

State: Washington **Filing Company:** Moda Health Plan, Inc.
TOI/Sub-TOI: H16G Group Health - Major Medical/H16G.002A Large Group Only - 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/Number: Endorsement_1_Pacific Business Resource Benefits Trust/2014-10-22-WA

Filing at a Glance

Company: Moda Health Plan, Inc.
Product Name: Association or member-governed true employer group under 29 U.S.C. Section 1002(5) of ERISA - Pacific Business Resource Benefits Trust
State: Washington
TOI: H16G Group Health - Major Medical
Sub-TOI: H16G.002A Large Group Only - PPO
Filing Type: Form
Date Submitted: 10/13/2014
SERFF Tr Num: ODSV-129763845
SERFF Status: Closed-Disapproved
State Tr Num: 276836
State Status: Disapproved
Co Tr Num: 2014-10-22-WA

Implementation Date Requested: 09/01/2014
Author(s): Mei-Kuen Wu, Andrea Silano Sayers, Jennifer Halttunen, Brenda Noble, Scott Curran, Dave Nessler-Cass, Matt Abrams, Michelle Dodge, Marshall Ivey
Reviewer(s): Wendy Conway (primary)
Disposition Date: 12/16/2014
Disposition Status: Disapproved
Implementation Date:

State Filing Description:

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General Information

Project Name: Endorsement_1_Pacific Business Resource Benefits Trust Status of Filing in Domicile: Not Filed
 Project Number: 2014-10-22-WA Date Approved in Domicile:
 Requested Filing Mode: File & Use Domicile Status Comments: Not filed in state of domicile because this filing only applies to a WA group.
 Explanation for Combination/Other: Market Type: Group
 Submission Type: New Submission Group Market Size: Large
 Group Market Type: Trust Overall Rate Impact:
 Filing Status Changed: 12/16/2014
 State Status Changed: 12/16/2014 Deemer Date:
 Created By: Brenda Noble Submitted By: Brenda Noble
 Corresponding Filing Tracking Number: 267286
 PPACA: Not PPACA-Related
 PPACA Notes: null
 Include Exchange Intentions: No

Filing Description:

This is an endorsement filing to the Pacific Business Resource Benefits Trust's 2014 certificates filed under State tracking number 267286, filed on 2/13/14. The status of 267286 is Review Pending. The trust has 3,073 employees. 1,957 employees are enrolled and the Trust has a total of 2,923 members enrolled.

The endorsement changes the effective date coverage for new members added through marriage or state registration of domestic partnership, if the marriage or domestic partnership date is the first day of the month.

The endorsement is included on the form schedule tab. A copy of Trust certificates and policy are included on the Supporting documentation tab. This endorsement is effective September 1, 2014. It has been filed within the 30-day period described in WAC 284-43-920(2).

Thank you.

Company and Contact

Filing Contact Information

Brenda Noble, Regulatory Analyst II brenda.noble@modahealth.com
 601 SW Second Avenue 503-412-4036 [Phone] 4036 [Ext]
 Portland, OR 97204 503-265-4790 [FAX]

Filing Company Information

Moda Health Plan, Inc. CoCode: 47098 State of Domicile: Oregon
 601 SW Second Ave. Group Code: 1313 Company Type:
 Portland, OR 97204 Group Name: State ID Number: 176
 (503) 265-4703 ext. [Phone] FEIN Number: 93-0989307

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Filing Fees

Fee Required? No

Retaliatory? No

Fee Explanation:

State Specific

If you are filing a Healthcare or Disability filing, is the Co Tracking # field populated on the General Information Tab? If no, your filing will be rejected. (yes/no): yes

Form Tab Only - Are the Form # and Form Description fields populated corresponding to the attached form? (yes/no): yes

If your are submitting a File and Use product, have you populated the Implementation Date field? (yes/no): yes

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Correspondence Summary

Dispositions

Status	Created By	Created On	Date Submitted
Disapproved	Lichiou Lee	12/16/2014	12/16/2014

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Disposition

Disposition Date: 12/16/2014

Implementation Date:

Status: Disapproved

HHS Status: HHS Denied

State Review:

Comment: 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

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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.

Rate data does NOT apply to filing.

Schedule	Schedule Item	Schedule Item Status	Public Access
Supporting Document	Disability Associations		Yes
Supporting Document	Group Form Filing Requirements - L&D, HCSC		Yes
Supporting Document	PPACA Exemption Request		Yes
Supporting Document	Group Contract, certificates of coverage		Yes
Form	Pacific Business Endorsement 1		Yes



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 blue ink, appearing to read "AnnaLisa Gellermann".

AnnaLisa Gellermann
Deputy for Legal Affairs
Office of the Insurance Commissioner

ckm/shm