



Squire Sanders (US) LLP
200 South Biscayne Boulevard, Suite 4100
Miami, Florida 33131

O +1 305 577 7000
F +1 305 577 7001
squiresanders.com

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Gary P. Timh
T +1 305 577 2860
gary.timh@squiresanders.com
Hon. Patricia D. Petersen
Chief Hearing Officer

February 28, 2012

VIA ELECTRONIC MAIL

Hon. Patricia D. Petersen
Chief Hearing Officer
Office of Insurance Commissioner
State of Washington
P.O. Box 40255
Olympia, WA 98504-0255

**Re: Proposed Acquisition of Arcadian Health Plan, Inc. by Humana Inc.
Docket No. 12-0010A**

Dear Judge Petersen:

On behalf of Humana Inc., thank you very much for your February 27, 2012, letter regarding this proceeding and for scheduling a second prehearing conference for 11:00 a.m. PST today. We look forward to participating and responding to your questions. With the aims of simplifying the conference and facilitating setting a hearing date, this letter briefly addresses a few key points.

First, Humana retracts its request for confidential treatment of the First Amendment to Agreement and Plan of Merger, except its Exhibit E, and will not object to the Office (OIC) making it publicly available in the usual manner for documents relating to a Form A application and hearing. The transaction terms were fully disclosed to OIC. The request for confidential treatment reflected the fact that the substance of the parties' negotiations with the U.S. Department of Justice (DOJ) about possible transfers was sensitive, not public, and could be of interest to Humana's and Arcadian's competitors. Assistant U.S. Attorney Adam Gitlin of DOJ informed us this morning that DOJ prefers that Exhibit E remain confidential if possible. Enclosed for your use is a copy of the First Amendment, not marked confidential but with the body of Exhibit E redacted. In light of DOJ's position, Humana respectfully requests that OIC use this version for any public posting or disclosure.

Second, Humana corporate counsel Joseph C. Ventura, who participated in the first prehearing conference, will participate in today's call and can address the current status of discussions with DOJ. He can also confirm that DOJ has been well aware of the state regulatory approvals required for this transaction, which are typical for an insurance acquisition

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or merger, and most of which have now been obtained. In addition, last week Humana's antitrust counsel arranged for Mr. Gitlin to speak with OIC, if OIC so wished, and OIC counsel Charles Brown tells us that communication occurred. No Humana representative was party to that communication, but we assume it provided OIC and DOJ an opportunity to share information and, to whatever extent they deem appropriate, to coordinate procedures, which they are of course free to do without Humana's invitation. We have no reason to believe that DOJ is concerned that state regulatory approvals of the acquisition while its review is continuing will interfere with its process or constrain its role or discretion under federal law.

Third, by way of clarification, allow me to note that we did inform OIC of the DOJ's HSR investigation or review. The Form A stated that an HSR filing had been made. At that time, the parties hoped for early termination of the waiting period. Then, by email of November 14, 2011 (copy enclosed), we informed OIC that the parties had just that day received DOJ's second request for information, and as a result the HSR review would be continuing for a period that the parties could not predict. As the First Amendment reflects, the second request did not call for more information about any Washington State county or market, and DOJ has never sought any transfers in Washington.

Fourth, we are confident that insurance regulators in the eight states where a Form A was filed are aware that DOJ clearance of the transaction is also needed. The six approvals to date (Arkansas, Arizona, Georgia, Louisiana, North Carolina, and Texas) were granted knowing the HSR review was still in process. Therefore, with respect we do not believe that asking OIC to continue and complete its review is unusual or in any respect compromises its authority or distinctive role. We believe Humana has been promptly responsive to all of OIC's requests for information to supplement the application.

Fifth, we remain confident that a conditional approval order (assuming the requisite statutory findings for approval) can be crafted. Like your Honor, we would welcome suggested wording from OIC staff. By way of illustration, without implying it is the only approach or just as OIC may propose, we quote this provision of the approval Order entered by the Georgia Insurance Commissioner: "WHEREFORE, it is hereby ORDERED that the request for approval of the acquisition of control of the Georgia domestic insurer . . . IS HEREBY APPROVED; subject, however, to the condition that, the Applicant submit, within 120-days of the execution of this Order, evidence satisfactory to the Commissioner that the proposed acquisition has been approved or otherwise cleared under the federal [HSR] Act, as amended and now in effect." We stand ready to work with OIC counsel and your Honor on any wording that is satisfactory and consistent with the Washington Insurance Code.

Last, as your letter appears to ask how much time can be saved by proceeding with the hearing as all parties have requested, we feel obliged to reiterate that both Humana and Arcadian consider time of the essence and, as you have seen from the Letter Agreement, there is no assurance that the transaction will close if not consummated by March 31, 2012.

Humana asked me to emphasize in closing that it stands ready and eager to cooperate with OIC staff and your office to prepared for the hearing and ensure that it is conducted in a manner that provides ample basis for all findings needed to support approval of the Form A. Both before and after the first prehearing conference we have discussed with OIC staff the desired scope and form of evidence including prefiled and live testimony. Thank you again for your close attention to this matter. We look forward to the opportunity to discuss this with you further during today's conference.

Sincerely,

Squire Sanders (US) LLP



Gary R. Timin

Encls: 1. First Amendment (with Exh. E redacted)
2. Nov. 14, 2011, email to R. Pastuch of OIC

cc: Joan O. Lenahan, VP & Corp. Secretary, Humana
Joseph C. Ventura, Legal Counsel, Humana
James Novello, Sr. VP & General Counsel, Arcadian
Robert Hoffman, Esq., Record Counsel for Arcadian
Charles Brown, Sr. Staff Attorney, Legal Affairs Division
Ronald J Pastuch, OIC Company Supervision Division
Kelly A. Cairns, OIC Hearings Unit

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Timin, Gary P.

From: Timin, Gary P.
Sent: Monday, November 14, 2011 3:26 PM
To: 'Pastuch, Ron (OIC)'
Cc: 'jlenahan@humana.com'; 'Joe Ventura'; Han, Lisa G.
Subject: RE: Humana AHP Form A - Deficiency Letter

Mr. Pastuch:

Greetings. We want to let your Department know that the parties today received what is called a "second request" for information from the U.S. Department of Justice and Federal Trade Commission as part of their review of the transaction under the Hart-Scott-Rodino Act. The request calls for more detailed data about the transaction and the parties' current presence in various geographic areas. The parties anticipate discussing this request with the federal agencies with the aim of determining more precisely what data can most productively and quickly be made available to them. The parties can not now predict how long the H-S-R review process will continue or when it will conclude.

Regardless, the parties intend to continuing working with your Department and other state regulators to complete each Form A process at the earliest opportunity. Please do not hesitate to let us know anything more you need after reviewing the materials that sent to you with the below email last Friday.

Regards,
Gary

From: Timin, Gary P.
Sent: Friday, November 11, 2011 12:55 PM
To: 'Pastuch, Ron (OIC)'
Cc: Han, Lisa G.; jlenahan@humana.com; 'Joe Ventura'
Subject: RE: Humana AHP Form A - Deficiency Letter

Mr. Pastuch,

Greetings. Despite the federal holiday today that I expect means Washington state offices are also closed, we are taking this first opportunity to submit Humana's response to your November 4, 2011, deficiency letter. The response consists of a letter addressed to you and Exhibits A through E. These materials, some of which are confidential and proprietary and so labeled to that effect, all supplement the Form A.

Humana stands ready to respond to any further questions your Department may have. We would also appreciate an opportunity to discuss with you possible hearing dates, once you are in a position to do so. Please do not hesitate to contact us any time. Thanks for your continued attention to this application.

Regards,
Gary

Gary P. Timin

Partner
gary.timin@ssd.com

Direct: +1.305.577.2860
Fax: +1.305.577.7001
Mobile: +1.850.294.1713

Squire, Sanders & Dempsey (US) LLP
200 South Biscayne Boulevard, Suite 4100
Miami, Florida 33131

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From: Pastuch, Ron (OIC) [<mailto:RonP@OIC.WA.GOV>]
Sent: Friday, November 04, 2011 5:32 PM
To: flenahan@humana.com
Cc: Timin, Gary P.; Han, Lisa G.
Subject: Humana AHP Form A - Deficiency Letter
Importance: High

Good afternoon, Ms. Lenahan.

Please see the attached letter requesting additional information for the recent Form A filing from Humana's proposed acquisition of control of Arcadian Management Services and Arcadian Health Plan, Inc. Please feel free to contact me if you have any questions regarding this letter.

Thank you,

Ronald J. Pastuch, CPA

Holding Company Manager
Company Supervision Division
Washington state Office of the Insurance Commissioner

360.725.7211 | RonP@oic.wa.gov | www.insurance.wa.gov

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Protecting Insurance consumers

(Insurance Consumer Hotline 1.800.562.6900)

FIRST AMENDMENT TO AGREEMENT AND PLAN OF MERGER

THIS FIRST AMENDMENT TO AGREEMENT AND PLAN OF MERGER (the "Amendment") is made and entered into as of the 31st day of January, 2012 by and among ROGER TAYLOR and MELISSA DANIELS, jointly and severally as stockholder representatives (together, the "Stockholder Representative") and HUMANA INC. ("Parent").

RECITALS:

WHEREAS, Parent, Humsol, Inc., Arcadian Management Services, Inc. and certain shareholders of Arcadian Management Services, Inc. have entered into that certain Agreement and Plan of Merger dated August 24, 2011 (as supplemented by that certain Letter Agreement dated January 19, 2012, the "Merger Agreement");

WHEREAS, pursuant to Section 13.4 of the Merger Agreement, the Merger Agreement may be amended only by a written instrument signed by Parent and the Stockholder Representative;

WHEREAS, Parent and the Stockholder Representative desire to amend the Merger Agreement as set forth herein; and

WHEREAS, capitalized terms not defined herein have the meaning ascribed to such terms in the Merger Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, Parent and the Stockholder Representative agree as follows:

1. Base Purchase Price. Section 2.1(a) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

"(a) "Base Purchase Price" means One Hundred Thirty Million Dollars (\$130,000,000.00)."

2. Escrow Amount. Section 2.1(e) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

"(e) "Escrow Amount" means \$24,000,000.00."

3. Total Closing Merger Consideration. Section 2.1(p) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

"(p) "Total Closing Merger Consideration" means the result of: the Base Purchase Price plus or minus, as applicable, the Estimated Value Surplus or the Estimated Value Deficiency, less the Escrow Amount, less the payments made pursuant

to Sections 3.2(b)(vi) and 3.2(b)(vii), plus, to the extent applicable, the payments made pursuant to Section 4.4."

4. Divestiture of Assets. A new Section 4.4 is hereby added to the Merger Agreement after Section 4.3 of the Merger Agreement, to read as follows:

"4.4. Divestiture and Retention of Certain Assets.

(a) *Divestiture of Assets*. Attached hereto as Exhibit E is a list of assets of Parent and the Company and their respective Affiliates which the DOJ may require to be divested under a negotiated consent order (the "Order") to avoid potential litigation seeking to block the Merger and to permit the Merger to close prior to substantial compliance with the Request for Additional Information and Documentary Material issued by the DOJ in connection with the Merger and the costs and delays associated with the same (the "DOJ Divested Assets"). Notwithstanding Sections 7.10(f) and 7.10(g) hereof, following the Closing, Parent and the Company shall use such efforts to divest the DOJ Divested Assets as are required under the Order. In the event one or more of the DOJ Divested Assets are sold, Parent shall pay (or cause the Company to pay) to the Stockholder Representative (for the benefit of, and for further distribution to, the Stockholders, in accordance with Section 4.4(c) hereof) half of the cash proceeds paid to Parent, the Company or one or more Company Subsidiaries from such sale, after deducting from such proceeds the following amounts (in each case, without double counting any such amounts to the extent that they had previously reduced the cash proceeds paid to Parent, the Company or the Company Subsidiaries in connection with such sale): (i) any related Divestiture Transaction Costs and (ii) any Divestiture Taxes payable by Parent, the Company, Company Subsidiary, any of their respective Affiliates or any combined, unitary, consolidated or other group of which any such entity is a member ("Consolidated Group") in connection with such sale. For each sale of a DOJ Divested Asset, Parent shall remit the Stockholders' portion of the proceeds of such sale to the Stockholder Representative within thirty (30) days of receipt of the closing of such sale.

(b) *Retention of Assets*. In the event the DOJ allows Parent, the Company or their respective Affiliates to retain any of the DOJ Divested Assets, Parent shall remit (or shall cause the Company to remit) to the Stockholder Representative (for the benefit of, and for further distribution to, the Stockholders, in accordance with Section 4.4(c) hereof) 100% of the allocated price for such DOJ Divested Asset as set forth on Exhibit E hereto (each allocated price for a DOJ Divested Asset, the "Allocated Price"). Parent shall remit (or cause the Company to remit) the Allocated Price for each retained DOJ Divested Asset to the Stockholder Representative within thirty (30) days of final determination by the DOJ to allow Parent, the Company or their respective Affiliates to retain such DOJ Divested Asset. Upon Parent or the Company's remitting the Allocated Price for a DOJ Divested Asset to the Stockholder Representative in accordance herewith, such DOJ Divested Asset shall cease to be treated as a DOJ Divested Asset hereunder and no further amount shall be due to the Stockholders upon any subsequent sale of such asset by Parent, the Company or any of their respective Affiliates.

(c) *Distributions to Stockholders.* In each instance in which Parent or the Company remits money to the Stockholder Representative in connection with the sale of a DOJ Divested Asset pursuant to Section 4.4(a) or the retention of a DOJ Divested Asset pursuant to Section 4.4(b), such money shall be received by the Stockholder Representative for the benefit of, and for further distribution to, the Stockholders. The Stockholder Representative shall be entitled to deduct from the gross amount otherwise distributable to the Stockholders, any costs and expenses necessary to effect any such distribution, including, in the Stockholder Representative's discretion, costs to hire a paying agent to effect such distributions. The Stockholder Representative shall distribute (or cause a paying agent to distribute) the net distributable amount of such funds to the Stockholders in accordance with this Agreement within 30 days of receipt thereof from Parent (it being understood that in order to calculate how the net distributable amount is allocated among the Stockholders, such amount shall be added to the Total Closing Merger Consideration, each Stockholder's Per Share Merger Consideration shall be recalculated using the updated Total Closing Merger Consideration, and the Stockholder Representative shall distribute the net distributable amount in accordance with each Stockholder's Per Share Merger Consideration, taking into account any amounts already paid to each Stockholder and the priority of payments to the Stockholders in accordance with the Company's Certificate of Incorporation as of the date hereof)."

5. Exhibits. Exhibit E in the form attached hereto shall be added to the Merger Agreement immediately following Exhibit D of the Merger Agreement.

6. Indemnification – Stockholders. Section 11.2(b)(iv) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

"(iv) the aggregate amount required to be paid by the Stockholders pursuant hereto shall not exceed an amount equal to (A) the Base Purchase Price plus (B) to the extent applicable, the aggregate amount of any payments for the benefit of the Stockholders made pursuant to Section 4.4;"

7. Indemnification – Parent. Section 11.3(b)(iii) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

"(iii) the aggregate amount required to be paid by the Parent Indemnitors pursuant to Section 11.3(a)(i) in respect of breaches of Specified Representations shall not exceed an amount equal to (A) the Base Purchase Price plus (B) to the extent applicable, the aggregate amount of any payments for the benefit of the Stockholders made pursuant to Section 4.4;"

8. Indemnification – Stockholders. Section 11.3(b)(v) of the Merger Agreement shall be deleted and replaced in its entirety with the following:

"(v) except for breaches of representations or warranties that resulted from actual fraud or intentional misrepresentation, the Parent Indemnitors shall not have any obligation for indemnification under Section 11.3(a) in excess of an amount equal to (A) the Base Purchase Price plus (B) to the extent

applicable, the aggregate amount of any payments for the benefit of the Stockholders made pursuant to Section 4.4."

9. Definitions.

a) The following defined terms shall be added to Section 14.1 of the Merger Agreement, each defined term to appear in the correct alphabetical order in the Merger Agreement:

"Allocated Price" is defined in Section 4.4(b).

"Consolidated Group" is defined in Section 4.4(a).

"Divestiture Taxes" means, in connection with any divestiture by Parent, the Company or one or more Company Subsidiaries of any DOJ Divested Asset pursuant to Section 4.4(a) hereof: (a) any Transfer Taxes borne, paid or to be paid by Parent, the Company or one or more Company Subsidiaries in connection with such divestiture and (b) any and all other Taxes (including but not limited to any such Taxes on any income or gain resulting from such divestiture) reasonably expected to be paid by Parent, Company, any Company Subsidiary or any Consolidated Group as a result of such divestiture. For the purposes of determining the amount in clause (b) above, the amount of such Taxes shall be determined by Parent in good faith (x) using the Tax rate(s) reasonably expected to be applicable to such divestiture based upon information reasonably available to Parent at the time of the divestiture, and (y) taking into account the availability of any net operating loss, capital loss or similar carryforward of Company attributable to a Pre-Closing Period (except, in each case, to the extent that any such net operating loss, capital loss or similar carryforward resulted in a positive adjustment to the determination of Closing Value).

"Divestiture Transaction Costs" means, in connection with any divestiture by Parent, the Company or one or more Company Subsidiaries of any DOJ Divested Asset pursuant to Section 4.4(a) hereof: (a) all reasonable costs and expenses incurred by Parent, the Company or the Company Subsidiaries in connection with such divestiture (but excluding any costs of negotiation with the DOJ), including, without limitation, reasonable legal, financial advisory, accounting, consulting and other fees and expenses and any broker's or finder's fees and (b) all amounts (plus any associated withholding Taxes or any Taxes required to be paid by the Company or the Company Subsidiaries with respect thereto (but without double-counting any Taxes included within any associated Divestiture Taxes)) payable by the Parent, the Company or the Company Subsidiaries, whether immediately or in the future, as a result of the consummation of such divestiture (including, without limitation, such amounts payable to any employee of the Company or the Company Subsidiaries at the election of such employee pursuant to any such arrangements) under any "change of control," phantom stock, retention, termination, compensation, severance or other similar arrangements of the Company or the Company Subsidiaries that were in effect on the Closing Date.

"DOJ Divested Assets" is defined in Section 4.4(a).

"Order" is defined in Section 4.4(a)."

b) Section 14.1 of the Merger Agreement, shall be amended to restate and replace the definition of "Reference Value" as follows:

"Reference Value" means \$50,739,494."

c) Section 14.1 of the Merger Agreement, shall be amended to restate and replace the definition of "Cap" as follows:

"Cap" means \$24,000,000."

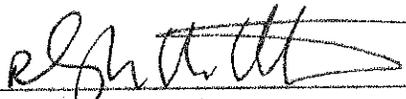
10. Remainder of Merger Agreement Unaffected; Conflicts. Except as expressly provided in this Amendment, the Merger Agreement shall not be amended or otherwise modified. In the event there is a conflict between the terms of the Merger Agreement and the terms of this Amendment, the terms provided in this Amendment shall control. Any disputes arising from this Amendment shall be resolved in accordance with the dispute resolution provisions of the Merger Agreement. All references in the Merger Agreement to the Merger Agreement shall hereafter mean the Merger Agreement as amended by this Amendment.
11. Multiple Counterparts. This Amendment may be executed and delivered in any number of counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which counterparts taken together shall constitute one and the same instrument.
12. Captions. Headings and captions used in this Amendment are for convenience of reference only and shall not be construed or interpreted as affecting the substance or content of any of the provisions of this Amendment.

[SIGNATURE PAGE FOLLOWS.]

In witness whereof, the parties hereto have executed this Amendment to be effective as of the day first written above.

PARENT:

Humana Inc.

By: 
Name: Ralph M. Wilson
Title: Vice President and
Associate General Counsel

STOCKHOLDER REPRESENTATIVE:

Roger Taylor


Melissa Daniels

In witness whereof, the parties hereto have executed this Amendment to be effective as of the day first written above.

PARENT:

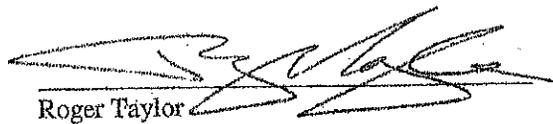
Humana Inc.

By: _____

Name: _____

Title: _____

STOCKHOLDER REPRESENTATIVE:



Roger Taylor

Melissa Daniels

Exhibit E

DOJ Divested Assets – Allocated Price

See attached.

<i>Exhibit E</i>						
EZ_STATE	Market	County_Name	UW Mar Total		UW Mar (negative margin at \$0)	Allocated Price

