

STATE OF WASHINGTON  
OFFICE OF ADMINISTRATIVE HEARINGS  
FOR OFFICE OF INSURANCE COMMISSIONER

FILED

2009 SEP 23 A 11:49

IN THE MATTER OF:

Docket No. 2009-INS-0001

Hearings Unit, DIC  
Patricia D. Petersen  
Chief Hearing Officer

PACIFICARE OF WASHINGTON, INC.,  
Authorized Health Care Service  
Contractor,

FIRST PRE-HEARING ORDER

Respondent.

**I. TELEPHONIC PRE-HEARING CONFERENCE**

On September 18, 2009, Administrative Law Judge Cindy L. Burdue held a telephonic pre-hearing conference with the parties pursuant to RCW 34.05.431 and WAC 10-08-130, from Olympia, Washington.

**II. APPEARANCES BY TELEPHONE**

Jeffrey L. Gingold, Attorney at Law, Lane Powell, appeared and represented the Respondent, PacifiCare of Washington, Inc. Andrea Philhower, Staff Attorney, Legal Affairs, appeared and represented the Office of Insurance Commissioner ("OIC").

**III. STATEMENT OF THE MATTERS PRESENTED AT THE PRE-HEARING CONFERENCE**

Respondent intends to file a dispositive motion; a schedule was developed around this filing. The hearing on the merits will be set after the order is issued on this motion.

**IV. ORDER**

A. Scope/purpose of the Hearing:

The purpose of the hearing is to determine whether the Office of Insurance Commissioner may properly impose a fine of \$400,000.00 against PacifiCare of Washington, Inc., for "... 96 violations of RCW 48.44.160 and RCW 48.44.166 by illegally paying royalties to its parent company within a holding company system and repeatedly denying to OIC that such payments were being made." (Citing the OIC "Notice of Request for Hearing and Imposition of Fines" issued August 14, 2009).

#### **4. Reply to Response of OIC:**

Respondent has until November 23, 2009, to reply to the response briefing of OIC, with copies of the filing to OIC and the judge.

#### **5. Oral Argument of the Motion:**

**December 3, 2009, at 10:00 a.m., by telephone, instructions are stated above.**

If either party desires in-person argument, the judge and other party must be notified by November 1, 2009. The argument will occur in Olympia. Only the party requesting such in-person hearing must appear; the other party may appear via telephone.

#### **6. Pre-marking Proposed Exhibits for the Motion:**

The OIC's exhibits shall be pre-marked starting with "C" (for Insurance Comm'r.), and each page numbered. (Ex. C-1, page 1, 2, 3; Ex.C-2, page 1, 2, 3; Ex.C-3, page 1, 2, 3, etc.)

The Respondent will mark its exhibits with "R" for Respondent, and each page shall be numbered. (Ex. R-1, page 1, 2, 3; Ex. R-2, page 1, 2, 3; Ex. R-3, page 1, 2, 3, etc.)

#### **7. Nature of Deadline:**

Unless otherwise specifically noted, all deadlines and cutoff dates herein are deadlines for receipt, not deadlines for mailing, except the documents may be mailed (and postmarked) to the Office of Administrative Hearing on the deadline and will be deemed as timely filed.

#### **8. Order on Motion**

The undersigned will attempt to issue the order on the motion by December 17, 2009, so we may proceed with planning for the next stage of the hearing on December 21, 2009, at the status hearing.

#### **9. Pre-hearing Status Conference:**

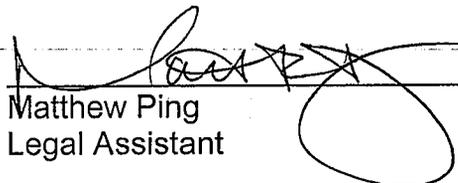
**A Status Conference is scheduled for December 21, 2009, at 10:00 a.m.,** by telephone conference. The purpose of this conference is to regroup in light of whatever order was issued on Respondent's motion, to set hearing dates, discovery cut offs, exchange of witness lists and exhibits, and to clarify the issues for hearing on the merits.

#### **10. Objection to Order:**

In accordance with WAC 10-08-103(3), the parties shall have ten days from the mailing date of this Order to file any objections to this order. Any such objection shall be in writing.

**Certificate of Service**

I assert that true and exact copies of the Pre-hearing Case Management Order were mailed to the following parties, postage prepaid on the 22<sup>nd</sup> day of September 2009 at Olympia, Washington.

  
Matthew Ping  
Legal Assistant

PacifiCare of Washington, Inc.  
c/o Jeffrey Gingold, Atty.  
Lane Powell  
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