



December 11, 2025

Mr. Nico Janssen
Senior Health Policy Advisor
Washington Office of the Insurance Commissioner
Submitted via email: rulescoordinator@oic.wa.gov

RE: Comments on Proposed Rule R 2025-11 – Health Care Benefit Managers

Dear Mr. Janssen,

On behalf of Cambia Health Solutions, I am submitting these comments on the proposed amendments to WAC Chapter 284-180 regarding health care benefit managers (HCBMs) and pharmacy benefit managers (PBMs). We appreciate the opportunity to provide feedback on these important regulations implementing Chapter 242, Laws of 2024 (E2SSB 5213). We are respectfully restating and building on some of our comments on the prepublication draft for your consideration as those concerns remain in the proposed rules.

Additionally, because WAC Chapter 284-180 is open for rulemaking currently, we are taking this opportunity to provide comments on WAC 284-180-310, which is not included in the OIC's current proposed amendments. During recent HCBM filings, we identified concerns with this existing provision that we believe warrant the OIC's attention and consideration for potential clarification or revision. We appreciate the OIC's consideration of these additional comments while the chapter remains open for rulemaking.

Self-funded group health plan opt-in provisions

Under WAC 284-180-465(1)(a), self-funded election decisions under this rule are effective January 1, 2026. OIC's Technical Assistance Advisory (TAA) 2025-02 included a December 1, 2025, deadline for OIC to publish the list of opted-in plans. We are concerned that the effective date is less than a month away now and the self-funded group health plan opt-in process has yet to be implemented by the OIC. Additionally, we believe stakeholders still require formal clarification through rulemaking or guidance to address specific ambiguities surrounding the scope and applicability of the self-funded group health plan opt-in requirements. Responses to the following questions will assist in ensuring a smooth rollout and compliance for all parties, including carriers, self-funded plans, and PBMs:

1. Regarding the opt-in form, website, and final process details: Can the OIC clarify the timeline for finalizing and making available the opt-in form and website, as well as any remaining process details? With the effective

- date approaching rapidly, how will the OIC ensure that these elements are defined and accessible to self-funded group health plans in time for compliance?
2. On the scope of the opt-in provisions: Does the opt-in right under RCW 48.200.330(2) extend to self-funded group health plans with indirect PBM contractual relationships (e.g., through intermediaries such as third-party administrators or carriers), or is it limited to plans with direct contracts? If indirect relationships are included, what mechanisms will be in place to verify and enforce participation?
 3. Concerning the ‘exclusively’ language in WAC 284-180-120(3): Can the OIC provide guidance on the interpretation and application of this language? Specifically, how does it impact the scope of requirements for HCBMs interacting with self-funded plans, and are there any intended limitations or exclusions based on contractual structures?
 4. Under RCW 48.200.330(3): Does the commissioner have enforcement authority over PBMs pursuant to contracts with self-funded group health plans not governed by ERISA, and if so, how would this authority be exercised in scenarios involving indirect contractual relationships?

As noted previously, the language in RCW 48.200.330(2) references a PBM’s conduct “pursuant to a contract with a self-funded group health plan,” but ambiguities around direct versus indirect arrangements persist. Existing resources, such as WAC 284-180-465 and TAA 2025-02, offer helpful frameworks but do not fully address these points. Additional rules under Chapter 284-180 WAC or updated advisories would be invaluable in promoting clarity and equity.

WAC 284-180-310 Health care benefit manager records

WAC 284-180-310 establishes requirements for HCBMs regarding the maintenance and disclosure of records to the commissioner upon request for a period of seven years from the date of creation. We are seeking formal guidance as to whether the seven year record retention requirements apply exclusively to records directly associated with the HCBM’s status and operations as an HCBM (including registration, renewal, and HCBM-specific compliance materials), or whether the regulation requires retention of all records generated during the carrier-HCBM relationship, including but not limited to the retention of Protected Health Information (PHI) as defined under the applicable provisions of the Health Insurance Portability and Accountability Act of 1996, as amended by the American Recovery and Reinvestment Act of 2009 (HIPAA) and implementing regulations.

WAC 284-180-310 requires HCBMs to retain all records created during the carrier-HCBM relationship, which raises substantial privacy and data security



concerns. If the OIC interprets all records to include PHI, then HCBMs are therefore required to retain PHI and other sensitive data shared during the business relationship that does not directly relate to the HCBM's registration and renewal obligations. Requiring HCBMs to maintain PHI for seven years from creation could lead to unnecessary privacy risks, especially when the carrier-HCBM relationship ends before the seven (7) year retention period. Under HIPAA, carriers are the covered entities with the primary responsibility for protecting member data, and are positioned to maintain appropriate safeguards for PHI upon termination of the carrier-HCBM relationship. To address these concerns, we ask that the OIC provide clarification regarding the scope of the record retention requirement. If the OIC's interpretation of all records does include PHI, we propose that WAC 284-180-310 be amended to provide clarification as to the records that must be retained by the HCBM for seven years from the date of creation. Below is the proposed language change we are requesting for WAC 284-180-310, which includes the addition of a new subsection (2):

- (1) Health care benefit managers must maintain all records for a period of seven years from the date of creation and make them available to the commissioner upon request. Records include, but are not limited to:
 - (a) Registration and renewal materials that health care benefit managers submit to the commissioner to request registration and renewal; and
 - (b) Health care benefit managers that engage in pharmacy benefit management must also maintain information about appeals under chapter 48.200 RCW.
- (2) If the health care benefit manager maintains records on behalf of a carrier that include Protected Health Information as defined by the Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. §§ 160 and 164 (Code of Federal Regulations) (HIPAA), then upon termination of the HCBM Services between the health care benefit manager and the carrier, only the carrier is required to maintain and make such Protected Health Information records available to the commissioner in accordance with this section.
- (3) These materials are subject to review by the commissioner's representatives.
- (4) The commissioner may require health care benefit managers to provide copies of records.
- (5) When the commissioner requests copies of records for inspection, health care benefit managers must transmit these documents as directed by the commissioner.

If the OIC's interpretation of all records does not include PHI, then in the alternative, we would seek this revision to (2) above:



(2) Records to be maintained by the health care benefit manager do not include any documents or materials that include Protected Health Information as defined by the Health Insurance Portability and Accountability Act of 1996, 45 C.F.R. §§ 160 and 164 (Code of Federal Regulations) (HIPAA).

Given the increase in vendor breaches across industries, we believe this amendment would clarify and ensure that carriers maintain control over a member's PHI, while still providing the OIC with any necessary access to those records post-termination of a health care benefit managers' service. We appreciate the opportunity to seek WAC 284-180-310 clarification under this rule making session. We believe this clarification and requested amendment would serve the dual purposes of ensuring appropriate regulatory oversight of HCBM's registration and renewal materials, while protecting member privacy and the carriers' ability to fulfill their obligations as HIPAA covered entities.

Thank you for your consideration of these comments. Please feel free to contact me if you need any additional information or would like to discuss these comments further.

Sincerely,

A handwritten signature in black ink that reads "Jane Douthit". The signature is written in a cursive, flowing style.

Jane Douthit
Cambia Health Solutions
Sr. Public & Regulatory Affairs Specialist