

December 11, 2025



Rules Coordinator
Washington State Office of the Insurance Commissioner
302 Sid Snyder Avenue, SW
Olympia, Washington 98504
EMAIL: rulescoordinator@oic.wa.gov

SENT VIA EMAIL

Re: R-2025-11 – Health Care Benefit Managers – Proposed Rule

Dear Commissioner Kuderer and Rules Coordinator:

Thank you for the opportunity to provide written comments to the Office of the Insurance Commissioner’s proposed rule enacting E2SSB 5213 from the 2024 legislative session.

Prime Therapeutics is a pharmacy benefit manager (PBM) owned by 19 not-for-profit Blue Cross Blue Shield insurers, subsidiaries or affiliates and is a registered health care benefit manager in Washington state.

The feedback provided is based on our direct experience of engaging with stakeholders on E2SSB 5213 as it went through the legislative process as well as our understanding of the intent of the legislation sponsors.

For your convenience, attached are annotated Proposed Rules reflecting the feedback presented below.

This letter outlines feedback on the following sections of the Proposed Rule:

- I. Definitions (WAC 284-180-130)
- II. Pharmacy Reimbursement (WAC 284-180-501)
- III. Appeals by network pharmacies to Health Care Benefit Managers (HCBM) who provide PBM services (WAC 284-180-507)
- IV. Enrollees’ access to network pharmacies (WAC 284-180-550)

I. DEFINITIONS (WAC 284-180-130)

a. Local pharmacy network

- i. Request: We request consideration of amending this definition to match the language in E2SSB 5213 as well as other changes as noted in the annotated Proposed Rules.

ii. Rationale:

1. E2SSB 5213 clearly defines a pharmacy network as pharmacies located in the state **OR** licensed

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AND contracted with a PBM. There is no discussion or definition of reasonable proximity.

2. Pharmacy networks are designed to accommodate enrollee needs throughout the United States including instances such as travel or temporary relocation (e.g., attending college or having a second home outside of Washington state).
3. We are requesting removal of “owned or affiliated with a PBM” in the definition to ensure applicability to all mail order pharmacies, regardless of ownership or affiliation.

b. Other conditions

- i. Request: We request removal of this definition to be consistent with E2SSB 5213 as noted in the annotated Proposed Rules.
- ii. Rationale:
 1. E2SSB 5213 clearly articulates same conditions as equitable use of utilization review, fees, and days allowance for all network pharmacies.
 2. We are concerned that the language specific to frequency of refills would prohibit rejection of unjustified early refills of medicines not being used appropriately or as directed by the prescriber. This would include opioids which have proven significant negative outcomes when used inappropriately.
 3. We believe duration of refills is addressed with days allowance.
 4. This definition includes restrictions on the type of provider and restrictions on preparation or dispensing of medicines. These are distinct legislative concepts not contemplated in E2SSB 5213 and are outside the scope of the statute.

c. Require or coerce

- i. Request: We request modification of the definition as noted in the annotated Proposed Rules.
- ii. Rationale:
 1. The proposed definition does not accommodate specialty pharmacy networks that may only contain specialty pharmacies owned or affiliated with PBMs, including those not directly affiliated or owned by the same PBM. This includes instances

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where the manufacturer and US Food and Drug Administration have limited the dispensing and distribution of drugs to specific pharmacies in the United States.

d. Unusable condition

- i. Request: We request adjustment of this definition as well as use of the term in Subchapter F to reflect the appropriate entity to determine usability.
- ii. Rationale:
 - 1. The pharmacist-in-charge of the dispensing pharmacy is the most appropriate entity to make a determination of usability for the following reasons:
 - a. Accredited mail-service pharmacies are required to conduct temperature excursion studies that may be considered when determining usability.
 - b. Mail-service pharmacies generally have robust databases of product-specific temperature excursion studies obtained directly from manufacturers that may also be considered when determining usability.

II. PHARMACY REIMBURSEMENT (WAC 284-180-501)

Request: We request removal of the last sentence in subsection (2) as noted in the annotated Proposed Rules.

Rationale: This sentence states reimbursement includes post-sale or post-invoice adjustments including reconciliation. We are concerned this will prohibit reconciliations that occur when performance-based contracts are in place, recoupments permitted by Washington state pharmacy audit statute, as well as fraud, waste, or abuse reconciliations.

During the rulemaking hearing direct and indirect remuneration fees were mentioned. This is a Medicare Part D policy that was restructured by the Centers for Medicare and Medicaid Services in 2024 in which retroactive assessments were eliminated.

III. APPEALS BY NETWORK PHARMACIES TO HCBM WHO PROVIDE PBM SERVICES (WAC 284-180-507)

This section of the Proposed Rule was not included in the prepublication draft rule. This is our first opportunity to provide feedback on this section of the rules.

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Request: We request consideration of the edits as noted in the annotated Proposed Rules.

Rationale: The requested edits will provide further clarification which will help PBMs operationalize these provisions in compliance with the law.

IV. ENROLLEES ACCESS TO NETWORK PHARMACIES (WAC 284-180-550)

Request: We request consideration of the edits noted in the annotated Proposed Rules to address the nuances of pharmacy practice that are generally within the purview of the Washington State Pharmacy Quality Assurance Commission. Additional requested edits will help PBMs operationalize these provisions in compliance with the law.

Rationale: The proposed rules contain specific language about the first time a prescription is ordered by a health care provider as well as reference to the health care professional that originally ordered the prescription. We are concerned about language describing a “new prescription” that does not appear to acknowledge or accommodate group health care practices where the same patient may see different providers within the same practice due to illness, vacation, or a leave of absence of their usual health care provider.

The proposed revisions also reflect our understanding of the bill sponsors’ intent to ensure that enrollees authorize use of mail service pharmacy prior to first use of said mail service pharmacy.

Within this new section there is a proposed threshold used to designate non mail-service pharmacies. This threshold was not contemplated during the legislative process, is outside the scope of EESB 5213 and is determined by the entity that develops mail-service pharmacy networks.

Finally, a significant portion of the Proposed Rule includes specific requirements on the written format of affirmative authorization. Our concern with this language is it could result in delays or lapses in therapy that may result in patient harm. Additionally, it is more likely that mail-service pharmacies will use call center technology to obtain affirmative authorization. The requested edits addresses key concepts such as record keeping and the ability to rescind authorization balanced by the need for enrollees to receive timely access to prescription medicines they obtain from mail-service pharmacies.

Prime appreciates the dedication and hard work of OIC staff engaged in drafting the Proposed Rule. We also acknowledge and appreciate OIC’s consideration of previous comments from the Pharmaceutical Care Management Association.

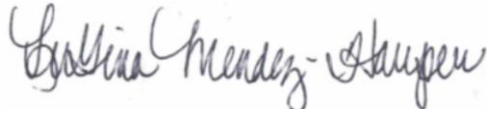
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Please feel free to contact me directly at lmendezharper@primetherapeutics.com or at 505-206-1089 with any questions or clarifications needed on the requested edits.

Sincerely,

A handwritten signature in black ink that reads "LuGina Mendez-Harper". The signature is written in a cursive, flowing style.

LuGina Mendez-Harper, RPh, PharmD
Pharmacist and State Government Affairs Principal

Attachment: Annotated Proposed Rules

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