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INSURANCE COMMISSIONER

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HEARINGS UNIT
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October 31, 2013

Carol Sue Janes, Esq.
Michael Madden, Esq.
Bennett Bigelow & Leedom, P.S.
601 Union Street, Suite 1500
Seattle, WA 98101

RE: Motion for Leave to Intervene in
Coordinated Care Corporation, Matter No. 13-0232

Dear Ms. Janes and Mr. Madden:

On October 24, 2013, the Hearings Unit received your Motion for Leave to Intervene in the above referenced proceeding. As of the date you filed your Motion for Leave to Intervene, it was nearly two months after the time for evidence to be presented at hearing - and indeed even nearly two months since even my Final Order in this case was entered. As reflected in my Notice of Hearing entered August 16, 2013, the hearing in this matter, including presentation of all evidence and argument on the issues involved in this case, commenced on August 26, 2013 and terminated on August 28, 2013. After consideration and review of all evidence and argument presented at hearing, I entered the Final Order in this case on September 3, 2013. Subsequently, the Insurance Commissioner filed his Motion for Reconsideration of this Final Order on September 6, 2013.

Pursuant to the Washington Administrative Procedures Act and most specifically RCW 34.05.443 of the Act, and Washington Rules of Court Civil Rule 24, and cases applicable thereto, had you filed a Motion for Leave to Intervene before the hearing terminated on August 28, 2013,

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you would have had the right to present relevant evidence and argument, and conduct discovery, just like either of the two parties involved in this case. Also, as stated in my Notice of Hearing entered August 16, 2013, all administrative hearings before this agency are open to the public and interested parties are encouraged to participate either in person or by telephone free of charge. My Notice of Hearing in this case states: *All interested individuals and entities who have questions or concerns concerning this proceeding should direct them to [the undersigned's] paralegal, Kelly Cairns, at the same address.* However, because you filed your Motion for Leave to Intervene after the hearing was terminated on August 28, 2013 - and indeed also after I had entered my Final Order on September 3, 2013 - your right to intervene is affected.

While my Order on Reconsideration is not yet entered, as you know, generally, motions for reconsideration cannot include new evidence, and neither the OIC in its Motion for Reconsideration nor Coordinated Care in its Response in opposition to the OIC's Motion for Reconsideration has attempted to present any new evidence. Both have, however, opposed granting your Motion for Leave to Intervene based upon the above authorities. Along with the parties, my conclusion is it would be inappropriate for me to grant your Motion for Leave to Intervene at this late stage of the proceeding. Again, this is because, briefly, pursuant to Title 34 RCW and the Washington Rules of Court, the Motion for Reconsideration which is before me now is confined to that evidence which was presented at hearing. Essentially, under those rules when interested parties had adequate opportunity to intervene and present argument and evidence at hearing but did not, it is inappropriate to allow such new evidence and argument to be presented on reconsideration. Additionally, it does not appear to me that either the facts or decision in the case law you cited are close enough to the situation at hand to justify granting you leave to intervene now on the basis of that case law.

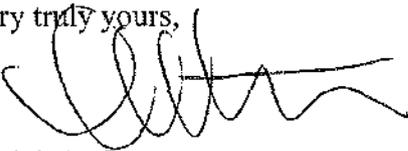
As above, if you had submitted your Motion for Leave to Intervene at any time prior to, and any time up until termination of the hearing on August 28, 2013, your participation in this case would have been welcomed. However, it was simply filed too late to be granted intervention. My Order on Reconsideration will be entered shortly. It may be that - if this case is appealed to the Superior Court by one of the parties (which would occur after entry of my Order on Reconsideration, if at all) - you may want to consider whether Superior Court rules provide you with the right to file a Motion for Leave to Intervene in the appeal, or to otherwise participate, in that appeal although I suspect your research on this issue might reveal that Title 34 RCW, the Administrative Procedure Act, and regulations limit evidence on appeal to that evidence which was presented in the administrative hearing below.

I am sorry to have to provide this information to you, particularly because, as above, administrative hearings before this agency are open to all interested parties and the public both in person and over the telephone free of charge and statements and evidence, and intervention, from

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interested parties are all encouraged. It is just that in this particular situation, pursuant to the applicable rules cited above, your Motion for Leave to Intervene was filed too late and therefore must be denied.

Very truly yours,



Patricia D. Petersen
Chief Presiding Officer

cc (via email):

Jay Fathi, M.D., Pres., Coordinated Care Corp.
Katie Rogers, Vice Pres. of Compliance and Reg. Affairs, Coordinated Care Corp.
Maren Norton, Esq., Stoel Rives LLP
Barbara Nay, Esq., Stoel Rives LLP
Mike Kreidler, Insurance Commissioner
James T. Odiorne, J.D., CPA, Deputy Insurance Commissioner
Molly Nollette, Deputy Commissioner, Rates and Forms Division
AnnaLisa Gellermann, Esq., Deputy Commissioner, Legal Affairs Division
Andrea Philhower, Staff Attorney, Legal Affairs Division