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OFFICE OF
INSURANCE COMMISSIONER

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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of the Proposed Plan of)
Reorganization and Merger for:)
)
WASHINGTON DENTAL SERVICE,)
a Washington Health Care Service)
Contractor.)
)
)

No. 13-0115

**NOTICE OF HEARING
ON WASHINGTON DENTAL
SERVICE'S PROPOSED PLAN
OF REORGANIZATION AND
MERGER**

TO: Sean P. Pickard
Director, Government Relations
Washington Dental Service
P.O. Box 75983
Seattle, WA 98175

Barbara Shickich, Esq.
Riddell Williams P.S.
1001 Fourth Avenue, Suite 4500
Seattle, WA 98154

COPY TO: Mike Kreidler, Insurance Commissioner
James T. Odiorne, Chief Deputy Insurance Commissioner
Ronald J. Pastuch, Holding Company Manager, Company Supervision Div.
Charles Brown, Acting Deputy Commissioner, Legal Affairs Division
Robin Aronson, Staff Attorney, Legal Affairs Division
Office of the Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255



NATURE OF PROCEEDING

Washington Dental Service (“Applicant” or “WDS”) is a Washington non-stock nonprofit corporation. WDS holds a Washington Certificate of Registration issued by the Washington State Insurance Commissioner, authorizing it to operate as a health care service contractor in Washington state, as defined in Chapter 48.44, RCW. Its core business is providing dental benefits coverage. WDS proposes to reorganize its business into a traditional holding company structure. In order to accomplish this, WDS has filed an application for its plan of reorganization and merger transaction that includes a proposed reverse merger of Washington Dental Service with and into an existing subsidiary (WDS Merger Sub) of an existing holding company (DD of Washington), as described in more detail below.

The undersigned has been delegated the responsibility to conduct the adjudicative proceeding herein and to make the final determination whether the Applicant’s proposed plan of reorganization and merger meets the statutory criteria and should be approved, or whether it fails to meet the statutory criteria and should be denied.

All documents filed with WDS’s application for approval of this proposed reorganization and merger, and all supplemental documents and information referenced herein, can be found at <http://www.insurance.wa.gov/laws-rules/administrative-hearings/judicial-proceedings/w-z/> or by contacting Kelly Cairns, Paralegal to the undersigned, at the above addresses and telephone number. These documents and materials include, among other documents, 1) Washington Dental Service Reorganization Plan; 2) Amended and Restated Bylaws of Washington Dental Service, WDS Merger Sub and of DD of Washington; 3) Articles of Merger and Plan of Merger for the merger of WDS and WDS Merger Sub; 4) Articles of Amendment to the Articles of Incorporation of Delta Dental of Washington and of DD of Washington; 5) UCAA Corporate Amendments Application for Name Change; 6) Form D filings for the Intercompany Services Agreement and for the Agency Agreement for Paymaster Services; 7) Notice of Distribution and 8) diagrams of the holding company structure. Included also are 9) the Insurance Commissioner’s March 26, 2013 letter requesting further information to supplement the Applicant’s filings and 10) WDS’s letter dated March 28, 2013, transmitting supplemental information. The documents specified above, and others also included in WDS’s filing, and all written communications between WDS and the Insurance Commissioner which were filed in this matter are published at the referenced website and shall be entered into evidence in this proceeding.

I. Identity of Washington Dental Service

Washington Dental Service (“WDS” or “the Applicant”) is a Washington non-stock nonprofit corporation under Chapter 24.03 RCW and exempt from federal income tax under Section 501(c)(4) of the Internal Revenue Code. Its primary business is providing dental benefits coverage and its membership is made up of actively practicing dentists who, as members, are obligated to provide services under Washington Dental Service group dental care contracts. WDS currently holds an interest in three related companies that are involved in public benefit activities, namely Washington Dental Service Foundation LLC, the Institute for Oral Health LLC, and WDS Holdings LLC. The primary objective of the proposed reorganization is to segregate the corporate activities by establishing a holding company that would oversee the dental benefits coverage business of WDS and the public benefits activities of the other three organizations.

II. Details and Result of Proposed Reorganization and Merger

A. Proposed Reorganization and Merger. WDS began its effort to reorganize its business structure in 2009. Two new nonprofit corporations were formed under Chapter 24.03 RCW in 2009, i.e., DD of Washington, the proposed holding company, and WDS Merger Sub, a subsidiary of DD of Washington. In October 2009, DD of Washington obtained an affiliate license from Delta Dental Plans Association. On December 21, 2012, DD of Washington was granted tax exempt status under Section 501(c)(4) by the Internal Revenue Service.

Under the reorganization plan, WDS will merge with WDS Merger Sub, a nonprofit corporation that was formed for the purpose of effectuating this reorganization. The merger will be a “reverse merger” in that WDS will be the surviving corporation. The surviving corporation will retain all of the rights, assets, liabilities and obligations it had prior to the merger and the directors and officers of WDS will continue to be the directors and officers of the surviving corporation. DD of Washington will be the sole member of the surviving corporation.

As part of the merger, the Articles of Merger provide that the name of the surviving corporation (WDS) will be changed to Delta Dental of Washington. Further, the Applicant proposes to amend the articles of incorporation for the holding company, DD of Washington, to change the name of the holding company to Washington Dental Service. In other words, Washington Dental Service (formerly DD of Washington) will be the holding company of Delta Dental of Washington (formerly WDS).

WDS is currently organized under Chapter 24.03 RCW which prohibits distributions to members. In order to achieve the Applicant’s objective of segregating the various corporate activities of WDS, after the merger the Applicant plans to reorganize under another Washington nonprofit corporation act, Chapter 24.06, which allows distributions to members. This can be achieved by filing articles of amendment with the Secretary of State. Once this is done, the Applicant plans to make an extraordinary distribution of its interests in Washington Dental Service Foundation LLC, the Institute for Oral Health LLC, and WDS Holdings LLC, the entities which focus on the public benefit mission of improving oral health, to the holding company (currently DD of Washington, name to be changed to Washington Dental Service). See Exhibit K of the Reorganization Plan, Diagrams of Holding Company Structure.

B. Result of Proposed Reorganization and Merger. The Applicant indicates that the bylaws of WDS Merger Sub and of DD of Washington reflect the current bylaws of WDS. Therefore, the members of WDS (i.e. the individuals covered under this dental plan) will have the same rights after the reorganization as they currently have with WDS. Furthermore, the Applicant maintains that individuals who are members in good standing with WDS on the effective date of the merger will become members of DD of Washington. The Applicant also states that all existing dental benefits coverage agreements and all of the participating provider agreements with dentists will remain in full force and effect with the surviving corporation after the merger and the surviving corporation will remain registered as a health service contractor.

III. Documents to be filed and hearing procedure.

The Insurance Commissioner issued an Order Granting Exemption to RCW 48.31C.030, No. 09-0089, on July 7, 2009, exempting WDS's proposed reorganization from the requirements of RCW 48.31C.030. Because the reorganization involves a merger, specifically a reverse merger in this case, the plan is subject to RCW 48.31.010. Pursuant to RCW 48.31.010, the Insurance Commissioner shall not approve a plan of merger unless, after a hearing, it is found that the merger is fair, equitable, consistent with law, and that no reasonable objection exists.

Toward this end, the parties are advised that the Insurance Commissioner or his duly authorized representative is expected to testify as to whether he has given reasonable advance notice to the public of the hearing scheduled herein and whether he or any members of his staff has received any objections or concerns of any kind relative to this proposed reorganization and merger from any individual or entity, and provide details of these objections or concerns. The Insurance Commissioner or his duly authorized representative is also expected to testify as to 1) the conclusions the Insurance Commissioner has reached during his examination of WDS's Plan of Reorganization and Merger and all related documents and communications filed either before or after WDS filed the Plan; and 2) what the Insurance Commissioner's position is on the above related issues. Further, a duly authorized representative of WDS is expected to testify as to 1) what its position is as to the above stated issues and why, and 2) whether WDS or any of its affiliates has received any objections or concerns regarding this proposed acquisition and provide details of these objections and concerns. Finally, while live testimony from the Insurance Commissioner and WDS will be taken during the hearing as to the above identified issues, written declarations from WDS and the Insurance Commissioner must be filed at least three working days prior to the date of the hearing. Further, a written opening statement from WDS is expected to be filed at least three working days prior to the date of the hearing. Duly authorized representatives of WDS can include officers and/or directors of the companies, or in-house counsel employed by the companies; while testimony of outside counsel or others may be presented, it will be in addition to the testimony of those duly authorized representatives specified above.

YOU ARE HERBY NOTIFIED that a hearing will be held commencing at 10:00 a.m. Pacific Time on Thursday, May 9, 2013, in the Office of the Insurance Commissioner, 5000 Capitol Boulevard, Tumwater, WA 98501, to consider WDS's request for approval of the proposed Plan of Reorganization and Merger, and documents filed therewith and subsequent thereto, which are referenced above and are all published on the Insurance Commissioner's website at <http://www.insurance.wa.gov/laws-rules/administrative-hearings/judicial-proceedings/w-z/>.

The hearing will be held under the authority granted the Insurance Commissioner by Chapter 48.04 RCW and RCW 48.31.010, and shall have as its purpose consideration of the Applicant's request for approval of the proposed plan of reorganization and merger. The hearing will be governed by the Administrative Procedure Act, Chapter 34.05 RCW, and the model rules of procedure contained in Chapter 10-08 WAC. A party who fails to attend or participate in any stage of the proceeding may be held in default in accordance with Chapter 34.05 RCW.

The Insurance Commissioner has not taken, and will not take, any position on this matter prior to entry of the Findings of Facts, Conclusions of Law and Final Order to be entered by the undersigned after

hearing.

YOU ARE FURTHER NOTIFIED that all interested individuals may attend the hearing in this matter without prior approval as this is a public proceeding. Further, interested parties may also listen to or otherwise participate in the hearing by telephone by dialing (877) 668-4493, followed by access code number 231 993 38. YOU ARE FURTHER NOTIFIED that all interested individuals and entities may present questions about, and submit comments on or objections to, this proposed reorganization and merger to the undersigned. Said comments or objections, which will be included in the hearing record and will be considered by the undersigned prior to her making her final decision in this matter, must be submitted by 9:00 a.m. Pacific Time on Thursday, May 9, 2013, by fax, U.S. Mail, personal delivery, or email to Judge Petersen. Her fax number is (360) 664-2782; her U.S. Mail address is PO Box 40255, Olympia, WA 98504-0255; her personal delivery address is 5000 Capitol Boulevard, Tumwater, Washington 98501; and her email address is that of her Paralegal, Kelly A. Cairns, which is KellyC@oic.wa.gov. YOU ARE FURTHER NOTIFIED that any interested person may present evidence and argument on all issues involved, examine and cross-examine witnesses, and offer oral and written statements, and in connection therewith may conduct discovery proceedings.

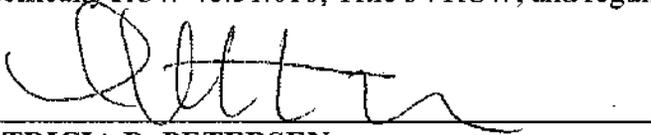
The Insurance Commissioner will appear by and through Robin Aronson, Esq., Staff Attorney in his Legal Affairs Division. She can be reached at (360) 725-7181 or RobinA@oic.wa.gov. Washington Dental Service will be represented by Barbara Shickich, Esq. of Riddell Williams, P.S., 1001 Fourth Avenue, Suite 4500, Seattle, WA 98154. She can be reached at (206) 389-1680 or bshickich@riddellwilliams.com. WDS will also be represented by its Director of Government Relations, Sean P. Pickard, P.O. Box 75983, Seattle, WA 98175. He can be reached at (206) 528-2304 or spickard@deltadentalwa.com.

Based upon a delegation of authority from the Insurance Commissioner, the undersigned will conduct the hearing and will make the final decision and enter the final order relative to this matter without input from the Insurance Commissioner or his staff or any other individual who has knowledge of the issues herein, except as will be presented as evidence in the hearing. Her address is Office of the Insurance Commissioner, Hearings Unit, P.O. Box 40255, Olympia, WA 98504-0255 and her telephone number is (360) 725-7105. All questions or concerns should be directed to Kelly A. Cairns, Paralegal to the undersigned, who may be reached at the telephone and fax numbers, e-mail or U.S. Mail addresses set forth above.

On April 16, 2013, the undersigned held a first prehearing conference in this matter. Participants included: Robin Aronson, Esq., OIC Staff Attorney; Kate Reynolds, Esq., OIC Staff Attorney; Ronald J. Pastuch, OIC Holding Company Manager; Sean P. Pickard, Director of Government Relations, WDS; and Barbara Shickich, Esq. of Riddell Williams, P.S. During said first prehearing conference, the undersigned identified the parties and statutes involved, reviewed procedure to be expected at hearing, and responded to all questions and concerns of the parties. As stated above, **should any party or any interested individual have any further questions or concerns prior to the hearing date, they are advised to telephone or e-mail Kelly A. Cairns, Paralegal to the undersigned, for assistance or to schedule a second prehearing conference if necessary.**

Pursuant to WAC 10-08-040(2) and in accordance with ch. 2.42 RCW, if a limited English-speaking or hearing impaired or speech impaired party or witness needs an interpreter, a qualified interpreter will be appointed. There will be no cost to the party or witness therefore, except as may be provided by ch. 2.42 RCW. Following this Notice is a form you may use to advise the Chief Presiding Officer of your need for an interpreter.

ENTERED at Tumwater, Washington, this 26th day of April, 2013, pursuant to Title 48 RCW and specifically RCW 48.31.010, Title 34 RCW, and regulations applicable thereto.



PATRICIA D. PETERSEN
Chief Presiding 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 through normal office mailing custom, a true copy of this document to the following people at their addresses listed above: Sean P. Pickard, Barbara Shickich, Esq., Mike Kreidler, James T. Odiome, Charles Brown, Esq., Robin Aronson, Esq., and Ronald J. Pastuch.

DATBD this 29th day of April, 2013.


KELLY A. CAIRNS