

Cairns, Kelly (OIC)

FILED

From: Timin, Gary P. [Gary.Timin@squiresanders.com]
Sent: Tuesday, February 28, 2012 2:37 PM
To: Cairns, Kelly (OIC); Brown, Charles (OIC)
Cc: 'Jim Novello'; 'Hoffman, Robert W.'; 'Joe Ventura'; 'Joan Lenahan'; 'Guite, Robert J.'; 50
Subject: RE: Proposed Acquisition of Arcadian Health Plan, Inc. by Humana Inc., No. 12-0010
Attachments: Arkansas approval order.pdf; Georgia approval order.pdf; Louisiana approval order.pdf; North Carolina approval order (1).pdf; Texas approval order.pdf

Hearings Unit
Patricia O. Petersen
Chief Hearing Officer

Kelly,

Thanks again for arranging today's prehearing conference. It was very helpful for Humana and we're sure for the other participants as well, and we are pleased that a hearing date was set. This email follows up on two of Judge Petersen's requests during the conference. We would appreciate your relaying it to her.

1. Attached are the approval orders entered by the insurance departments of Arkansas, Georgia, Louisiana, North Carolina, and Texas. Allow me to note that each order, except Louisiana's, contains an express finding of lack of, or lack of evidence of, anticompetitive effects in the state in question.
2. To reiterate in writing Humana's reasons for requesting confidential treatment of Exhibit E to the First Amendment:
 - a. First, as Joe Ventura of Humana explained during today's call, Humana is engaged in active negotiations with other health plans on agreements to effect the proposed transfers in the specified states that Exhibit E summarizes. Disclosure of the Exhibit would tell prospective buyers precisely what transfers Humana is seeking to negotiate in specific counties and the portion of the total purchase price that Humana and Arcadian have attributed to those proposed transfers. As a result, prospective buyers would gain important negotiating advantages, and the consideration that Humana and Arcadian stand to realize from the transfers could well be reduced to their detriment. That is why we previously described this information as proprietary.
 - b. Second, while recognizing that you have asked to hear directly from the Department of Justice, after having been informed by DOJ just this morning that it prefers that Exhibit E remain non-public at this stage, Humana understandably desires to accomplish that if possible, to facilitate successful completion of negotiations with DOJ, and so considered it appropriate to relay DOJ's concern. As promised during the call, after receiving your forthcoming letter, Humana will ask DOJ to communicate directly to you the points that you identify.

In that connection, especially because none of the proposed transfers are in Washington, we believe that redacting just Exhibit E while making publicly available the body of the First Amendment will provide adequate and accurate disclosure of the amended transaction terms to any interested members of the public who access OIC's website or otherwise request publicly available materials in connection with the hearing. For example, section 4 of the First Amendment sets forth the agreed allocation of the net proceeds of those transfers that come to be agreed and made.

Please do not hesitate to let me know any questions.

Regards,
Gary

From: Timin, Gary P.
Sent: Tuesday, February 28, 2012 12:47 PM
To: 'Cairns, Kelly (OIC)'; Brown, Charles (OIC)
Cc: Jim Novello; Hoffman, Robert W.; Joe Ventura; Joan Lenahan; Guite, Robert J.
Subject: RE: Proposed Acquisition of Arcadian Health Plan, Inc. by Humana Inc., No. 12-0010

Kelly and all,

Thanks for your assistance in arranging today's prehearing conference. Attached please find a letter addressed to Judge Petersen and two enclosures, responding to some points in hers of yesterday. Our goal in writing is trying to facilitate today's conference and to clarify a few items.

Humana inside counsel Joe Ventura will join today's call. Also participating for Humana will be my colleague Robert Guite, who is based in our San Francisco office but earlier worked in Seattle and continues to practice in Washington.

We look forward to speaking with you and Judge Petersen.

Regards,
Gary

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From: Cairns, Kelly (OIC) [<mailto:KellyC@oic.wa.gov>]
Sent: Monday, February 27, 2012 4:27 PM
To: Timin, Gary P.; Brown, Charles (OIC); Jim Novello; Hoffman, Robert W.
Subject: Proposed Acquisition of Arcadian Health Plan, Inc. by Humana Inc., No. 12-0010

Gentlemen,

Please find attached a letter from Judge Petersen to Mr. Timin dated today. If I have not spoken with you already, I will be contacting you to schedule a second prehearing conference for tomorrow. Please let me know if you have any questions.

Kelly A. Cairns
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36 Offices in 17 Countries

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