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February 11, 2015

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VIA EMAIL AND FIRST-CLASS MAIL

Hearings Unit
Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255
Email: hearings@oic.wa.gov

Re: Demand for Hearing

To Whom It May Concern:

We represent the Washington Counties Insurance Fund ("WCIF"). We write to formally demand a hearing before an administrative law judge ("ALJ"), pursuant to RCW 48.04.010 *et seq.*, to challenge the Office of Insurance Commissioner's ("OIC") disapprovals of Premera Blue Cross's ("Premera") and Group Health Cooperative's ("Group Health") 2014 rate and form filings ("the Filings"). Copies of the OIC's decisions subject to this Demand for Hearing are attached.

WCIF is a multi-employer non-profit trust fund formed in the 1950s by the Washington State Association of Counties ("WSAC") to provide for the payment of welfare benefits for participating county governments' employees and their dependents. WCIF provides fully-insured benefit plans through Premera and Group Health to the employees (and the employees' eligible dependents) of 20 of Washington's 39 counties and nearly 100 other public employers ("Participating Employers"). The Filings at issue in this appeal were submitted by Premera and Group Health with respect to the plans offered by WCIF to its Participating Employers, which were in turn offered to the Participating Employers' employees and their eligible dependents ("Members"). The OIC's rejection of the Filings directly impacts WCIF, its Participating Employers, and its Members, warranting a hearing pursuant to RCW 48.04.010(1)(b).

The OIC takes issue with the fact that the Premera and Group Health plans include 21 Risk Tiers for each plan design, established at the Participating Employer level with potentially different monthly premiums for different Participating Employers. The OIC erroneously treats WSAC/WCIF as a single employer, asserting that it must file a single rate at the association level:



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[Y]our rates, filed for various employers, are unreasonable in relation to the amount charged for the contract for one single employer, the Washington State Association of Counties. Therefore your rate and form filings are disapproved and closed under the authority of RCW 48.44.020(3).^[1]

WCIF challenges the OIC's decisions on the following general grounds:

- There is no basis under state law for the OIC's position that a Bona Fide Association ("BFA") like WCIF must be treated as a single employer for purposes of rating.
 - No state statute or regulation prohibits separately rating Participating Employers based on non-discriminatory criteria, or requires that all Participating Employers be rated in one pool when coverage is offered through a BFA.
 - The OIC's reliance on RCW 48.44.020(3) and RCW 48.44.060(3) to disapprove the Filings is misguided, as those statutes provide authority only for the OIC to "disapprove any contract if the benefits provided therein are unreasonable in relation to the amount charged for the contract." (Emphasis added). None of the attached disapproval notices address benefits provided under the plans.
- Neither is there any basis under federal law for the OIC's position that a BFA must be treated as a single employer for purposes of rating.
 - The rating factors utilized by Premera and Group Health were consistent with federal regulations and guidance. For example, the regulations implementing the Public Health Service Act include provisions prohibiting discrimination against individuals on the basis of health factors (which were not used for these plans). The regulations permit rating at the Participating Employer level, regardless of whether a BFA is involved. See 45 CFR § 144.121(c).
 - Rating at the Participating Employer level, as opposed to the association level, reflects use of a bona fide employment-based classification. Rating at the Participating Employer level has been an established practice for BFAs in

¹ See attached decisions.



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Washington to which the OIC has never previously objected. There has been no recent change in the law that would compel a different response from the OIC.

- The OIC's disapprovals of the Filings lack any basis in state or federal law and will unfairly prejudice WCIF, its Participating Employers, and its Members. WCIF relied on the OIC's express representations to WCIF that there were no issues with prior rates when it quoted 2015 rates. If the OIC's proposed remedy is implemented, Members, consisting primarily of more than 4,000 local government employees and their families, may be forced to move to plans with substantially reduced benefits and/or higher premiums.
- The OIC attempts to impose a remedy that does not flow from its rejections of the Filings. Specifically, the OIC asserts: "As a result of this disapproval, it is necessary for all current enrollees to be transitioned to a compliant plan as soon as possible."² The OIC's disapproval of Premera's and Group Health's 2014 Filings cannot logically obligate Premera and Group Health to transfer current enrollees (who are enrolled in Premera's and Group Health's 2015 plans) to new plans.

The OIC's rejections of the Filings are without any foundation in state or federal law; are contrary to the long-established practice condoned by the OIC; and, if the OIC's illogical remedy were imposed, would unfairly prejudice thousands of Washington citizens in direct contravention of the primary purpose of the Affordable Care Act: to provide individuals with access to affordable health care. For the above reasons, WCIF hereby formally demands a hearing before an ALJ.

Very truly yours,

Maren R. Norton

Enclosures

² See attached decisions.

SERFF Tracking #: PBCC-129414837 State Tracking #: 267400 Company Tracking #: WCIF-PBCEA14
State: Washington Filing Company: Premera Blue Cross
TO/Sub-TO: H16G Group Health - Major Medical/H16G,002C Large Group Only - Other
Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA - Washington Counties Insurance Fund (Premera)
Project Name/Number: /

Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Disapproved	Lichlou Lee	01/15/2015	01/15/2015

SERFF Tracking #: PBCC-129414837 State Tracking #: 267400 Company Tracking #: WCIF-PBCEA14

State: Washington Filing Company: Premiera Blue Cross
 TO/Sub-TO: H18G Group Health - Major Medical/H18G.002C Large Group Only - Other
 Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA - Washington Counties Insurance Fund (Premiera)
 Project Name/Number: /

Disposition

Disposition Date: 01/15/2015

Implementation Date:

Status: Disapproved

HHS Status: HHS Denied

State Review:

Comment: Your rate and form filings for Washington Counties Insurance Fund (WCIF) are disapproved and closed under the authority of RCW 48.44.020(3).

The rating methodology and rates filed on behalf of the Washington State Association of Counties and Washington Counties Insurance Fund (WCIF) are inconsistent with the fact that you filed one single large employer group.

In the rate schedule, there are 21 Risk Tiers for each plan design. For example, for the benefit plan WCIF 200, an employee can be charged a monthly rate ranging from \$548.53 to \$1,241.03. In our rate objections, we asked you to explain in detail how you define a Risk Tier or Risk Level and the factors used to assign an employee to a Risk Level. We also asked you to provide detailed calculations of the rates assigned to each Risk Level. Your response to the first objection letter indicated that you have separately rated various "purchasing employers" within the Washington State Association of Counties. You also stated that each "participating employer" within the association is assigned rates inclusive of the list of rate adjustments summarized in the "Association Tables," the Tables used to rate participating employers within the association. This means that your rates filed are for various "employers" - contrary to your form filing for one employer only.

We also asked you to identify the bona fide employment-based classifications upon which the 21 Risk Levels are based (per 26 CFR § 54.9802-1(d).) (Examples for bona fide employment-based classifications include current versus former employees, and employees located in different geographic areas.) Your response failed to identify how each Risk Level is related to bona fide employment-based classifications.

This tells us that your rates, filed for various employers, are unreasonable in relation to the amount charged for the contract for one single employer, the Washington State Association of Counties. Therefore, your rate and form filings are disapproved and closed under the authority of RCW 48.44.020(3).

As a result of this disapproval, it is necessary for all current enrollees to be transitioned to a compliant plan as soon as possible. Please contact the Deputy Insurance Commissioner for Rates and Forms to discuss your plan to transition current enrollees to a compliant plan, including the proposed notice and replacement rate schedule.

Rate data does NOT apply to filing.

Schedule	Schedule Item	Schedule Item Status	Public Access
	Disability Associations		Yes

SERFF Tracking #: PBCC-129414837 State Tracking #: 267400 Company Tracking #: WCIF-PBCEA14

State: Washington Filing Company: Premiera Blue Cross

TOI/Sub-TOI: H16G Group Health - Major Medical/H16G.002C Large Group Only - Other

Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA - Washington Counties Insurance Fund (Premiera)

Project Name/Number: /

Schedule	Schedule Item	Schedule Item Status	Public Access
Supporting Document	Filing Instructions		Yes
Supporting Document	Group Form Filing Requirements - L&D, HCSC		Yes
Supporting Document	PPACA Exemption Request		Yes
Supporting Document	PPACA Uniform Compliance Summary		Yes
Supporting Document	Filing Letter Washington Counties Insurance Fund		Yes
Supporting Document	Association / Member-Governed True Employer Group Health Plan Compliance Certification		Yes
Supporting Document	Evidence As Employer Document		Yes
Supporting Document	Custom Enrollment/Application Certification		Yes
Supporting Document	Custom Enrollment/Application Certification Retirees		Yes
Supporting Document	Custom Enrollment/Application Certification Group Master Application		Yes
Supporting Document	Custom Enrollment/Application Certification Legacy Group Master Application		Yes
Form	Your Future - HDHP Booklet		Yes
Form	Your Choice \$200 Booklet		Yes
Form	Your Choice \$500 Booklet		Yes
Form	Your Choice - \$750 Booklet		Yes
Form	Your Choice - \$1,250 Booklet		Yes
Form	Your Choice - \$2,000 Booklet		Yes
Form	Your Choice - \$3,000 Booklet		Yes
Form	Employer Agreement		Yes
Form	Custom App/Enr Washington Counties Insurance Fund Group Master Application		Yes
Form	Custom App/Enr Washington Counties Insurance Fund Active Enrollment Form		Yes
Form	Custom App/Enr Legacy Washington Counties Insurance Fund Group Master Application		Yes
Form	Custom App/Enr Washington Counties Insurance Fund Retiree Enrollment		Yes

SERFF Tracking #: PBCC-129414875 State Tracking #: 267383 Company Tracking #: WCIF-LWWAEA14

State: Washington Filing Company: LifeWise Health Plan of Washington
TO/Sub-TO: H16G Group Health - Major Medical/H16G.002C Large Group Only - Other
Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA - Washington Counties Insurance Fund (LifeWise)
Project Name/Number: /

Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Disapproved	Lichiou Lee	01/15/2015	01/15/2015

SERFF Tracking #: PBCC-129414875 State Tracking #: 267383 Company Tracking #: WCIF-LWWAEA14

State: Washington Filing Company: LifeWise Health Plan of Washington
TOI/Sub-TOI: H16G Group Health - Major Medical/H16G.002C Large Group Only - Other
Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA - Washington Counties Insurance Fund (LifeWise)
Project Name/Number: /

Disposition

Disposition Date: 01/16/2015

Implementation Date:

Status: Disapproved

HHS Status: HHS Denied

State Review:

Comment: Your rate and form filings for Washington Counties Insurance Fund (WCIF) are disapproved and closed under the authority of RCW 48.44.020(3).

The rating methodology and rates filed on behalf of the Washington State Association of Counties and Washington Counties Insurance Fund (WCIF) are inconsistent with the fact that you filed one single large employer group.

In the rate schedule, there are 21 Risk Tiers for each plan design. For example, for the benefit plan WCIF 200, an employee can be charged a monthly rate ranging from \$648.53 to \$1,241.03. In our rate objections, we asked you to explain in detail how you define a Risk Tier or Risk Level and the factors used to assign an employee to a Risk Level. We also asked you to provide detailed calculations of the rates assigned to each Risk Level. Your response to the first objection letter indicated that you have separately rated various "purchasing employers" within the Washington State Association of Counties. You also stated that each "participating employer" within the association is assigned rates inclusive of the list of rate adjustments summarized in the "Association Tables," the Tables used to rate participating employers within the association. This means that your rates filed are for various "employers" - contrary to your form filing for one employer only.

We also asked you to identify the bona fide employment-based classifications upon which the 21 Risk Levels are based (per 28 CFR § 54.9802-1(d).) (Examples for bona fide employment-based classifications include current versus former employees, and employees located in different geographic areas.) Your response failed to identify how each Risk Level is related to bona fide employment-based classifications.

This tells us that your rates, filed for various employers, are unreasonable in relation to the amount charged for the contract for one single employer, the Washington State Association of Counties. Therefore, your rate and form filings are disapproved and closed under the authority of RCW 48.44.020(3).

As a result of this disapproval, it is necessary for all current enrollees to be transitioned to a compliant plan as soon as possible. Please contact the Deputy Insurance Commissioner for Rates and Forms to discuss your plan to transition current enrollees to a compliant plan, including the proposed notice and replacement rate schedule.

Rate data does NOT apply to filing.

Schedule	Schedule Item	Schedule Item Status	Public Access
	Disability Associations		Yes

SERFF Tracking #: PBCC-129414876 State Tracking #: 287383 Company Tracking #: WCIF-LWWAE14

State: Washington Filing Company: LifeWise Health Plan of Washington
 TOI/Sub-TOI: H16G Group Health - Major Medical/H16G.002C Large Group Only - Other
 Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA - Washington Counties Insurance Fund (LifeWise)
 Project Name/Number: /

Schedule	Schedule Item	Schedule Item Status	Public Access
Supporting Document			
Supporting Document	Filing Instructions		Yes
Supporting Document	Group Form Filing Requirements - L&D, HCSC		Yes
Supporting Document	PPACA Exemption Request		Yes
Supporting Document	PPACA Uniform Compliance Summary		Yes
Supporting Document	Association / Member-Governed True Employer Group Health Plan Compliance Certification		Yes
Supporting Document	Evidence As Employer Document		Yes
Supporting Document	Custom Enrollment/Application Certification Group Master Application		Yes
Supporting Document	Custom Enrollment/Application Certification Legacy Group Master Application		Yes
Supporting Document	Filing Letter Washington Counties Insurance Fund		Yes
Form	Your Future - HDHP Booklet		Yes
Form	Your Choice \$200 Booklet		Yes
Form	Your Choice \$500 Booklet		Yes
Form	Your Choice - \$750 Booklet		Yes
Form (revised)	Your Choice - \$1,250 Booklet		Yes
Form	Your Choice - \$1,250 Booklet		Yes
Form	Your Choice - \$2,000 Booklet		Yes
Form	Your Choice - \$3,000 Booklet		Yes
Form	Employer Agreement		Yes
Form	Custom App/Enr Washington Counties Insurance Fund Group Master Application		Yes
Form	Custom App/Enr Legacy Washington Counties Insurance Fund Group Master Application		Yes

SERFF Tracking #:	GHCC-129421102	State Tracking #:	267432	Company Tracking #:	CA1888714
State:	Washington	Filing Company:	Group Health Cooperative		
TOI/Sub-TOI:	HOrg02G Group Health Organizations - Health Maintenance (HMO)/HOrg02G.003A Large Group Only - PPO				
Product Name:	Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA-Washington Counties Insurance Fund (WCIF) For Public Inspection				
Project Name/Number:	Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA-Washington Counties Insurance Fund (WCIF) For Public Inspection/CA1888714				

Disposition

Disposition Date: 01/15/2015

Implementation Date:

Status: Disapproved

HHS Status: HHS Denied

State Review: Reviewed by Actuary

Comment: Your rate and form filings for Washington Counties Insurance Fund (WCIF) are disapproved and closed under the authority of RCW 48.46.060(4).

The rating methodology and rates filed on behalf of the Washington State Association of Counties and Washington Counties Insurance Fund (WCIF) are inconsistent with the fact that you filed one single large employer group.

In the rate schedule, there are 21 Rate Levels for each plan design for active employees. For example, for the benefit plan WCIFHSA, an employee can be charged a monthly rate ranging from \$307.98 to \$696.79. In our rate objections, we asked you to explain in detail how you define a Rate Level and the factors used to assign an employee to a Risk Level. We also asked you to provide detailed calculations of the rates assigned to each Risk Level. Your response to the first objection letter indicated that you have separately rated various "member groups" within the Washington State Association of Counties. This means that your rates filed are for various "employers" - contrary to your form filing for one employer only.

We also asked you to identify the bona fide employment-based classifications upon which the 21 Risk Levels are based (per 26 CFR § 54.9802-1(d).) (Examples for bona fide employment-based classifications include current versus former employees, and employees located in different geographic areas.) Your response stated that the bona fide employment based classifications include geographic location, employer's sub-industry classification, and employer's contribution level. However, the "employer" used in the rating response is the "subgroup" and not the employer, the Washington State Association of Counties, filed in the form filing. Your response failed to identify how each Risk Level is related to bona fide employment-based classifications.

This tells us that your rates, filed for various employers, are unreasonable in relation to the amount charged for the contract for one single employer, the Washington State Association of Counties. Therefore, your rate and form filings are disapproved and closed under the authority of RCW 48.46.060(4).

As a result of this disapproval, it is necessary for all current enrollees to be transitioned to a compliant plan as soon as possible. Please contact the Deputy Insurance Commissioner for Rates and Forms to discuss your plan to transition current enrollees to a compliant plan, including the proposed notice and replacement rate schedule.

Rate data does NOT apply to filing.

SERFF Tracking #: GHCC-129421102 **State Tracking #:** 267432 **Company Tracking #:** CA1888T14
State: Washington **Filing Company:** Group Health Cooperative
TOI/Sub-TOI: HOrg02G Group Health Organizations - Health Maintenance (HMO)/HOrg02G.003A Large Group Only - PPO
Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA-Washington Counties Insurance Fund (WCIF) For Public Inspection
Project Name/Number: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA-Washington Counties Insurance Fund (WCIF) For Public Inspection/CA1888T14

Schedule	Schedule Item	Schedule Item Status	Public Access
Supporting Document	Chamber, Association, Trust HIPAA Certification		Yes
Supporting Document	Evidence as an employer		Yes
Supporting Document	Cover Letter		Yes
Rate	Rate Schedule		Yes