



January 11, 2018

Ms. Candice Myrum  
Office of the Insurance Commissioner  
PO Box 40258  
Olympia WA 98504

*Via email: [rulescoordinator@oic.wa.gov](mailto:rulescoordinator@oic.wa.gov)*

**Re: CR-102 (October 2017) Pharmacy Benefit Managers (Implementing RCW 34.05.320)**

Dear Ms. Myrum:

The Pharmaceutical Care Management Association (PCMA) is submitting the following comments for consideration in response to the Office of the Insurance Commissioner's (OIC) proposed amendments to the rule relating to Pharmacy Benefit Managers (PBMs). PCMA is the national trade association representing PBMs, which administer prescription drug plans for more than 266 million Americans with health coverage provided through employers, state governments, health insurance plans, labor unions, Medicaid managed care, Medicare Part D, Federal Employees Health Benefit Programs, and other public programs.

Thank you for the opportunity to provide comments on the amendments. PCMA also participated in the OIC's stakeholder workgroup and submitted comments in response to the Stakeholder Draft of these rules. Unfortunately, we remain concerned about a number of items, which are outlined below.

- 1) **Revised Section 284-180-240(3) and (4)(iii): Providing and updating registration information:** PCMA is concerned that this section could restrict the number of PBM staff members that are responsible for processing appeals and that if the designated single point of contact is on leave or out of the office, PBMs could be subject to penalties or sanctions. It was made clear at the stakeholder meeting that OIC staff simply needs someone to be the primary subscriber for the online appeals portal, and that there can be as many secondary subscribers as the PBM needs, and that OIC is not attempting to limit the people responsible for processing appeals or imply that there is a single person responsible for dealing with appeals at the PBM. To make this clearer in the rule and ensure this information is updated appropriately, PCMA proposes the following amendments (deletions in ~~strikeout~~; proposed language underlined):

**Subsection (3)** ~~In addition to providing a valid email address, r~~Registered pharmacy benefit managers must identify a pharmacy benefit manager employee and email address as who is the single point of contact for the commissioner's use only of the commissioner's electronic pharmacy appeals system appeals under 284-180-420 WAC and 284-180-430 WAC, and must fill out the form that the commissioner makes available for ~~this~~ the purpose stated in this section (3) on [www.insurance.wa.gov](http://www.insurance.wa.gov).

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~~**Subsection (4)(iii)** The name contact information and any other information that the pharmacy benefit manager submitted on the commissioner's form under subsection (3) of this section regarding the pharmacy benefit manager employee who is the pharmacy benefit manger's single point of contact for appeals under 284-180-420 WAC and 284-180-430 WAC~~ A change in information provided pursuant to subsection (3).

- 2) **Revised Section 284-180-400(8): Appeals by network pharmacies to pharmacy benefit managers:** This provision would require PBMs to identify in communications with pharmacies the exact corporate entity that is associated with an individual appeal. Some large PBMs have multiple registrations with the OIC, and multiple business units within those entities that have varying responsibilities related to claims and appeals. These specific registrations are not necessarily relevant to the consideration of or resolution of a particular reimbursement appeal. PCMA understands that the OIC needs to be able to contact the company responsible for a particular appeal, and PBMs do not want to serve as a barrier to the OIC expediently executing its responsibilities under the statute. PBMs have statutory obligations to provide contact information to OIC for dealing with appeals and seek a solution that does not significantly disrupt current internal appeals processes or communications among PBMs, pharmacies, and OIC.

To that end, PCMA recommends that PBMs with multiple registrations be permitted to provide an attestation to OIC designating a single registered entity as the entity responsible for dealing with OIC-related appeals. This would allow OIC to know exactly which entity to contact if it receives an appeal from a pharmacy so it could do so without delay or any unnecessary back-and-forth communications with the PBM. PCMA proposes the following amendment:

Strike existing 284-180-400(8) and add the following language as a new subsection to WAC 284-180-240:

(5) A pharmacy benefit manager with multiple pharmacy benefit manager registrations under one corporate umbrella shall designate a single registered pharmacy benefit manager entity to receive communications from OIC relating to appeals from small pharmacies.

PCMA believes that the OIC's authority to allow an attestation as described here rests with OIC's general rulemaking authority under RCW 48.02.060.

- 3) **Revised Section 284-180-420(10): Appeals by network pharmacies to the commissioner - Filing Instructions:** PCMA understands that some pharmacies have submitted or may submit information to the OIC that is irrelevant to the determination of appeals on particular claims. Some of this information may contain confidential pricing information or patients' personal health information that is at risk of public disclosure under the state's public disclosure laws. The OIC has indicated that it would reject such submissions to ensure that the information the OIC accepts is only what is necessary to adjudicate the appeal pursuant to the OIC's statutory obligations. To clarify this expectation, PCMA requests the following amendment to the proposed language:



**Subsection (10):** When a small pharmacy or a pharmacy benefit manager provides information to the commissioner regarding appeals under 284-180-420 WAC, the small pharmacy or pharmacy benefit manager must follow the commissioner's filing instructions, which are available at [www.insurance.wa.gov](http://www.insurance.wa.gov). When a small pharmacy provides information regarding appeals under 284-180-420 WAC, the small pharmacy must only submit information that is directly relevant to its appeal, and the commissioner shall reject an appeal that contains any information that is not directly relevant to the appeal.

We appreciate the opportunity to provide comments on this proposed rule and we welcome the opportunity to speak with you about these changes. Please do not hesitate to contact me at 202-756-5743 if you have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "April C. Alexander". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

April C. Alexander  
Assistant Vice President, State Affairs

cc: Bianca Stoner, OIC  
Jim Keogh, OIC  
Jennifer Kreidler, OIC