



FILED

100 University Street, Suite 3600
Seattle, Washington 98101
main 206.624.0900
fax 206.386.7500
www.stoel.com

2015 MAR 13 16 P 12 44

MAREN R. NORTON
Direct (206) 386-7607
maren.norton@stoel.com

March 13, 2015

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 Moda Health Plan, Inc. ("Moda"). 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's") disapproval of Moda's 2014 rate and form filings for ALLtech Information Technology Group and the Health Alliance (ALLtech) for Technology Health Trust; Columbia Retail Benefits Trust; Greater Northwest Health Industry Benefits Trust; Pacific Business Resource Benefits Trust; Commercial Construction Health and Welfare Trust; and Greater Columbia Manufacturing Benefits Trust (collectively, "the Associations"). A copy of the OIC's decisions subject to this Demand for Hearing are attached.

Moda is a corporation that has offered health plans for sale in the Pacific Northwest for more than 57 years. Moda has been licensed to transact insurance in Washington since 2005. The Associations offer benefit plans through Moda that the separate employers included in the Associations ("Participating Employers") offer for purchase by their employees and the employees' eligible dependents ("Members"). The OIC's rejection of the rates ("Rates") directly impacts Moda (as well as the Associations, the Participating Employers, and the Members), warranting a hearing pursuant to RCW 48.04.010(1)(b).

Although the OIC now challenges the Associations' status as bona fide associations (BFAs), it is Moda's understanding that the Associations were established as BFAs in accordance with industry guidance published by the OIC. Moda offered health plans to the Associations with the



Office of the Insurance Commissioner
March 13, 2015
Page 2

reasonable belief that they were BFAs, although it lacked the authority to make the final determination on that issue.¹

The OIC takes issue with the fact that the Moda plans include multiple Risk Levels for each plan design, established at the Participating Employer level with potentially different monthly premiums for different Participating Employers. The OIC erroneously treats each Association as a single employer, asserting that it must file a single rate at the association level. In its disapprovals, the OIC stated:

Your filings also show rates filed for various “employers” that are unreasonable in relation to the amount charged for the contract for one single employer. Therefore, your rate and form filings are disapproved and closed under the authority of RCW 48.44.020(2) (f) and (3).^{2]}

Based on the presumption that the Associations are found to be BFAs,³ Moda challenges the OIC’s rejection of the Rates on the following general grounds:

- There is no basis under state law for the OIC’s position that a BFA 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) to disapprove the Rates is misguided; even if applicable that statute only authorizes OIC to “disapprove any contract if the benefits provided therein are unreasonable in relation to the amount charged

¹ Moda understands that the Associations intend to demand a hearing to appeal the OIC’s decisions that they are not BFAs.

² See attached decisions.

³ As noted above, it is Moda’s understanding that the Associations intend to appeal the OIC’s findings that they are not BFAs.



for the contract.” (Emphasis added). The attached disapproval notices do not 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 Moda 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 § 146.121(c).
 - Rating at the Participating Employer level has been an established practice for BFAs in 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 Rates lack any basis in state or federal law and will unfairly prejudice Moda, the Associations, their Participating Employers, and their Members. If the OIC’s proposed remedies are implemented, Members may be forced to move to plans with substantially reduced benefits and/or higher premiums.
- The OIC attempts to impose remedies that do not flow from its rejections of the Rates. Specifically, the OIC asserts: “As a result of this disapproval, it is necessary for all current enrollees to be transitioned to ACA compliant plan as soon as possible.”⁴ The OIC’s disapprovals of Moda’s 2014 Rates cannot logically obligate Moda to transfer current enrollees (who are enrolled in Moda’s 2015 plans) to new plans.

The OIC’s rejections of the Rates 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 remedies 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, Moda hereby formally demands a hearing before an ALJ.

⁴ See attached decisions.



Office of the Insurance Commissioner
March 13, 2015
Page 4

Very truly yours,

Maren R. Norton

Enclosures



OFFICE OF
INSURANCE COMMISSIONER

December 16, 2014

RE: Associated Industries of the Inland Northwest
Commercial Construction Health and Welfare Trust
Rate Filing State Tracking ID: 267317
Form Filing Tracking ID: 267288

Dear Moda:

The Office of the Insurance Commissioner's Legal Affairs division has reviewed the association materials submitted in support of the large group filing for Associated Industries of the Inland Northwest. In order to qualify as an "employee welfare benefit plan", a plan must, among other criteria, be established by an "employer" within the meaning of section 3(5) of ERISA. A "bona fide group or association of employers" may qualify as an employer, grounded on the premise that the association is tied to the participating employers and employees by a genuine organizational relationship unrelated to the provision of benefits.

Based upon the materials submitted, the association does not meet the criteria set forth in federal law to be designated a "bona fide" association, and is not eligible to purchase large group coverage for its employer-members regardless of size.

If you are aggrieved by this decision, the Revised Code of Washington (RCW) 48.04.010 permits you to demand a hearing. You must demand a hearing in writing within **90** days after the date of this decision or you will waive your right to a hearing. Your demand for a hearing should be sent to the following address and must briefly state how you are harmed by this decision and why you disagree with it:

Hearing Unit
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Sincerely,

A handwritten signature in black ink, appearing to read "AnnaLisa Gellermann", written over a horizontal line.

AnnaLisa Gellermann
Deputy for Legal Affairs
Office of the Insurance Commissioner

ckm/shm



OFFICE OF
INSURANCE COMMISSIONER

December 16, 2014

RE: Alltech Information Technology Group
Health Alliance (Alltech) for Technology Health Trust
Rate Filing State Tracking ID: 267322
Form Filing Tracking ID: 267302

Dear Moda:

The Office of the Insurance Commissioner's Legal Affairs division has reviewed the association materials submitted in support of the large group filing for Alltech Information Technology Group. In order to qualify as an "employee welfare benefit plan", a plan must, among other criteria, be established by an "employer" within the meaning of section 3(5) of ERISA. A "bona fide group or association of employers" may qualify as an employer, grounded on the premise that the association is tied to the participating employers and employees by a genuine organizational relationship unrelated to the provision of benefits.

Based upon the materials submitted, the association does not meet the criteria set forth in federal law to be designated a "bona fide" association, and is not eligible to purchase large group coverage for its employer-members regardless of size.

If you are aggrieved by this decision, the Revised Code of Washington (RCW) 48.04.010 permits you to demand a hearing. You must demand a hearing in writing within 90 days after the date of this decision or you will waive your right to a hearing. Your demand for a hearing should be sent to the following address and must briefly state how you are harmed by this decision and why you disagree with it:

Hearing Unit
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Sincerely,

A handwritten signature in black ink, appearing to read "AnnaLisa Gellermann", written over a horizontal line.

AnnaLisa Gellermann
Deputy for Legal Affairs
Office of the Insurance Commissioner

ckm/shm



OFFICE OF
INSURANCE COMMISSIONER

December 16, 2014

RE: Greater Columbia Manufacturing Industry Group
Greater Columbia Manufacturing Benefits Trust
Rate Filing State Tracking ID: 267321
Form Filing Tracking ID: 267285

Dear Moda:

The Office of the Insurance Commissioner's Legal Affairs division has reviewed the association materials submitted in support of the large group filing for Greater Columbia Manufacturing Industry Group. In order to qualify as an "employee welfare benefit plan", a plan must, among other criteria, be established by an "employer" within the meaning of section 3(5) of ERISA. A "bona fide group or association of employers" may qualify as an employer, grounded on the premise that the association is tied to the participating employers and employees by a genuine organizational relationship unrelated to the provision of benefits.

Based upon the materials submitted, the association does not meet the criteria set forth in federal law to be designated a "bona fide" association, and is not eligible to purchase large group coverage for its employer-members regardless of size.

If you are aggrieved by this decision, the Revised Code of Washington (RCW) 48.04.010 permits you to demand a hearing. You must demand a hearing in writing within 90 days after the date of this decision or you will waive your right to a hearing. Your demand for a hearing should be sent to the following address and must briefly state how you are harmed by this decision and why you disagree with it:

Hearing Unit
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Sincerely,

A handwritten signature in black ink, appearing to read "Anna Lisa Gellermann".

Anna Lisa Gellermann
Deputy for Legal Affairs
Office of the Insurance Commissioner

ckm/shm



OFFICE OF
INSURANCE COMMISSIONER

December 16, 2014

RE: Greater Northwest Health Industry Group
Greater Northwest Health Industry Benefits Trust
Rate Filing State Tracking ID: 267319
Form Filing Tracking ID: 267287

Dear Moda:

The Office of the Insurance Commissioner's Legal Affairs division has reviewed the association materials submitted in support of the large group filing for Greater Northwest Health Industry Group. In order to qualify as an "employee welfare benefit plan", a plan must, among other criteria, be established by an "employer" within the meaning of section 3(5) of ERISA. A "bona fide group or association of employers" may qualify as an employer, grounded on the premise that the association is tied to the participating employers and employees by a genuine organizational relationship unrelated to the provision of benefits.

Based upon the materials submitted, the association does not meet the criteria set forth in federal law to be designated a "bona fide" association, and is not eligible to purchase large group coverage for its employer-members regardless of size.

If you are aggrieved by this decision, the Revised Code of Washington (RCW) 48.04.010 permits you to demand a hearing. You must demand a hearing in writing within 90 days after the date of this decision or you will waive your right to a hearing. Your demand for a hearing should be sent to the following address and must briefly state how you are harmed by this decision and why you disagree with it:

Hearing Unit
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Sincerely,

A handwritten signature in black ink, appearing to read "AnnaLisa Gellermann", written over a horizontal line.

AnnaLisa Gellermann
Deputy for Legal Affairs
Office of the Insurance Commissioner

ckm/shm



OFFICE OF
INSURANCE COMMISSIONER

December 16, 2014

RE: Pacific Business Resource Industry Group
Pacific Business Resource Benefits Trust
Rate Filing State Tracking ID: 267324
Form Filing Tracking ID: 267286

Dear Moda:

The Office of the Insurance Commissioner's Legal Affairs division has reviewed the association materials submitted in support of the large group filing for Pacific Business Resource Industry Group. In order to qualify as an "employee welfare benefit plan", a plan must, among other criteria, be established by an "employer" within the meaning of section 3(5) of ERISA. A "bona fide group or association of employers" may qualify as an employer, grounded on the premise that the association is tied to the participating employers and employees by a genuine organizational relationship unrelated to the provision of benefits.

Based upon the materials submitted, the association does not meet the criteria set forth in federal law to be designated a "bona fide" association, and is not eligible to purchase large group coverage for its employer-members regardless of size.

If you are aggrieved by this decision, the Revised Code of Washington (RCW) 48.04.010 permits you to demand a hearing. You must demand a hearing in writing within 90 days after the date of this decision or you will waive your right to a hearing. Your demand for a hearing should be sent to the following address and must briefly state how you are harmed by this decision and why you disagree with it:

Hearing Unit
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Sincerely,

A handwritten signature in black ink, appearing to read "Anna Lisa Gellermann".

Anna Lisa Gellermann
Deputy for Legal Affairs
Office of the Insurance Commissioner

ckm/shm



OFFICE OF
INSURANCE COMMISSIONER

December 16, 2014

RE: Columbia Retail Industry Group
Columbia Retail Benefits Trust
Rate Filing State Tracking ID: 267320
Form Filing Tracking ID: 267284

Dear Moda:

The Office of the Insurance Commissioner's Legal Affairs division has reviewed the association materials submitted in support of the large group filing for Columbia Retail Industry Group. In order to qualify as an "employee welfare benefit plan", a plan must, among other criteria, be established by an "employer" within the meaning of section 3(5) of ERISA. A "bona fide group or association of employers" may qualify as an employer, grounded on the premise that the association is tied to the participating employers and employees by a genuine organizational relationship unrelated to the provision of benefits.

Based upon the materials submitted, the association does not meet the criteria set forth in federal law to be designated a "bona fide" association, and is not eligible to purchase large group coverage for its employer-members regardless of size.

If you are aggrieved by this decision, the Revised Code of Washington (RCW) 48.04.010 permits you to demand a hearing. You must demand a hearing in writing within 90 days after the date of this decision or you will waive your right to a hearing. Your demand for a hearing should be sent to the following address and must briefly state how you are harmed by this decision and why you disagree with it:

Hearing Unit
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Sincerely,

A handwritten signature in black ink, appearing to read "AnnaLisa Gellermann".

AnnaLisa Gellermann
Deputy for Legal Affairs
Office of the Insurance Commissioner

ckm/shm

Mailing Address: P. O. Box 40255 • Olympia, WA 98504-0255
Street Address: 5000 Capitol Blvd. • Tumwater, WA 98501

SERFF Tracking ODSV-129400351 State: Washington
Number:

Filing Company: Moda Health Plan, Inc. State Tracking 267302
Number:

Company 2014-10-01-WA
Tracking Number:

TOI: H16G Group Health - Major Sub-TOI: H16G.002A Large Group Only -
Medical PPO

Product Name: Association or member-governed true employer group under 29 U.S.C. Section (1002(5)
of ERISA - Health Alliance (ALLtech) for Technology Health Trust

Project Name: Fully Negotiated Health Alliance (ALLtech) for Technology Health Trust

Disposition Date: 12/16/2014

Implementation Date: *

Status: * Disapproved

HHS Status: * HHS Denied

State Review: * Reviewed by Actuary

Comments: Your rate and form filings for Health Alliance (Alltech) for Technology Health Trust are
disapproved and closed under the authority of RCW 48.44.020(2)(f) and (3).

We have determined that based upon the materials submitted, the association does not meet the criteria set
forth in federal law to be designated an "employer" under ERISA, and is not eligible to purchase large group
coverage for its employer-member regardless of size. Please see the attached letter from the Deputy
Insurance Commissioner for Legal Affairs.

In addition the rating methodology and rates filed on behalf of Alltech Information Technology Group and
Health Alliance (Alltech) for Technology Health Trust are inconsistent with the fact that you filed one single
large employer group.

In the rate schedule, there are 60 Risk Levels for each plan design. For example, for the benefit plan Prime
0 w/\$10/\$0/90%1, an employee can be charged a monthly rate ranging from \$224.64.17 to \$716.20. In our
rate objections, we asked you to explain in detail how you define a "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 Alltech Information Technology Group for purchase of benefits from the Health Alliance (Alltech) for Technology Health Trust. You also stated that all employees "within a single purchasing employer" will receive the same Risk Level. 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 60 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 rate and form filings do not comply with minimum provisions. Your filings also show rates filed for various "employers" that are unreasonable in relation to the amount charged for the contract for one single employer. Therefore, your rate and form filings are disapproved and closed under the authority of RCW 48.44.020(2) (f) and (3).

As a result of this disapproval, it is necessary for all current enrollees to be transitioned to ACA compliant plans as soon as possible. You must commence discontinuation of the disapproved plans, providing timely discontinuation and replacement notices to all affected enrollees for this transition. Please contact the Deputy Insurance Commissioner for Rates and Forms to discuss your plan to transition current enrollees to ACA compliant plans, including the proposed discontinuation notice and replacement schedule.

SERFF Tracking ODSV-129400405 State: Washington
Number:
Filing Company: Moda Health Plan, Inc. State Tracking 267284
Number:
Company Tracking 2014-10-03-WA
Number:
TOI: H16G Group Health - Major Sub-TOI: H16G.002A Large Group Only -
Medical PPO
Product Name: Association or member-governed true employer group under 29 U.S.C. Section
(1002(5) of ERISA - Columbia Retail Benefits Trust
Project Name: Fully Negotiated Columbia Retail Benefits Trust

Disposition Date: 12/16/2014

Implementation Date: *

Status: * Disapproved

HHS Status: * HHS Denied

State Review: * Reviewed by Actuary

Comments: Your rate and form filings for Columbia Retail Benefits Trust are disapproved and closed under the authority of RCW 48.44.020(2)(f) and (3).

We have determined that based upon the materials submitted, the association does not meet the criteria set forth in federal law to be designated an "employer" under ERISA, and is not eligible to purchase large group coverage for its employer-member regardless of size. Please see the attached letter from the Deputy Insurance Commissioner for Legal Affairs.

In addition the rating methodology and rates filed on behalf of Columbia Retail Industry Group and Columbia Retail Benefits Trust are inconsistent with the fact that you filed one single large employer group.

In the rate schedule, there are 60 Risk Levels for each plan design. For example, for the benefit plan Prime 0-90/70, an employee can be charged a monthly rate ranging from \$233.17 to \$707.79. In our rate objections, we asked you to explain in detail how you define a "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 Columbia Retail Industry Group for purchase of benefits from the Columbia Retail Benefits Trust. You also stated that all employees "within a single purchasing employer" will receive the same Risk Level. 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 60 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 rate and form filings do not comply with minimum provisions. Your filings also show rates filed for various "employers" that are unreasonable in relation to the amount charged for the contract for one single employer. Therefore, your rate and form filings are disapproved and closed under the authority of RCW 48.44.020(2) (f) and (3).

As a result of this disapproval, it is necessary for all current enrollees to be transitioned to ACA compliant plans as soon as possible. You must commence discontinuation of the disapproved plans, providing timely discontinuation and replacement notices to all affected enrollees for this transition. Please contact the Deputy Insurance Commissioner for Rates and Forms to discuss your plan to transition current enrollees to ACA compliant plans, including the proposed discontinuation notice and replacement schedule.

SERFF Tracking ODSV-129400406 State: Washington
Number:

Filing Company: Moda Health Plan, Inc. State Tracking 267287
Number:

Company Tracking 2014-10-04-WA
Number:

TOI: H16G Group Health - Major Sub-TOI: H16G.002A Large Group Only -
Medical PPO

Product Name: Association or member-governed true employer group under 29 U.S.C. Section
(1002(5) of ERISA - Greater Northwest Health Industry Benefits Trust

Project Name: Fully Negotiated Greater Northwest Health Industry Benefits Trust

Disposition Date: 12/16/2014

Implementation Date: *

Status: * Disapproved

HHS Status: * HHS Denied

State Review: *

Comments: Your rate and form filings for Greater Northwest Health Industry Benefits Trust are disapproved and closed under the authority of RCW 48.44.020(2)(f) and (3).

We have determined that based upon the materials submitted, the association does not meet the criteria set forth in federal law to be designated an "employer" under ERISA, and is not eligible to purchase large group coverage for its employer-member regardless of size. Please see the attached letter from the Deputy Insurance Commissioner for Legal Affairs.

In addition the rating methodology and rates filed on behalf of Greater Northwest Health Industry Group and Greater Northwest Health Industry Benefits Trust are inconsistent with the fact that you filed one single large employer group.

In the rate schedule, there are 60 Risk Levels for each plan design. For example, for the benefit plan Prime 0-90/70, an employee can be charged a monthly rate ranging from \$233.17 to \$707.79. In our rate objections, we asked you to explain in detail how you define a "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 Greater Northwest Health Industry Group for purchase of benefits from the Greater Northwest Health Industry Benefits Trust. You also stated that all employees "within a single purchasing employer" will receive the same Risk Level. 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 60 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 rate and form filings do not comply with minimum provisions. Your filings also show rates filed for various "employers" that are unreasonable in relation to the amount charged for the contract for one single employer. Therefore, your rate and form filings are disapproved and closed under the authority of RCW 48.44.020(2) (f) and (3).

As a result of this disapproval, it is necessary for all current enrollees to be transitioned to ACA compliant plans as soon as possible. You must commence discontinuation of the disapproved plans, providing timely discontinuation and replacement notices to all affected enrollees for this transition. Please contact the Deputy Insurance Commissioner for Rates and Forms to discuss your plan to transition current enrollees to ACA compliant plans, including the proposed discontinuation notice and replacement schedule.

SERFF Tracking ODSV-129400407 State: Washington
Number:

Filing Company: Moda Health Plan, Inc. State Tracking 267286
Number:

Company Tracking 2014-10-05-WA
Number:

TOI: H16G Group Health - Major Sub-TOI: H16G.002A Large Group Only -
Medical PPO

Product Name: Association or member-governed true employer group under 29 U.S.C. Section
(1002(5) of ERISA - Pacific Business Resource Benefits Trust

Project Name: Fully Negotiated Pacific Business Resource Benefits Trust

Disposition Date: 12/16/2014

Implementation Date: *

Status: * Disapproved

HHS Status: * HHS Denied

State Review: *

Comments: Your rate and form filings for Pacific Business Resource Benefits Trust are disapproved and closed under the authority of RCW 48.44.020(2)(f) and (3).

We have determined that based upon the materials submitted, the association does not meet the criteria set forth in federal law to be designated an "employer" under ERISA, and is not eligible to purchase large group coverage for its employer-member regardless of size. Please see the attached letter from the Deputy Insurance Commissioner for Legal Affairs.

In addition the rating methodology and rates filed on behalf of Pacific Business Resource Industry Group and Pacific Business Resource Benefits Trust are inconsistent with the fact that you filed one single large employer group.

In the rate schedule, there are 60 Risk Levels for each plan design. For example, for the benefit plan Prime 0-90/70, an employee can be charged a monthly rate ranging from \$233.17 to \$707.79. In our rate objections, we asked you to explain in detail how you define a "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 Pacific Business Resource Industry Group for purchase of benefits from the Pacific Business Resource Benefits Trust. You also stated that all employees "within a single purchasing employer" will receive the same Risk Level. 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 60 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 rate and form filings do not comply with minimum provisions. Your filings also show rates filed for various "employers" that are unreasonable in relation to the amount charged for the contract for one single employer. Therefore, your rate and form filings are disapproved and closed under the authority of RCW 48.44.020(2) (f) and (3).

As a result of this disapproval, it is necessary for all current enrollees to be transitioned to ACA compliant plans as soon as possible. You must commence discontinuation of the disapproved plans, providing timely discontinuation and replacement notices to all affected enrollees for this transition. Please contact the Deputy Insurance Commissioner for Rates and Forms to discuss your plan to transition current enrollees to ACA compliant plans, including the proposed discontinuation notice and replacement schedule.

SERFF Tracking ODSV-129400408 State: Washington
Number:

Filing Company: Moda Health Plan, Inc. State Tracking 267288
Number:

Company 2014-10-06-WA
Tracking
Number:

TOI: H16G Group Health - Major Sub-TOI: H16G.002A Large Group Only -
Medical PPO

Product Name: Association or member-governed true employer group under 29 U.S.C. Section (1002(5)
of ERISA - Associated Employers Trust - Commercial Construction Health and Welfare
Trust

Project Name: Fully Negotiated Associated Employers Trust - Commercial Construction Health and
Welfare Trust

Disposition Date: 12/16/2014

Implementation Date: *

Status: * Disapproved

HHS Status: * HHS Denied

State Review: *

Comments: Your rate and form filings for Commercial Construction Health and Welfare Trust are
disapproved and closed under the authority of RCW 48.44.020(2)(f) and (3).

We have determined that based upon the materials submitted, the association does not meet the criteria set
forth in federal law to be designated an "employer" under ERISA, and is not eligible to purchase large group
coverage for its employer-member regardless of size. Please see the attached letter from the Deputy
Insurance Commissioner for Legal Affairs.

In addition the rating methodology and rates filed on behalf of Associated Industries of the Inland Northwest
and Commercial Construction Health and Welfare Trust are inconsistent with the fact that you filed one
single large employer group.

In the rate schedule, there are 60 Risk Levels for each plan design. For example, for the benefit plan Prime

0-90/70, an employee can be charged a monthly rate ranging from \$233.17 to \$707.79. In our rate objections, we asked you to explain in detail how you define a "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 Associated Industries of the Inland Northwest for purchase of benefits from the Commercial Construction Health and Welfare Trust. You also stated that all employees "within a single purchasing employer" will receive the same Risk Level. 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 60 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 rate and form filings do not comply with minimum provisions. Your filings also show rates filed for various "employers" that are unreasonable in relation to the amount charged for the contract for one single employer. Therefore, your rate and form filings are disapproved and closed under the authority of RCW 48.44.020(2) (f) and (3).

As a result of this disapproval, it is necessary for all current enrollees to be transitioned to ACA compliant plans as soon as possible. You must commence discontinuation of the disapproved plans, providing timely discontinuation and replacement notices to all affected enrollees for this transition. Please contact the Deputy Insurance Commissioner for Rates and Forms to discuss your plan to transition current enrollees to ACA compliant plans, including the proposed discontinuation notice and replacement schedule.

SERFF Tracking ODSV-129711327 State: Washington
Number:

Filing Company: Moda Health Plan, Inc. State Tracking 275444
Number:

Company Tracking 2014-10-16-WA
Number:

TOI: H16G Group Health - Major Sub-TOI: H16G.002A Large Group Only -
Medical PPO

Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5)
of ERISA - Greater Columbia Manufacturing Benefits Trust

Project Name: Unique Application - Greater Columbia Manufacturing Benefits Trust

Disposition Date: 12/16/2014

Implementation Date: *

Status: * Disapproved

HHS Status: * HHS Denied

State Review: *

Comments: Your rate and form filings for Greater Columbia Manufacturing Benefits Trust are disapproved and closed under the authority of RCW 48.44.020(2)(f) and (3).

We have determined that based upon the materials submitted, the association does not meet the criteria set forth in federal law to be designated an "employer" under ERISA, and is not eligible to purchase large group coverage for its employer-member regardless of size. Please see the attached letter from the Deputy Insurance Commissioner for Legal Affairs.

In addition the rating methodology and rates filed on behalf of Greater Columbia Manufacturing Industry Group and Greater Columbia Manufacturing Benefits Trust are inconsistent with the fact that you filed one single large employer group.

In the rate schedule, there are 60 Risk Levels for each plan design. For example, for the benefit plan Prime 0-90/70, an employee can be charged a monthly rate ranging from \$233.17 to \$707.79. In our rate objections, we asked you to explain in detail how you define a "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 Greater Columbia Manufacturing Industry Group for purchase of benefits from the Greater Columbia Manufacturing Benefits Trust. You also stated that all employees "within a single purchasing employer" will receive the same Risk Level. 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 60 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 rate and form filings do not comply with minimum provisions. Your filings also show rates filed for various "employers" that are unreasonable in relation to the amount charged for the contract for one single employer. Therefore, your rate and form filings are disapproved and closed under the authority of RCW 48.44.020(2) (f) and (3).

As a result of this disapproval, it is necessary for all current enrollees to be transitioned to ACA compliant plans as soon as possible. You must commence discontinuation of the disapproved plans, providing timely discontinuation and replacement notices to all affected enrollees for this transition. Please contact the Deputy Insurance Commissioner for Rates and Forms to discuss your plan to transition current enrollees to ACA compliant plans, including the proposed discontinuation notice and replacement schedule.