R 2025-11 – Health care benefit managers

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Chapter 284-180 WAC

HEALTH CARE BENEFIT MANAGERS

WAC 284-180-120 Applicability and scope. (1) This chapter applies to:

(a) Health care benefit managers as defined in RCW 48.200.020, and health carriers who contract with health care benefit managers; and

(b) Pharmacy benefit managers who contract with pharmacies on behalf of health carriers, medicaid managed care organizations, and employee benefits programs as defined in RCW 48.200.020.

(2) Effective January 1, 2026, RCW 48.200.280, 48.200.310, and 48.200.320 and WAC 284-180-500, 284-180-507, 284-180-517, and 284-180-522 apply to self-funded group health plans that have elected to participate under RCW 48.200.330.

(3) This chapter does not apply to ~~the actions of~~ health care benefit managers providing services exclusively to, or acting exclusively on behalf of:

(a) Self-funded group health plans, other than an employee benefit program as defined in RCW 48.200.020 or with respect to compliance with RCW 48.200.280, 48.200.310, and 48.200.320, a self-funded group health plan that has elected to participate under RCW 48.200.330;

(b) Medicare supplement plans;

(c) Medicare advantage plans;

(d) Medicaid, except that pharmacy benefit managers that contract with pharmacies on behalf of Medicaid managed care plans are subject to RCW 48.200;

(e) Children's Health Insurance Program plans;

(f) Discount plans;

(g) Union plans, other than a union plan that is a self-funded group health plan that has elected to participate under RCW 48.43.330 with respect to compliance with RCW 48.200.280, 48.200.310, and 48.200.320; and

(h) Plans that provide monetary payment, such as income replacement disability plans or life insurance accelerated benefits, unless these plans provide coverage for health care services, drugs, or supplies.

[Statutory Authority: RCW 48.200.900 and 48.02.060. WSR 25-02-024 (Matter R 2024-02), s 284-180-120, filed 12/18/24, effective 1/18/25; WSR 21-02-034, § 284-180-120, filed 12/29/20, effective 1/1/22. Statutory Authority: RCW 48.02.060, 19.340.010, 19.340.030, 19.340.100, 19.340.110, and 2016 c 210 §§ 1 and 2 through 7. WSR 17-01-139 (Matter No. R 2016-07), § 284-180-120, filed 12/20/16, effective 1/1/17.]

WAC 284-180-130 Definitions. Except as defined in other subchapters and unless the context requires otherwise, the following definitions apply throughout this chapter:

(1) "Affiliate" or "affiliated employer" has the same meaning as the definition of affiliate or affiliated employer in RCW 48.200.020.

(2) "Annual gross income" means the sum of all amounts paid during a calendar year by any entities with which a health care benefit manager has contracted for the provision of health care benefit management services in Washington state.

(3) "Certification" has the same meaning as the definition of certification in RCW 48.43.005.

(4) “Contract price” means the price a pharmacy benefit manager reimburses a pharmacy for a drug pursuant to a contract between the pharmacy benefit manager and a carrier, an insurer, third party payor or prescription drug purchasing consortium the pharmacy benefit manager has contracted with. “Contract price” is inclusive of any post-sale or post-invoice fees, discounts, or related adjustments or assessments affecting the price paid for a drug. “Contract price” does not include a pharmacy’s dispensing fee.

(54) "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, such as through ownership of voting securities, membership rights, or by contract.

(65) "Corporate umbrella" means an arrangement consisting of, but not limited to, subsidiaries and affiliates operating under common ownership or control.

(76) "Covered person" has the same meaning as in RCW 48.43.005.

(87) As used in RCW 48.200.020 and 48.200.280, "credentialing" means the collection, verification, and assessment of whether a health care provider meets relevant licensing, education, and training requirements.

(9) (a) "Drug" or "prescription drug" means a generic, multi-source generic, branded generic, authorized generic, brand name, specialty, biological, biosimilar or interchangeable biosimilar product, or other medication approved by the united states food and drug administration for human use that is:

(i) Prescribed for outpatient use;

(ii) Dispensed by a network pharmacy; and

(iii) Reimbursed by a pharmacy benefit manager to a network pharmacy.

(b) "Drug" or "prescription drug" excludes:

(i) Drugs administered in non-pharmacy settings, such as physician-administered or hospital-administered drugs;

(ii) Over-the-counter drugs; or

(iii) Over-the-counter nutrition supplements.

(10~~8~~) "Employee benefits programs" has the same meaning as the definition of employee benefits program in RCW 48.200.020.

(11~~9~~) "Generally available for purchase" means available for purchase by multiple pharmacies within the state of Washington from national or regional wholesalers.

(12~~0~~) "Health care benefit manager" has the same meaning as the definition of health care benefit manager in RCW 48.200.020.

(13~~1~~) "Health care provider" or "provider" has the same meaning as the definition of health care provider in RCW 48.43.005.

(142) "Health care services" has the same meaning as the definition of health care services in RCW 48.43.005.

(153) "Health carrier" or "carrier" has the same meaning as the definition of health carrier in RCW 48.43.005.

(164) "Laboratory benefit manager" has the same meaning as the definition of laboratory benefit manager in RCW 48.43.020.

(175) Effective January 1, 2026, "list" has the same meaning as the definition of list in RCW 48.200.280, as amended by section 5, chapter 242, Laws of 2024.

(18) "Local network pharmacy" means a network pharmacy with a physical retail location that is within a reasonable proximity of the enrollee's business or residence. "Local network pharmacy" does not include mail order pharmacies owned by or affiliated with a pharmacy benefit manager.

(196) "Mail order pharmacy" has the same meaning as the definition of mail order pharmacy in RCW 48.200.020.

(2017) "Mental health benefit manager" has the same meaning as the definition of mental health benefit manager in RCW 48.200.020.

(2118) Effective January 1, 2026, "multiple source drug" has the same meaning as the definition of multiple source drug in RCW 48.200.280, as amended by section 5, chapter 242, Laws of 2024.

(2219) "Net amount" means the invoice price that the pharmacy paid to the supplier for a prescription drug that it dispensed, plus any taxes, fees or other costs, minus the amount of all discounts and other cost reductions attributable to the drug.

(230) "Network" has the same meaning as the definition of network in RCW 48.200.020.

(241) "Network pharmacy" has the same meaning as the definition of network pharmacy in RCW 48.200.280.

(25) As used in RCW 48.200.310, "other conditions" mean conditions a pharmacy benefit manager applies to an enrollee that directly affect the enrollee's access to and convenience of receiving a covered prescription drug, including but not limited to the frequency at which an enrollee may receive a prescription refill and the duration of the refill, restrictions on the type

of provider that must order the prescription, and restrictions on a network pharmacy's preparation or dispensing of a medication other than those established by the Washington state board of pharmacy.

(26~~2~~) "Oversight activities" includes all work done by the commissioner to ensure that the requirements of chapter 48.200 RCW are properly followed and in fulfilling its duties as required under chapter 48.200 RCW.

(27~~3~~) "Person" has the same meaning as the definition of person in RCW 48.200.020.

(28~~4~~) "Pharmacy benefit manager" has the same meaning as the definition of pharmacy benefit manager in RCW 48.200.020.

(29~~5~~) "Pharmacy network" has the same meaning as the definition of pharmacy network in RCW 48.200.020.

(30~~26~~) "Predetermined reimbursement cost" means maximum allowable cost, maximum allowable cost list, or any other benchmark price utilized by the pharmacy benefit manager, including the basis of the methodology and sources utilized to determine drug or multisource generic drug reimbursement

amounts. However, dispensing fees are not included in the calculation of predetermined reimbursement costs for drugs or multisource generic drugs.

(31~~27~~) "Radiology benefit manager" has the same meaning as the definition of radiology benefit manager in RCW 48.200.020.

(32~~28~~) "Readily available for purchase" means manufactured supply is held in stock and available for order by more than one pharmacy in Washington state when such pharmacies are not under the same corporate umbrella.

(33) As used in RCW 48.200.310, "require or coerce" means an action by a pharmacy benefit manager, their representative or an entity under contract with a pharmacy benefit manager, to compel, pressure or force an enrollee to use a pharmacy benefit managers' owned or affiliated pharmacy. Examples of requiring or coercing include, but are not limited to:

(a) Communicating with the enrollee, whether through electronic, physical, written or verbal notifications, in a manner that primarily or solely promotes a network pharmacy

owned by or affiliated with a pharmacy benefit manager when other network pharmacies are available to the enrollee;

(b) Failing to fully inform the enrollee of their network pharmacy options beyond pharmacies owned by or affiliated with the pharmacy benefit manager when an enrollee requests such information; or

(c) In the case of a mail order pharmacy owned by or affiliated with a pharmacy benefit manager, filling a prescription through the mail order pharmacy without first obtaining affirmative authorization from the enrollee, as required by RCW 48.200.310 and WAC 284-180-550.

(34~~29~~)(a) Through December 31, 2025, "retaliate" means action, or the implied or stated threat of action, to decrease reimbursement or to terminate, suspend, cancel or limit a pharmacy's participation in a pharmacy benefit manager's provider network solely or in part because the pharmacy has filed or intends to file an appeal under RCW 48.200.280.

(b) Effective January 1, 2026, "retaliate" means action, or the implied or stated threat of action, to cancel, restrict, or

refuse to renew or offer a contract to a pharmacy, to decrease reimbursement or to terminate, suspend, cancel or limit a pharmacy's participation in a pharmacy benefit manager's provider network solely or in part because the pharmacy has:

(i) Filed or intends to file an appeal under RCW 48.200.280;

(ii) Disclosed information in a court, in an administrative hearing, or legislative hearing, if the pharmacist or pharmacy has a good faith belief that the disclosed information is evidence of a violation of a state or federal law, rule, or regulation; or

(iii) Disclosed information to a government or law enforcement agency, if the pharmacist or pharmacy has a good faith belief that the disclosed information is evidence of a violation of a state or federal law, rule, or regulation.

(35~~30~~) "Union plan" means an employee welfare benefit plan governed by the provisions of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.) in which an employee organization participates and that exists for

the purpose, in whole or in part, of dealing with employers concerning an employee welfare benefit plan.

(36~~31~~) "Unsatisfied" means that the network pharmacy did not receive the reimbursement that it requested at the first tier appeal.

(37) "Unusable condition" as used in RCW 48.200.310 means:

(a) A condition in which a prescription drug is delivered to an enrollee in a manner that renders the prescription drug ineffective or unsafe for the enrollee to use as prescribed. "Unusable condition" includes but is not limited to prescription drugs that are:

(i) Above or below the temperature required for safe and effective use;

(ii) Open, tampered with, or showing physical damage; or

(iii) Incompatible with electronic or other devices that must be paired with the prescription drug for its effective and safe use, resulting in the prescription drug being unusable.

(38~~2~~) "Utilization review" has the same meaning as the definition of utilization review in RCW 48.43.005.

[Statutory Authority: RCW 48.200.900 and 48.02.060. WSR 25-02-024 (Matter R 2024-02), s 284-180-130, filed 12/18/24, effective 1/18/25; WSR 21-02-034, § 284-180-130, filed 12/29/20, effective 1/1/22. Statutory Authority: RCW 48.02.060, 19.340.010, 19.340.030, 19.340.100, 19.340.110, and 2016 c 210 §§ 1 and 2 through 7. WSR 17-01-139 (Matter No. R 2016-07), § 284-180-130, filed 12/20/16, effective 1/1/17.]

SUBCHAPTER B

REGISTRATION AND RENEWAL

WAC 284-180-210 Registration and renewal fees. (1) The commissioner must establish fees for registration and renewal in an amount that ensures the program for the registration, renewal, and oversight activities of the health care benefit managers is self-supporting. Each health care benefit manager must contribute a sufficient amount to the commissioner's regulatory account to pay for the reasonable costs, including overhead, of regulating health care benefit managers.

(2) The initial registration fee is $~~200~~500.

(3) For the renewal fee, the commissioner will charge a proportional share of the annual cost of the insurance commissioner's renewal and oversight activities of health care benefit managers. Each health care benefit managers' proportional share of the program annual operating costs will be based on their Washington state annual gross income of their health care benefit manager business for the previous calendar year. The renewal fee is $~~500~~1,000, at a minimum, and may increase based on a proportional share of each health care benefit manager's Washington state annual gross income as reported to the insurance commissioner.

(4) If an unexpended balance of health care benefit manager registration and renewal funds remain in the insurance commissioner's regulatory account at the close of a fiscal year, the commissioner will carry the unexpended funds forward and use them to reduce future renewal fees.

(5) Carriers are exempt from the definition of health care benefit manager under RCW 48.200.020.

(a) An entity that is owned or controlled by a holding company that owns or controls a carrier is not exempt from registration as a health care benefit manager.

(b) Under RCW 48.200.050, when a carrier, i.e., "carrier A," acts as a health care benefit manager for another carrier, i.e., "carrier B," carrier B is responsible for the conduct of carrier A with respect to its action as a health care benefit manager on carrier B's behalf.

[Statutory Authority: RCW 48.200.900 and 48.02.060. WSR 25-02-024 (Matter R 2024-02), s 284-180-210, filed 12/18/24, effective 1/18/25. Statutory Authority: RCW 48.02.060, 48.200.280(6), 34.05.485 (1)(c), and 48.02.100. WSR 23-23-141 (Matter R 2023-06), § 284-180-210, filed 11/20/23, effective 12/21/23. Statutory Authority: RCW 48.02.060 and 48.200.900. WSR 21-02-034, § 284-180-210, filed 12/29/20, effective 1/1/22. Statutory Authority: RCW 48.02.060, 19.340.010, 19.340.030, 19.340.100, 19.340.110, and 2016 c 210 §§ 1 and 2 through 7. WSR 17-01-139 (Matter No. R 2016-07), § 284-180-210, filed 12/20/16, effective 1/1/17.]

WAC 284-180-220 Health care benefit manager registration.

(1) Beginning January 1, 2022, and thereafter, to conduct

business in this state, health care benefit managers must have an approved registration with the commissioner as required in RCW 48.200.030 and 48.200.300. The registration application is not complete until the commissioner receives the complete registration form, any supporting documentation required by the commissioner, and the $~~200~~ 500 registration fee.

(2) Health care benefit managers must apply for registration using the commissioner's electronic system, which is available at www.insurance.wa.gov.

(3) The registration period is valid from the date of approval of registration through June 30th of the same fiscal year.

(4) A health care benefit manager that provides services to, or acts on behalf of, entities listed in subsection (5) and also provides services to, or acts on behalf of, a health carrier or employee benefits program must register under this section.

(5~~6~~) A pharmacy benefit manager that contracts with pharmacies or contracts to provide any pharmacy benefit

management services on behalf of a self-funded group health plan and also contracts with pharmacies or contracts to provide any pharmacy benefit management services on behalf of health carriers, employee benefits programs, or medicaid managed care programs must register under this section.

[Statutory Authority: RCW 48.200.900 and 48.02.060. WSR 25-02-024 (Matter R 2024-02), s 284-180-220, filed 12/18/24, effective 1/18/25. Statutory Authority: RCW 48.02.060, 48.200.280(6), 34.05.485 (1)(c), and 48.02.100. WSR 23-23-141 (Matter R 2023-06), § 284-180-220, filed 11/20/23, effective 12/21/23. Statutory Authority: RCW 48.02.060 and 48.200.900. WSR 21-02-034, § 284-180-220, filed 12/29/20, effective 1/1/22. Statutory Authority: RCW 48.02.060, 19.340.010, 19.340.030, 19.340.100, 19.340.110, and 2016 c 210 §§ 1 and 2 through 7. WSR 17-01-139 (Matter No. R 2016-07), § 284-180-220, filed 12/20/16, effective 1/1/17.]

WAC 284-180-465 Self-funded group health plan opt-in.

(1)(a) A self-funded group health plan governed by the provisions of the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.) that elects under RCW 48.200.330 to participate in RCW 48.200.280, 48.200.310, and 48.200.320 shall provide notice to the commissioner of their

election decision on a form prescribed by the commissioner. Election decisions are effective beginning January 1, 2026. The completed form must include an attestation that the self-funded group health plan has elected to participate in and be bound by RCW 48.200.280, 48.200.310, and 48.200.320 and rules adopted to implement those sections of law. If the form is completed by the self-funded group health plan, the plan must inform any entity that administers the plan of their election to participate. The form will be posted on the commissioner's public website for use by self-funded group health plans.

(b) A pharmacy benefit manager may not, by contract or otherwise, prohibit a self-funded group health plan from electing to participate under RCW 48.200.330.

(2) A self-funded group health plan election to participate is for a full year. The plan may elect to initiate its participation on January 1st of any year or in any year on the first day of the self-funded group health plan's plan year.

(3) A self-funded group health plan's election occurs on an annual basis. On its election form, the plan must indicate

whether it chooses to affirmatively renew its election on an annual basis or whether it should be presumed to have renewed on an annual basis until the commissioner receives advance notice from the plan that it is terminating its election as of either December 31st of a calendar year or the last day of its plan year. Notices under this subsection must be submitted to the commissioner at least 15 days in advance of the effective date of the election to initiate participation and the effective date of the termination of participation.

(4) A self-funded plan operated by an out-of-state employer that has at least one employee who resides in Washington state may elect to participate in pharmacy benefit manager regulation as provided in RCW 48.200.330 on behalf of their Washington state resident employees and dependents. If a self-funded group health plan established by a Washington state employer has elected under RCW 48.200.330 to participate in RCW 48.200.280, 48.200.310, and 48.200.320 and has employees that reside in other states, those employees are protected by RCW 48.200.330 in RCW 48.200.280, 48.200.310, and 48.200.320 when filling a

prescription ordered by a provider in Washington state or at a pharmacy located in Washington state.

(5) A pharmacy benefit manager providing services to or acting on behalf of a self-funded group health plan that elects to participate under this section must comply with RCW 48.200.280, 48.200.310, and 48.200.320 related to the pharmacy benefit manager's conduct specific to the participating self-funded group health plan. The pharmacy benefit manager is not subject to other provisions of RCW 48.200, including registration, for its conduct specific to the participating self funded group health plan. This subsection does not relieve a pharmacy benefit manager of its duty to register as a health care benefit manager under RCW 48.200 or this chapter if it also provides health care benefit management services on behalf of a carrier, employee benefits program, or medicaid managed care organization.

[Statutory Authority: RCW 48.200.900 and 48.02.060. WSR 25-02-024 (Matter R 2024-02), s 284-180-465, filed 12/18/24, effective 1/18/25.]

WAC 284-180-501 Pharmacy reimbursement.

(1) A pharmacy benefit manager may not reimburse a pharmacy in the state an amount less than the amount the pharmacy benefit manager reimburses an affiliate for dispensing the same prescription drug as dispensed by the pharmacy, calculated on a per unit basis.

(2) A pharmacy benefit manager may not reimburse a network pharmacy an amount less than the contract price between the pharmacy benefit manager and the carrier, insurer, third-party payor, or prescription drug purchasing consortium the pharmacy benefit manager has contracted with for a prescription drug, calculated on a per unit basis.

[Statutory Authority: RCW 48.200.900 and 48.02.060. WSR 25-02-024 (Matter R 2024-02), s 284-180-501, filed 12/18/24, effective 1/18/25.]

WAC 284-180-517 Use of brief adjudicative proceedings for appeals by network pharmacies to the commissioner. (1) The

commissioner has adopted the procedure for brief adjudicative proceedings provided in RCW 34.05.482 through 34.05.494 for actions involving a network pharmacy's appeal of a pharmacy benefit manager's reimbursement for a drug subject to predetermined reimbursement costs for multisource generic drugs or drugs (reimbursement). WAC 284-180-500 through 284-180-540 describe the procedures for how the commissioner processes a network pharmacy's appeal (second tier appeal) of the pharmacy benefit manager's decision in the first tier appeal through a brief adjudicative proceeding.

This rule does not apply to adjudicative proceedings under WAC 284-02-070, including converted brief adjudicative proceedings.

(2) This section is effective January 1, 2026. [Statutory Authority: RCW 48.200.900 and 48.02.060. WSR 25-02-024 (Matter R 2024-02), s 284-180-517, filed 12/18/24, effective 1/18/25.]

WAC 284-180-522 Appeals by network pharmacies to the commissioner. The following procedure applies to brief adjudicative proceedings before the commissioner for actions

involving a network pharmacy's appeal of a pharmacy benefit manager's decision in a first tier appeal regarding reimbursement for a drug, unless the matter is converted to a formal proceeding as provided in WAC 284-180-540(3).

(1) **Grounds for appeal.** A network pharmacy or its representative may appeal a pharmacy benefit manager's decision to the commissioner if it meets all the following requirements:

(a) The pharmacy benefit manager's decision must have denied the network pharmacy's appeal, or the network pharmacy must be unsatisfied with the outcome of its appeal to the pharmacy benefit manager;

(b) The network pharmacy must request review of the pharmacy benefit manager's decision by submitting a petition at https://www.insurance.wa.gov according to the filing instructions.

The petition for review must include:

(i) The network pharmacy's basis for appealing the pharmacy benefit manager's decision in the first tier appeal;

(ii) The network pharmacy's business address, ~~and~~ mailing address, and email address; and

(iii) Documents supporting the appeal;

(c) Documents supporting the appeal include:

(i) The documents from the first tier review, including the documents that the pharmacy submitted to the pharmacy benefit manager as well as the documents that the pharmacy benefit manager provided to the pharmacy in response to the first tier review, if any (if the pharmacy benefit manager has not issued a decision on the first tier appeal in a timely manner, a signed attestation to that fact must be submitted by the appealing pharmacy);

(ii) Documentation evidencing the net amount paid for the drug by the small pharmacy;

(iii) If the first-tier appeal was denied by the pharmacy benefit manager because a therapeutically equivalent drug was available in the state of Washington at a price less than or equal to the reimbursement cost for the drug and documentation

provided by the pharmacy benefit manager evidencing the national drug code of the therapeutically equivalent drug; and

(iv) Any additional information that the commissioner may require;

(d) The network pharmacy must file the petition for review with the commissioner within 30 days of receipt of the pharmacy benefit manager's decision or within 30 days after the deadline for the pharmacy benefit manager's deadline for responding to the first tier appeal;

(e) The network pharmacy making the appeal must have less than 15 retail outlets within the state of Washington under its corporate umbrella. The petition for review that the network pharmacy submits to the commissioner must include a signed attestation that this requirement is satisfied; and

(f) Electronic signatures and electronic records may be used to facilitate electronic transactions consistent with the Uniform Electronic Transactions Act chapter 1.80 RCW.

(2) **Time frames governing appeals to the commissioner.** The commissioner must complete the appeal within 30 calendar days of

the receipt of the network pharmacy's complete petition for review. A complete petition for review means that all requirements under subsection (1) of this section have been satisfied, including the submission of all required documents and documentation. An appeal before the commissioner is deemed complete when a presiding officer issues an initial order on behalf of the commissioner to both the network pharmacy and pharmacy benefit manager under subsection (8) of this section. Within seven calendar days of the resolution of a dispute, the presiding officer shall provide a copy of the initial order to both the network pharmacy and pharmacy benefit manager.

(3) **Relief the commissioner may provide.** The commissioner, by and through a presiding officer or reviewing officer, may enter an order directing the pharmacy benefit manager to make an adjustment to the disputed claim, denying the network pharmacy's appeal, issuing civil penalties pursuant to RCW 48.200.290, or taking other actions deemed fair and equitable.

(4) **Notice.** If the presiding officer under the use of discretion chooses to conduct an oral hearing, the presiding

officer will set the time and place of the hearing. Written notice shall be served upon both the network pharmacy and pharmacy benefit manager at least seven days before the date of the hearing. Service is to be made pursuant to WAC 284-180-440(2). The notice must include:

(a) The names and addresses of each party to whom the proceedings apply and, if known, the names and addresses of any representatives of such parties;

(b) The official file or other reference number and name of the proceeding, if applicable;

(c) The name, official title, mailing address, and telephone number of the presiding officer, if known;

(d) A statement of the time, place, and nature of the proceeding;

(e) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(f) A reference to the particular sections of the statutes or rules involved;

(g) A short and plain statement of the matters asserted by the network pharmacy against the pharmacy benefit manager and the potential action to be taken; and

(h) A statement that if either party fails to attend or participate in a hearing, the hearing can proceed and the presiding or reviewing officer may take adverse action against that party.

(5) **Appearance and practice at a brief adjudicative proceeding.** The right to practice before the commissioner in a brief adjudicative proceeding is limited to:

(a) Persons who are natural persons representing themselves;

(b) Attorneys at law duly qualified and entitled to practice in the courts of the state of Washington;

(c) Attorneys at law entitled to practice before the highest court of record of any other state, if attorneys licensed in Washington are permitted to appear before the courts of such other state in a representative capacity, and if not otherwise prohibited by state law;

(d) Public officials in their official capacity;

(e) A duly authorized director, officer, or full-time employee of an individual firm, association, partnership, or corporation who appears for such firm, association, partnership, or corporation;

(f) Partners, joint venturers or trustees representing their respective partnerships, joint ventures, or trusts; and

(g) Other persons designated by a person to whom the proceedings apply with the approval of the presiding officer.

In the event a proceeding is converted from a brief adjudicative proceeding to a formal proceeding, representation is limited to the provisions of law and RCW 34.05.428.

(6) **Method of response.** Upon receipt of any inquiry from the commissioner concerning a network pharmacy's appeal of a pharmacy benefit manager's decision in the first tier appeal regarding reimbursement for a drug, pharmacy benefit managers must respond to the commissioner using the commissioner's electronic pharmacy appeals system.

(7) **Hearings by telephone.** If the presiding officer chooses to conduct a hearing, then the presiding officer may choose to conduct the hearing telephonically. The conversation will be recorded and will be part of the record of the hearing.

(8) **Presiding officer.**

(a) Per RCW 34.05.485, the presiding officer may be the commissioner, one or more other persons designated by the commissioner per RCW 48.02.100, or one or more other administrative law judges employed by the office of administrative hearings. The commissioner's choice of presiding officer is entirely discretionary and subject to change at any time. However, it must not violate RCW 34.05.425 or 34.05.458.

(b) The presiding officer shall conduct the proceeding in a just and fair manner. Before taking action, the presiding officer shall provide both parties the opportunity to be informed of the presiding officer's position on the pending matter and to explain their views of the matter. During the course of the proceedings before the presiding officer, the parties may present all relevant information.

(c) The presiding officer may request additional evidence from either party at any time during review of the initial order. After the presiding officer requests evidence from a party, the party has seven days after service of the request to supply the evidence to the presiding officer, unless the presiding officer, under the use of discretion, allows additional time to submit the evidence.

(d) The presiding officer has all authority granted under chapter 34.05 RCW.

(9) **Entry of orders.**

(a) When the presiding officer issues a decision, the presiding officer shall briefly state the basis and legal authority for the decision. Within 10 days of issuing the decision, the presiding officer shall serve upon the parties the initial order, as well as information regarding any administrative review that may be available before the commissioner. The presiding officer's issuance of a decision within the 10-day time frame satisfies the seven day requirement in subsection (2) of this section.

(b) The initial order consists of the decision and the brief written statement of the basis and legal authority. The initial order will become a final order if neither party requests a review as provided in WAC 284-180-530(1).

(10) **Filing instructions.** When a small pharmacy or a pharmacy benefit manager provides information to the commissioner regarding appeals under WAC 284-180-520, the small pharmacy or pharmacy benefit manager must follow the commissioner's filing instructions, which are available at www.insurance.wa.gov.

(11) This section is effective January 1, 2026.

[Statutory Authority: RCW 48.200.900 and 48.02.060. WSR 25-02-024 (Matter R 2024-02), s 284-180-522, filed 12/18/24, effective 1/18/25.]

NEW SUBCHAPTER

SUBCHAPTER F

ENROLLEES' ACCESS TO NETWORK PHARMACIES

NEW SECTION

WAC 284-180-550 Enrollee rights and pharmacy benefit manager obligations – Mail order and retail pharmacies.

(1) For purposes of this section, "issued" means ordered by a prescribing health care provider.

(2) For purposes of this section, "new prescription" means a prescription that is prescribed for the first time. "New prescription" excludes refills of existing prescriptions.

(3) A pharmacy benefit manager must ensure that an enrollee may receive delivery of a prescription drug through the mail or common carrier from any network pharmacy that is not primarily engaged in dispensing prescription drugs to enrollees through the mail or common carrier. For purposes of this section, a network pharmacy not primarily engaged in dispensing

prescription drugs through the mail or common carrier is one that receives less than 50 percent of the total value of its annual prescription drug reimbursements, excluding dispensing fees, from mail order prescriptions.

(4) For new prescriptions that are issued after January 1, 2026, a pharmacy benefit manager may not fill an enrollee's prescription through a mail order pharmacy until the enrollee provides written affirmative authorization under this section to receive a prescription drug through a mail order pharmacy.

(a) The written affirmative authorization for use of a mail order pharmacy offered to an enrollee must clearly state the purpose of the authorization and the enrollee's right to have each new prescription filled at a network pharmacy other than a mail order pharmacy under RCW 48.200.310 and this section. The affirmative authorization form must be a separate and distinct paper or electronic document that is not combined with other enrollee communications. It must be printed or displayed in at

least 12 point font. To authorize use of mail order pharmacy, the enrollee must clearly sign or acknowledge their consent on the form, in writing or by e-signature. The date of the enrollee's signature must be included on the form.

(b) In cases where an enrollee has expressly requested that their prescribing health care provider order a prescription to be dispensed by a mail order pharmacy, the pharmacy benefit manager is not required to receive an enrollee's written affirmative authorization.

(5) If an enrollee uses a mail order pharmacy to receive a prescription drug through the mail or common carrier, the pharmacy benefit manager shall:

(a) Allow a prescription drug to be dispensed to the enrollee at a local network pharmacy if:

(i) The prescription drug's delivery is delayed by more than one calendar day after the original delivery date promised by the mail order pharmacy;

(ii) The prescription drug arrives to the enrollee in an unusable condition as that term is defined in WAC 284-180-130.

(b) Ensure that patients have easy and timely access to prescription drug counseling by a pharmacist. For purposes of this subsection and RCW 48.200.310, "easy and timely access" means the ability for an enrollee to receive in-person, video or telephonic assistance in real time from an individual pharmacist if the enrollee requests such consultation. To fulfill this requirement, the pharmacy benefit manager must make in-person, video or telephonic assistance available from, at a minimum, 8 am – 5 pm pacific time every day, including weekends and holidays.