Health - Major Medical/H16G.002C Large Group Only - Other
 Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA Washington Farm Bureau
 Project Name/Number: /100000012BMA1-100000012BMA44

Schedule	Schedule Item	Schedule 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	2014 WFB HIPAA Compliance		Yes
Supporting Document	Industry Responses to Objections 1, 2 & 3		Yes
Rate	Washington Farm Bureau 0114 Rate Schedule (ANH)		Yes

SERFF Tracking #: 8861-129452066 State Tracking #: 269439 Company Tracking #: 100000012BMA1-100000012BMA44

State: Washington Filing Company: Asuris Northwest Health
TO/Sub-TO: H16G Group Health - Major Medical/H16G.002C Large Group Only - Other
Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA Washington Farm Bureau - Proprietary
Project Name/Number: /100000012BMA1-100000012BMA44

Disposition

Disposition Date: 01/15/2015

Implementation Date:

Status: Disapproved

HHS Status: HHS Denied

State Review: Reviewed by Actuary

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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.

Rate data does NOT apply to filing.

SERFF Tracking #: B881-129452068 State Tracking #: 269439 Company Tracking #: 10000012BMA1-10000012BMA44

State: Washington Filing Company: Asuris Northwest Health
 TO/Sub-TOI: H16G Group Health - Major Medical/H16G.002C Large Group Only - Other
 Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA Washington Farm Bureau - Proprietary
 Project Name/Number: /10000012BMA1-10000012BMA44

Schedule	Schedule Item	Schedule Item Status	Public Access
Supporting Document	Disability Associations		No
Supporting Document	Disability Rates		No
Supporting Document	HCSC Rates		No
Supporting Document	PPACA Exemption Request		No
Supporting Document	Industry Responses to Objections 1, 2 & 3		Yes
Rate	Washington Farm Bureau 0114 OIC (ANH)		No

SERFF Tracking #: 8861-129451054 State Tracking #: 269404 Company Tracking #: 100000012BM1-100000012BM44

State: Washington Filing Company: Regence BlueShield
TOI/Sub-TOI: H16G Group Health - Major Medical/H16G.002C Large Group Only - Other
Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA Washington Farm Bureau - Proprietary
Project Name/Number: /100000012BM1-100000012BM44

Disposition

Disposition Date: 01/15/2015

Implementation Date:

Status: Disapproved

HHS Status: HHS Denied

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Supporting Document	Disability Rates		No
Supporting Document	HCSC Rates		No
Supporting Document	PPACA Exemption Request		No
Supporting Document	Industry Responses to Objections 1, 2 & 3		Yes
Rate	Washington Farm Bureau 0114 OIC (RBS)		No

SERFF Tracking #: B861-129451022 State Tracking #: 269403 Company Tracking #: 10000012BM1-10000012BM44

State: Washington Filing Company: Regence BlueShield
TOI/Sub-TOI: H16G Group Health - Major Medical/H16G.002C Large Group Only - Other
Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA Washington Farm Bureau
Project Name/Number: /10000012BM1-10000012BM44

Disposition

Disposition Date: 01/15/2015

Implementation Date:

Status: Disapproved

HHS Status: HHS Denied

State Review: Reviewed by Actuary

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 Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA Washington Farm Bureau
 Project Name/Number: /10000012BM1-10000012BM44

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Supporting Document	PPACA Exemption Request		Yes
Supporting Document	2014 WFB HIPAA Compliance		Yes
Supporting Document	Industry Responses to Objections 1,2 & 3		Yes
Rate	Washington Farm Bureau 0114 Rate Schedule (RBS)		Yes