

MIKE KREIDLER

STATE INSURANCE COMMISSIONER

DECLARATION OF MAILING

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery of a true copy of this document to

A. Philhower & J. Gingold w/out documents attached
 DATED this 2 day of Sept 2009
 at Tumwater, Washington.



OFFICE OF
INSURANCE COMMISSIONER

Signed: *W. Galloway***PLEASE RETURN STAMPED COPY TO CONFIRM RECEIPT****HEARINGS UNIT**

Fax: (360) 664-2782

Patricia D. Petersen
 Chief Hearing Officer
 (360) 725-7105

Wendy Galloway
 Paralegal
 (360) 725-7002
 WendyG@oic.wa.gov

TO: Office of Administrative Hearings**FROM:** Office of the Insurance Commissioner**MATTER:** In the Matter of PacifiCare of Washington, Inc., OIC Docket #09-0010**AGENCY REQUEST:** Please enter initial order in this matter and return original file and recording to the undersigned.

TIME PERIOD REQUESTED: Please hold hearing as soon as possible. Regarding date of entry of initial order, please note that both parties and the public have an interest in having this matter concluded as soon as possible.

OTHER INFORMATION: 1) The OIC always requires insurance agents and brokers involved in disciplinary matters to appear in person, because demeanor is important. 2) If any non-agent, non-broker entity (or its attorney) appears by telephone upon approval by the ALJ, the OIC requires both parties (or their attorneys) to appear by telephone, so that one party/attorney is not alone with the ALJ. 3) Hearings are virtually always held in Olympia. Should OAH believe there is reason to hold a proceeding elsewhere, please discuss this with the OIC Hearings Unit prior to scheduling.

COUNSEL REPRESENTING COMMISSIONER:

Commissioner appearing pro se through:

Andrea Philhower, Staff Attorney for Legal Affairs
 Post Office Box 40255
 Olympia, Washington 98504-0255
 (360) 725-7063

COUNSEL REPRESENTING AGGRIEVED PARTY:

Jeffrey L. Gingold
Lane Powell PC
1420 Fifth Avenue, Suite 1400
Seattle, Washington 98101-2338
(206) 223-7955

Documents included in transmission:

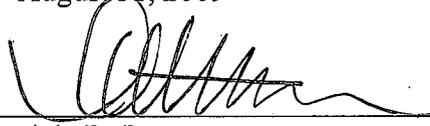
- Notice of Request for Hearing for Imposition of Fines, filed August 14, 2009;
- Letter request to transfer file to OAH from Mr. Gingold, filed August 20, 2009;
- E-mails (2 pages) regarding request for continuance of PHC between Ms. Philhower and Mr. Gingold dated August 17, 2009 indicating agreement of OIC;
- Notice of Receipt of Request for Hearing dated August 20, 2009.

Agency Contact: Chief Hearing Officer Patricia D. Petersen
Address and Telephone Above.

Billing Contact: Same.

Date: August 31, 2009

By: _____


Patricia D. Petersen
Chief Hearing Officer

Office of the Insurance Commissioner
Hearings Unit
5000 Capitol Boulevard
Tumwater, Wa 98501

PROTOCOL FOR OIC HEARINGS REFERRED TO OAH

Agency/Program: Office of the Insurance Commissioner (OIC)

File Transmission
to OAH:

Any individual or entity who is aggrieved by an act of the OIC (e.g. Order to Cease and Desist; or any other formal order; or any opinion or directive of the Commissioner or staff which is contrary to the interest of the party) may file an appeal with the OIC Chief Hearing Officer, who manages the OIC Hearings Unit (HU). Right to appeal (e.g. is the party an aggrieved party?) is determined by the OIC Chief Hearing Officer. If the appellant is a Licensee (i.e. an insurance agent or insurance broker), then pursuant to RCW 48.04.010(5) the party may request – and must be granted – a hearing before an ALJ from OAH followed by the ALJ's entry of an initial decision in the matter. (Currently, entities other than Licensees (e.g. insurance companies) who request an initial decision from OAH are also, by discretion of the OIC, also allowed this option.) Therefore, upon receipt of such requests, the HU sends Notice of Receipt of Request for Hearing to the appellant and promptly transfers the hearing file to OAH for assignment of an ALJ there, along with a cover sheet which contains both standard information and information specific to that appeal. OIC would appreciate careful reading of, and compliance with, these instructions; this has not been consistent recently.

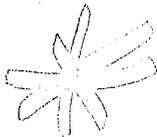
Statutory Authority: Title 48 RCW

Rules: Chapter 284 WAC

Record: Either tape or (preferably) digital. All prehearing conferences and stages of the adjudicative proceeding must be recorded. Recently, OAH has not been recording some prehearing conferences.

Timeliness of
Hearing & Entry
of Initial Order:

OIC hearings at OAH should be held, and the initial orders entered, promptly. While OAH states it receives the file from agency(ies), conducts the hearing and enters initial decisions within 3 months, OIC's experience has been that the average time between OAH's receipt of the file from the HU until OAH's entry of initial decision to be between 7-9 months to well over one year. Because 1) normally a stay of the Commissioner's action is in place during this period – and continues through review and entry of final order by HU; and 2) consideration of other cases/precedent/policy reasons: **the HU and OAH consider three months from receipt of file from OIC to entry of the OAH ALJ's Initial Order to be reasonable.** Further, simply because both parties may request multiple continuances, the OAH ALJ should use his/her own judgment and deny those requests for continuance as he or she determines to be justified, keeping the above considerations in mind.



Orders:

All Orders (summary judgment; other interim orders) should be **Initial Orders** only and should be identified as Initial Orders, pursuant to Title 34 RCW. Per Title 34 RCW and Chapter 284 RCW, the HU issues all final decisions/orders. Further, **no Orders concerning settlement or termination of proceedings should be signed by OAH at all:** please simply return the entire file back to the HU along with any unsigned settlement/termination documents.

Notices/Appeal
Rights Stated
on Orders:

Pursuant to Chapter 284 WAC, the HU must review all initial orders and enter final orders; initial orders may never become final automatically. Therefore, Notices on Initial Orders should reflect this fact, along with the appellant's right to request reconsideration and/or appeal to Superior Court, but only following entry of Final Order by the HU in every case.

Return of Hearing
File to HU:

Initial Orders, and entire hearing file including recording of all prehearing conferences, hearing and posthearing conferences should be sent to **OIC Chief Hearing Officer**. Please include a document identifying 1) all proceedings which occurred (and have been recorded) and 2) what documents are included in the hearing file.

Special Instructions:

- Hearings are held in Olympia, although exceptions may be made with prior approval from the HU.
- Prior approval from the HU must be given prior to ordering a court reporter and/or producing a transcript.
- OIC Chief Hearing Officer is to receive copies of all OAH preliminary and initial orders at the time they are entered.
- Please address any questions to OIC Chief Hearing Officer or Wendy Galloway, Paralegal in the OIC Hearings Unit.

Agency Contact:

Patricia D. Petersen, Chief Hearing Officer
P.O. Box 40255
Olympia, Wa 98504
Phone: (360) 725-7105 Fax: (360) 664-2782
E-mail: patriciap@oic.wa.gov

Billing Contact:

Wendy Galloway, Paralegal
P.O. Box 40255
Olympia, Wa 98504
Phone: (360) 725-7002 Fax: (360) 664-2782
E-mail: wendyg@oic.wa.gov

References:

Telephone NOH
In person NOH

MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON



Phone (360) 725-7000
www.insurance.wa.gov

FILED

2009 AUG 14 A 11:38

OFFICE OF
INSURANCE COMMISSIONER

IN THE MATTER OF

PacifiCare of Washington, Inc.,

Authorized Health Care Service Contractor.

ORDER NO. 09-0010

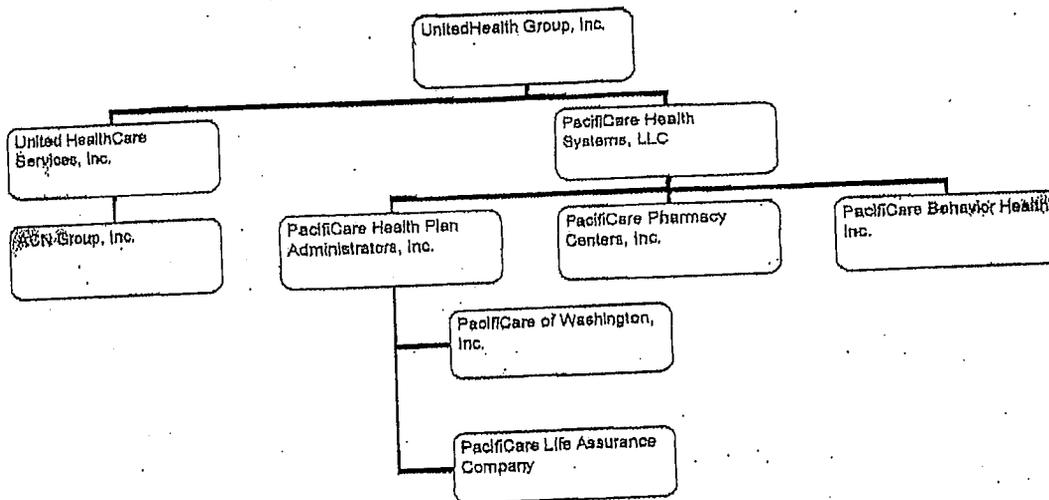
NOTICE OF REQUEST FOR
HEARING FOR IMPOSITION OF
FINES

Hearing Unit, DIC
Patricia D. Petersen
Chief Hearing Officer

I. REQUEST FOR IMPOSITION OF FINES

A. BASIS

1. PacifiCare of Washington, Inc. ("PacifiCare of Washington") is a health care service contractor authorized to do business in the state of Washington.
2. PacifiCare of Washington, Inc. is wholly owned by PacifiCare Health Plan Administrators, Inc. ("PHPA"). That company is wholly owned by PacifiCare Health Systems, LLC. which is, in turn, owned by UnitedHealth Group, Inc. Below is the organizational chart as of December 31, 2006, included as part of the Office of Insurance Commissioner's Financial Examination of PacifiCare of Washington for January 1, 2003 - December 31, 2006.



Prior to that time, from 2002 to 2006, PacifiCare of Washington also had a sister company called PacifiCare Life and Health Insurance Co., also wholly owned by PHPA.

3. On or about November 24, 1998, PacifiCare of Washington filed a copy of a licensing agreement and requested input from the Office of Insurance Commissioner ("OIC") regarding the payment of royalty fees by PacifiCare of Washington to its holding company. OIC informed the Company that statutory accounting principles did not allow such payments because such transactions, by definition, are not fair and reasonable. That is because they have no basis in fact. They are therefore a potential method whereby a parent company can take inappropriate amounts of money out of a subsidiary, imperiling the solvency of the subsidiary and the security of its Washington enrollees. In order to be considered "fair and reasonable," payments by a subsidiary to a parent for services must be at cost and not become a distribution of income. As a result, PacifiCare of Washington's Chief Financial Officer informed OIC that PacifiCare would not implement these royalty payments.
4. Over the intervening years, OIC has questioned payments PacifiCare has made to its parents (PacifiCare Health Plan Administrators, Inc., and subsequently UnitedHealth Group, Inc.).
5. In 2001, the Washington Holding Company Act became effective. RCW 48.31C.050 of the Act codified the longstanding statutory accounting principle that transactions within a holding company system must be fair and reasonable. That statute has consistently been applied in harmony with the pre-existing accounting principles to prohibit payment of royalties by a subsidiary insurer to its parent.
6. During these years, whenever OIC questioned its payments to its parent companies, PacifiCare denied that the payments were royalties. During a financial examination for the period of January 1, 1997 through December 31, 2002, the Company classified these royalties as "corporate charge back" fees and stated that they were for services provided by the Corporate Office for treasury, legal, taxes, and other regulatory functions not performed directly by the Company. During a second examination period of January 1, 2003 through December 31, 2006, the Company classified the royalties as "management contract fees." At that time, the Company claimed that these fees were for marketing costs.
7. In addition to these methods of mischaracterizing the payments on the Company's financial reports, the payments were also made indirectly. The royalties were paid by PacifiCare of Washington's immediate parent company, PHPA to an affiliate, PacifiCare Life and Health Insurance Company, which then paid them to the parent company. The royalty charges were then recouped by being included in the inter-company billing from PHPA to PacifiCare of Washington.
8. Finally, the issue of royalties was again raised during the financial examination of PacifiCare as of December 31, 2006. For months during this examination, the Company denied payment of royalty fees. However, PacifiCare of Washington finally acknowledged the amount of the 2004 royalty fees in a letter to OIC in a written response to the draft report of the examination. The Company admitted it had been paying royalties to its parent companies since 1999, and the amounts of those royalties.

9. PacifiCare of Washington calculated the total royalties paid as \$72,914,631. At OIC's request, the Company has now provided satisfactory documentation to OIC that it has recouped this money from PHPA.
10. PacifiCare of Washington's payment of royalties to its parent company violated RCW 48.31C.050.
11. The number of violations is calculated as at least 96. Each royalty payment is a violation and, at a minimum, a payment was made in each month for 8 years. The effect on Washington consumers was indirect - moving such a significant amount of money out of the insurer could have placed the insurer in a hazardous financial condition under WAC 284-16-300 to -320, and possibly required premium increases.
12. The classification of these payments on PacifiCare of Washington's financial records had another effect. At any time, these payments could have been made from PacifiCare of Washington to its parent without violating Washington law. They would simply have had to be classified in financial reports as what they truly are, dividends. However, in California, "dividends" are subject to an additional tax in addition to the base corporate tax on profits. Both PacifiCare of Washington's current and former parent companies are or were California corporations. Therefore, by classifying these payments as royalties, the parent companies avoided paying taxes that would have been owed if they had been appropriately classified as dividends. That appears to be the reason for the subterfuge of classifying them as "corporate charge backs" and "management contract fees," to avoid their being prohibited by Washington or taxed by California.
13. By its officers' verification of annual financial statements which they knew or should have known did not accurately state PacifiCare of Washington's financial condition, the Company violated RCW 48.44.095.
14. By knowingly filing with the OIC annual financial statements which did not accurately state PacifiCare of Washington's financial condition, the company violated RCW 48.44.100.

B. PENALTIES AND RELIEF REQUESTED

15. The OIC seeks to impose a fine against PacifiCare of Washington, Inc. in the total amount of \$400,000 for the following violations:
16. Pursuant to RCW 48.44.160 and RCW 48.44.166, for approximately 96 violations of RCW 48.31C.050 by illegally paying royalties to its parent company within a holding company system and repeatedly denying to OIC that such payments were being made.

17. Pursuant to RCW 48.44.095 and RCW 48.44.100; for 8 years of violations of each of RCW 48.44.095 and RCW 48.44.100, by attempting to disguise these royalty payments by making them through another company and by falsely classifying them within the Company's annual financial reports.

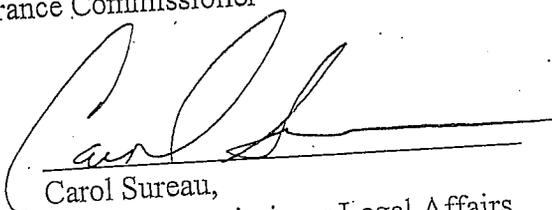
II. NOTICE OF HEARING

18. The Insurance Commissioner will convene a hearing at a date, location, and time to be determined, to consider the allegations above and the sanctions to be imposed upon PacifiCare of Washington pursuant to RCW 48.04.010 and RCW 48.05.185. At the hearing, the OIC will present evidence showing that PacifiCare of Washington violated the Insurance Code as summarized above and that the sanctions requested above are authorized under the law. PacifiCare of Washington may cross-examine OIC witnesses and present any defenses, evidence, or arguments it may have in opposition.

19. The Insurance Commissioner's staff will participate in this matter through its designated representative, Andrea L. Philhower, P.O. Box 40255, Olympia, Washington, 98504-0255, AndreaP@oic.wa.gov, (360) 725-7063. The Insurance Commissioner has been informed that PacifiCare of Washington is represented by attorney Jeff Gingold of the Lane Powell law firm. Pursuant to RCW 34.05.428 and WAC 10-08-083, OIC requests that, should this information be or become inaccurate, the Company provide the Chief Presiding Officer and Ms. Philhower with written notification of the person who will appear at all conferences and hearings, including the person's name, address, e-mail address, and telephone number.

Executed at Tumwater, Washington, this 14th day of August, 2009.

MIKE KREIDLER
Insurance Commissioner

By: 

Carol Sureau,
Deputy Commissioner Legal Affairs

CERTIFICATE OF MAILING

The undersigned certifies under the penalty of perjury under the laws of the State of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the State of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be served the foregoing NOTICE OF PRE-HEARING CONFERENCE on the following individuals in the manner indicated:

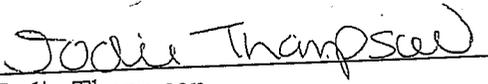
Patricia Peterson, Administrative Law Judge
5000 Capitol Blvd., MS 40255
Olympia, WA 98501

(XXX) Via Hand Delivery

Jeffery Gingold
Lane Powell, PC
1420 Fifth Avenue, Suite 1400
Seattle, WA 98101-2338

(XXX) Via U.S. Regular Mail

SIGNED this 14th day of August, 2009, at Tumwater, Washington.


Jodie Thompson
Jodie Thompson

Galloway, Wendy (OIC)

From: Gingold, Jeffrey [GingoldJ@LanePowell.com]
Sent: Monday, August 17, 2009 5:24 PM
To: Petersen, Patricia (OIC)
Cc: Galloway, Wendy (OIC); Philhower, Andrea (OIC)
Subject: RE: OIC Request for Imposition of Fine- No. 09-0010
Attachments: August 17, 2009 Letter.PDF

Dear Judge Petersen,
Attached, please find the electronic version of our letter dated August 17, 2009 in the above-referenced matter. A "hard copy" of this letter also has been mailed to you this afternoon. Please let me know if you have any problems opening the attachment, in which case I will retransmit it.
Best regards,

Jeff Gingold



Shareholder, [Bio](#) | [VCard](#)
Lane Powell PC
1420 Fifth Avenue, Suite 4100
Seattle, WA 98101-2338
Direct: 206.223.7955
Cell: 206.618.2200
Fax: 206.223.7107
www.lanepowell.com

This message is private or privileged. If you are not the person for whom this message is intended, please delete it and notify me immediately, and please do not copy or send this message to anyone else.

Please be advised that, if this communication includes federal tax advice, it cannot be used for the purpose of avoiding tax penalties unless you have expressly engaged us to provide written advice in a form that satisfies IRS standards for "covered opinions" or we have informed you that those standards do not apply to this communication.



JEFFREY L. GINGOLD
+1,206.223.7955
gingoldj@lanepowell.com

August 17, 2009

VIA ELECTRONIC/REGULAR MAIL

Ms. Patricia D. Petersen
Chief Hearing Officer And Presiding Officer
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Re: OIC Order No. 09-0010

Dear Chief Hearing Officer Petersen:

I hope this correspondence finds you well.

This firm represents PacifiCare of Washington ("PCW"), a health care service contractor authorized to do business in Washington and so registered with the Washington Office of Insurance Commissioner ("OIC").

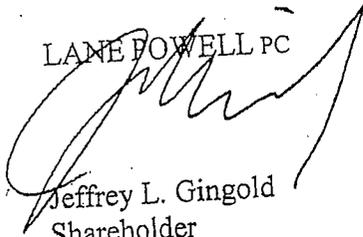
On August 14, 2009, OIC filed with the Hearings Unit a "Notice of Request for Hearing for Imposition of Fines," which in pertinent part seeks to impose a penalty in the form of a fine against PCW.

Pursuant to subsection 48.04.010(5) RCW, on behalf of PCW we very respectfully request that any hearing relating to this matter be presided over by an administrative law judge assigned under chapter 34.12 RCW.

Thank you very much for your attention to this request.

Very truly yours,

LANE POWELL PC



Jeffrey L. Gingold
Shareholder

JLG:af

cc: Wendy Galloway, Paralegal
Andrea Philhower, Esq.

706501.0036/1745728.1

www.lanepowell.com
T. 206.223.7000
F. 206.223.7107

A PROFESSIONAL CORPORATION
1420 FIFTH AVENUE, SUITE 4100
SEATTLE, WASHINGTON
98101-2338

LAW OFFICES
ANCHORAGE, AK . OLYMPIA, WA
PORTLAND, OR . SEATTLE, WA
LONDON, ENGLAND

Galloway, Wendy (OIC)

From: Philhower, Andrea (OIC)
Sent: Monday, August 17, 2009 1:49 PM
To: 'Gingold, Jeffrey'; Galloway, Wendy (OIC)
Subject: RE: Telephone conference

Wendy,
Just confirming that I am amenable to a continuance to accommodate Mr. Gingold.
Andrea

Andrea L. Philhower
Staff Attorney
Legal Affairs Division
Washington State Office of the Insurance Commissioner
(360)725-7063
(360)586-0152 (Fax)
www.insurance.wa.gov

This email message and any attached files are confidential and are intended solely for the use of the addressee(s) named above. This communication may contain material protected by the attorney-client, work product, or other privileges. If you are not the intended recipient or person responsible for delivering this confidential communication to the intended recipient, you have received this communication in error and any review, use, dissemination, forwarding, printing, copying, or other distribution of this email message and any attached files is strictly prohibited. If you have received this confidential communication in error, please notify the sender immediately by reply email message and permanently delete the original message.

From: Gingold, Jeffrey [mailto:GingoldJ@LanePowell.com]
Sent: Monday, August 17, 2009 12:42 PM
To: Galloway, Wendy (OIC)
Cc: Philhower, Andrea (OIC)
Subject: RE: Telephone conference

Hi Ms. Galloway,

I'm following up on the voicemail message I left you earlier this morning. As indicated, I will not be in Copenhagen on August 24 and as a consequence, it is questionable whether I will have access to a reliable land line for our conference call. I have discussed the situation with Andrea Philhower and she has no objection to moving the call to Monday, August 31 when I will be back in my office.

Thanks very much,

Jeff Gingold



Shareholder, Bio | VCard
Lane Powell PC
1420 Fifth Avenue, Suite 4100
Seattle, WA 98101-2338
Direct: 206.223.7955
Cell: 206.618.2200
Fax: 206.223.7107
www.lanepowell.com

This message is private or privileged. If you are not the person for whom this message is intended, please delete it and notify me immediately, and please do not copy or send this message to anyone else.

Please be advised that, if this communication includes federal tax advice, it cannot be used for the purpose of avoiding tax penalties unless you have expressly engaged us to provide written advice in a form that satisfies IRS standards for "covered opinions" or we have informed you that those standards do not apply to this communication.



FILED

JEFFREY L. GINGOLD
+1.206.223.7955
gingold@lanepowell.com
AUG 20 9:57

August 17, 2009

Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer

VIA ELECTRONIC/REGULAR MAIL

Ms. Patricia D. Petersen
Chief Hearing Officer And Presiding Officer
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Re: OIC Order No. 09-0010

Dear Chief Hearing Officer Petersen:

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Pursuant to subsection 48.04.010(5) RCW, on behalf of PCW we very respectfully request that any hearing relating to this matter be presided over by an administrative law judge assigned under chapter 34.12 RCW.

Thank you very much for your attention to this request.

Very truly yours,

LANE POWELL PC

Jeffrey L. Gingold
Shareholder

JLG:af

cc: Wendy Galloway, Paralegal
Andrea Philhower, Esq.

706501.0036/1745728.1

MIKE KREIDLER
STATE INSURANCE COMMISSIONER



OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT

Fax: (360) 664-2782

DECLARATION OF MAILING

I declare under penalty of perjury under the laws of the State of Washington that on the date listed below, I mailed or caused delivery of a true copy of this document to parties below
DATED this 31 day of Aug 2009,
at Tumwater, Washington.

Signed W. Galloway
Patricia D. Petersen
Chief Hearing Officer
(360) 725-7105

Wendy Galloway
Paralegal
(360) 725-7002
Wendyg@oic.wa.gov

NOTICE OF RECEIPT OF REQUEST FOR HEARING

To: Mr. Jeffrey L. Gingold
Lane Powell PC
1420 Fifth Avenue, Suite 4100
Seattle, Washington 98101-2338

Copy To: Mike Kreidler, Insurance Commissioner
Mike Watson, Chief Deputy Commissioner
Jim Odiorne, Deputy Commissioner for Company Supervision
Carol Sureau, Deputy Commissioner, Legal Affairs
Andrea Philhower, Staff Attorney, Legal Affairs
Post Office Box 40255
Olympia, Washington 98504-0255

From: Patricia D. Petersen, Chief Hearing Officer *pdp*

Date: August ³¹~~25~~, 2009

Hearing: In the Matter of PacifiCare of Washington, Docket No. 09-0010

This is to advise you that on August 14, 2009, the Hearings Unit received and filed a Notice of Request for Hearing for Imposition of Fines.

We note that you have requested that an administrative law judge from the Office of Administrative Proceedings (OAH) conduct the hearing in this matter. Accordingly, in order to accommodate your request, administrative discretion is being used in this case to transfer the hearing file to OAH. Per our arrangement with OAH, an administrative law judge with OAH will be appointed to hear this matter and enter an Initial, or Recommended, Order. The Initial Order, together with the entire hearing file and recording of the proceedings, will then be returned by OAH to this Hearings Unit. At that time, the entire hearing file and Initial Decision entered by OAH will be reviewed by a Review Judge, who will then enter the Final Findings of Facts, Conclusions of Law and Order in this matter. More details about this procedure appear on the attached page.

Due to PacifiCare of Washington's request to have this matter presided over by an administrative law judge and the fact that this request has been granted by discretion of the Commissioner, the prehearing conference scheduled on Monday, August 31, 2009 has been cancelled and will be rescheduled with an ALJ of the Office of the Administrative Hearings upon receipt of the file.

If you have any questions concerning this Notice, please contact Wendy Galloway, Paralegal, Hearings Unit, at the above telephone number or address.

HEARING PROCEDURES – OFFICE OF THE INSURANCE COMMISSIONER

Depending on your right to hearing and applicable statutes, you may have had two options available for the procedure by which your hearing will be conducted. These two options are as follows:

Option 1: Your hearing will be presided over by an Administrative Law Judge who handles appeals from actions of the Insurance Commissioner, pursuant to Title 34 RCW, the Administrative Procedures Act, and Title 48 RCW. The Administrative Law Judge is an individual who, by statute, may have no prior involvement with either the facts or any issues involved in this case. The Administrative Law Judge will hear and make the final decision in the case without any communication, input or review by the Insurance Commissioner or staff or any other individual who has knowledge of the case. The Administrative Law Judge's final decision may uphold or reverse the Commissioner's action or may instead impose any penalties, which are less than those contained in the Commissioner's action.

Option 2: Your hearing may be presided over by an Administrative Law Judge from the Office of Administrative Hearings. That Administrative Law Judge will issue an initial, or recommended, decision which will then be sent to the Insurance Commissioner along with the entire hearing file. The Insurance Commissioner, or his designee, will review the entire hearing file, and the Initial Decision, make the final decision and enter a Final Findings of Facts, Conclusions of Law and Order accordingly. The Insurance Commissioner's final decision in the case may uphold, reverse or modify the initial decision, and may thereby change the penalty which is recommended in the initial decision. In writing the final decision, the Insurance Commissioner is not bound by the findings of facts or conclusions of law which were made in the initial decision.

Based upon your letter dated August 17, 2009, your hearing will be handled under Option 2 described above.
