MIKE KREIDLER
STATE INSURANCE COMMISSIONER

STATE OF WASHINGTON

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OFFICE OF
INSURANCE COMMISSIONER

FILED

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Hearings Unit, OIC
Patricia D. Petersen
Chief Hearing Officer

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 Gundersen Dental Care & Andrea L. Philhower, Esq.
DATED this 10th day of March, 2011
at Tumwater, Washington.
Signed: [signature]

HEARINGS UNIT
Fax: (360) 664-2782

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

Nicole Kelly
Paralegal
(360) 725-7002
nicolek@oic.wa.gov

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:	)	No. 11-0002
	)	
GUNDERSEN DENTAL CARE	)	ORDER TERMINATING PROCEEDING
	)	
	)	
	)	

TO: Gundersen Dental Care
ATTN: Rose Gundersen, Finance Manager
115 Cleveland Ave SE
Tumwater, WA 98501

COPY TO: Mike Kreidler, Insurance Commissioner
Michael G. Watson, Chief Deputy Insurance Commissioner
Carol Sureau, Esq. Deputy Commissioner, Legal Affairs Division
Andrea L. Philhower, Esq., Staff Attorney, Legal Affairs Division
John F. Hamje, Deputy Commissioner, Consumer Protection Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

On December 9, 2010, Gundersen Dental Care (Gundersen) filed a letter, which was considered a Demand for Hearing, requesting an administrative hearing *"to challenge this action of the Commissioner* [the OIC's September 16 letter determining that Premera properly denied the claim] *because the* [OIC's September 16] *decision letter failed to explain how and why the decision was reached.* Gundersen claims that Gundersen Dental Care is *deprived of the due process right because the letter provided no basis as to how the decision was arrived. ... It is imperative that the Commissioner, as a regulatory agency, properly applied the statutes in the review of the contract and the facts related to the case. ... In summary, this hearing request questions whether the OIC has properly applied the following statutes properly as related to the ... [exclusion]....in ... George Chris*

Gundersen's health insurance contract: .... Briefly, Gundersen 1) cites RCW 48.30.300, the insurance discrimination statute and general discrimination law, arguing that Premera must be making some use of gender discrimination in guessing whether certain providers are related to certain patients for whom claims are submitted (same last name may assume the woman is married, etc.) and 2) requests that the OIC review Premera's procedures in guessing/determining whether a provider and patient are related. 3) Gundersen also requests that the undersigned issue a subpoena requiring Premera to turn over its standard procedures in enforcing the clause, and the specific documents and algorithm that identified Dr. Arne Gundersen, the provider, with George Gundersen, the patient, to determine if discrimination is present. 4) Gundersen also cites RCW 48.44.020(2)(a), arguing that the OIC failed to explain why the clause is reasonable and is not ambiguous.

In response to Gundersen's Demand for Hearing on January 19, 2011, the undersigned held a first prehearing teleconference in this matter. Gundersen Dental Care appeared pro se, by and through Rose Gundersen, its Finance Manager. The OIC appeared pro se, by and through Andrea L. Philhower, Esq., Staff Attorney in its Legal Affairs Division.

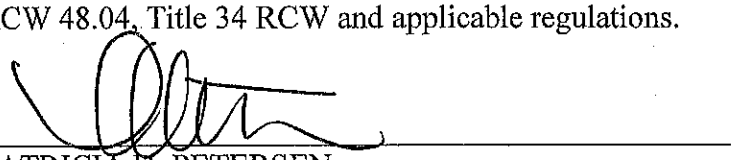
During said prehearing conference, the undersigned reviewed procedure to be expected before, during and after the hearing and addressed all questions and concerns of the parties. Of significance, Gundersen requested a subpoena, which is discussed and decided below. Further, by agreement of the parties, a hearing was scheduled to commence on March 1, 2011, and on February 8, 2011 the undersigned entered a Notice of Hearing reflecting the above information.

Subsequently, on February 23 and 28, 2011, Gundersen filed statements with the undersigned, advising that Gundersen was withdrawing its request for hearing based upon Gundersen's agreement with the OIC. Specifically, 1) The OIC has agreed to contact Premera, requesting reimbursement to Gundersen due to the exceptional situation regarding the facts of this case; and 2) Gundersen will pursue requesting that the OIC conduct rulemaking to consider the proposition that the subject "related party exclusion clause" is against public policy and to consider prohibiting this clause from being included in health insurance contracts. Said February 23 and 28, 2011 statements reflecting the agreement of the parties are included in the hearing file and are by this reference incorporated herein.

Based upon the above activity,

IT IS HEREBY ORDERED that the proceeding herein is terminated with prejudice.

ENTERED AT TUMWATER, WASHINGTON, this 10th day of March, 2011, pursuant to RCW 48.04, Title 34 RCW and applicable regulations.



PATRICIA D. PETERSEN
Chief Hearing Officer