



December 11, 2025

Rules Coordinator
PO Box 40255
Olympia, WA 98504

RE: CR 102 Health Care Benefit Managers

Dear OIC Rules Coordinator:

On behalf of the members of the Washington State Pharmacy Association (WSPA), we thank the Office of the Insurance Commissioner (OIC) for its extensive work on the rulemaking related to the implementation of E2SSB 5213.

Pharmacists and pharmacy professionals throughout Washington State are eager for E2SSB 5213 to finally take effect and be fully implemented. Our profession continues to face significant challenges due to unfair and deceptive contract practices employed by pharmacy benefit managers (PBMs) operating in the state.

We are hopeful that this legislation, along with the recent revisions to the rule, will equip the OIC with the necessary authority for effective oversight, regulation, and enforcement of PBM activities. As mentioned in our previous comment letter, we believe that clarifying language for appeals will be essential to their success, but this is outside of the scope of this CR-102 response.

We respectfully offer the following suggestions for your consideration:

WAC 284-180-130 Definitions

Remove "board of pharmacy" and insert pharmacy quality assurance commission.

(25) As used in RCW 48.200.310, "other conditions" means conditions a pharmacy benefit manager applies to a covered person that directly affect the covered person's access to and convenience of receiving a covered prescription drug. "Other conditions" include, but are 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 pharmacy quality assurance commission board of pharmacy.

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

WSPA believes it is important to distinguish between PBM owned and non PBM owned mail order pharmacies and the responsibility to manage and maintain the affirmation authorization. We suggest adding “PBM owned or affiliated” and specifying for non-PBM owned or affiliated pharmacies, PBM contracts must include language notifying contract pharmacy that they are required to obtain and maintain affirmative authorization forms.

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

(a) Affirmative authorization for use of a PBM owned or affiliated mail order pharmacy offered to an enrollee must be included in the pharmacy benefit manager's records, including the date upon which the authorization was given, the means by which authorization was obtained, and the individual that obtained the authorization from the covered person.

(i) For non-PBM owned or affiliated mail order pharmacies, ensure PBM contract language includes notification to acquire and maintain authorization for mail order pharmacy services.

In response to Stakeholder comments on the 12/10/2025 call:

WAC 284-180-130 (18) The definition of local network should remain as is. This term is used to facilitate emergency medications needed for a patient when mail order medications did not arrive. Therefore, including out-of-state and mail order pharmacies is not necessary.

WAC 284-180-130 (37) We appreciate a mail order pharmacist’s unique knowledge of temperature excursions and judging “unusable condition” of medications as noted by Dr. Mendez-Harper. However, we are concerned that a pharmacist with this expertise may not be readily available for consultation when the patient needs the guidance and seeks to prevent patient access to medications. Perhaps the PBM could authorize the emergency fill and instruct the patient to properly store the potentially unusable medication until they speak to the pharmacist, then that dose could be used for future doses if still usable.

WAC 284-180-501 Pharmacy reimbursement RCW 48.200.280 (l) affirms that the PBM may not retroactively deny a claim unless there was (i) fraud or (ii) from an audit. Therefore, we do not believe there needs to be a change to the proposed rule. Retroactive quality payment adjustments have long been used by the PBM’s as a mechanism to claw back funds from pharmacies, without transparent standards, clear metrics or goals. These after the fact financial penalties function as de-facto retroactive claim denials and should not be permitted under Washington Law. Ensuring that PBMs are prohibited from imposing retroactive adjustments

aligns with both the statute and the intent to provide fair, predictable reimbursement for pharmacy services.

WAC 284-180-550 We believe this section is drafted with sufficient flexibility to support multimodal methods of obtaining authorization. As written, it allows for practical implementation across various pharmacy workflows and technologies. We do not believe changes to this section need to be made.

Appeals Dr. Mendez-Harper noted concern regarding the 90-day appeal window. Some PBMs have recently reduced appeal timelines to as little as 30 days, despite allowing themselves a two-year look-back period for audits. Pharmacies request that the appeal window be extended, if possible, to ensure fairness and adequate time to gather necessary documentation. PBMs have already made the re-processing of claims within the current timeframe challenging, and a longer appeal window would help address this imbalance.

Exclusion Mr. Sinnott asked that his organization be carved out from the bill. He did not make a clear case verbally for why they are unique or should be excluded. The wording proposed by him was very convoluted, and might provide a loophole for other organizations, such as PBMs owned or controlled by carriers. Unless a clear case for exclusion exists we do not support their request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jenny Arnold', written in a cursive style.

Jenny Arnold, PharmD, BCPS
Chief Executive Officer