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Hearings Unit, DIC
Patricia D. Paterson
Chief Hearing Officer

**STATE OF WASHINGTON
BEFORE THE WASHINGTON STATE
OFFICE OF THE INSURANCE COMMISSIONER**

In the Matter of:

**COORDINATED CARE
CORPORATION,**

A Health Maintenance Organization

Docket No. 13-0232

**MOTION FOR LEAVE TO
INTERVENE**

INTRODUCTION

Seattle Children's Hospital (SCH), a Washington not-for-profit corporation, moves the Office of the Insurance Commissioner (OIC) for leave to intervene as an interested party in the above matter. SCH makes this motion under the authority of RCW 34.05.443, RCW 48.04.010, WAC 284-02-070, and WAC Chapter 10-08. SCH has significant interests that have been and will be affected by resolution of this action and can provide the OIC with a more accurate understanding of the evidence.

APPLICANT INTERVENER

SCH is the only pediatric hospital in King County and the preeminent provider of pediatric specialty services in the Northwest. Many of these services are not available elsewhere in the Northwest. The Coordinated Care Corporation (CCC) Exchange plans at issue in this action have not contracted with SCH to provide services to the plans' participants. As a result, current and future SCH patients and families who obtain insurance in one of CCC's Exchange plans for their ongoing care will not be able to access care at SCH as an in-network provider.

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Because of the absence of appropriate access to pediatric services in these networks, children and families enrolled in CCC's Exchange plans will be faced with the choice of not receiving or delaying appropriate care, or paying for their care out-of-pocket. SCH anticipates that many patients enrolled in CCC's Exchange plans who require services available only at SCH are likely to present for services at SCH, regardless of its network status, more acutely ill and require more services, and more complex services when they present for care. These patients will consume more resources, thereby reducing resources available for other SCH patients and impairing the ability of SCH to serve the pediatric healthcare needs of the region.

In addition, SCH will be compelled to expend significant time and resources in efforts to negotiate spot-contracts for patients who do require its care, or risk not being compensated at all. In these and other ways, OIC's resolution of this action may adversely impact SCH and its patients. The interests of SCH and its patients are among those that the OIC is required to consider when it adjudicates this proceeding, and a hearing decision made with the participation of SCH can substantially eliminate or redress the prejudice caused by the OIC's ruling dated September 3, 2013, and the subsequent OIC approval dated September 5, 2013.

If allowed to intervene, SCH will be able provide evidence concerning Medicaid networks, rent-a-networks, and spot contracting, which is not otherwise available and which it believes will be of benefit to the OIC in reaching a reasoned decision. Specifically, SCH believes it is important for the OIC to understand that its contract with CCC for Medicaid-covered services is specific to that product-line and does not cover CCC's Exchange plans. Further, the practice of spot-contracting is fraught with problems of delay and uncertainty for patients who are seeking care, and entirely ineffective when patients present urgently or emergently. Finally, SCH will present evidence to show that CCC does not intend to use rental networks that include SCH to serve CCC's Exchange plans enrollees.

RELIEF SOUGHT

SCH moves the OIC for an order allowing it to intervene in this action, under the authority of RCW 34.05.443, RCW 48.04.010, WAC 284-02-070, and WAC Chapter 10-08. SCH requests to be accorded all the rights of an interested party and to be heard on all issues relevant to SCH's interests in this matter, including but not limited to resolution of various concerns with respect to: (1) the September 3, 2013 order in this action, (2) the Insurance Commissioner's September 5, 2013, approval of the plan, and (3) the resolution of the pending Motion for Reconsideration currently pending in this action. SCH seeks intervention in order to address, among other issues:

(a) Did this tribunal receive complete and accurate information regarding the network for CCC Exchange plans, which do not include SCH?

(b) Is the September 3, 2013 order, which determined that CCC "has shown that its network is adequate," despite CCC's reliance on "spot contracting" or "single payor agreements," contrary to applicable law, including RCW 48.46.030(1) and WAC 284-43-200?

(c) Is the September 3, 2013 order contrary to 42 U.S.C. § 18031(c)(1)(C), which requires qualified health plans to include within their plan networks "essential community providers," as defined to include SCH, and other applicable federal laws and regulations?

(d) What will be the effect of the September 3, 2013 order on the insurance-buying public, including their interests in obtaining access to adequate pediatric medical care?

(e) Has the OIC, including this tribunal, adequately considered the interests of SCH and its patients in its review of CCC's Exchange plans?

(f) Was the OIC's September 5, 2013 decision approving the CCC Exchange plans, as directed by this tribunal, contrary to applicable law?

Upon obtaining leave to intervene, SCH intends to seek relief in one or more of the following ways:

- Reconsideration of the September 3, 2013 Order in this action;
- Reconsideration of the Commissioner's September 5, 2013 approval of the CCC Exchange

plans;

- Imposition of a stay of the above decisions;
- Revocation or reversal of the above decisions;

and such other and further relief as this tribunal may grant under its authority.

APPLICABLE LAW

RCW 34.05.443 provides:

(1) The presiding officer may grant a petition for intervention at any time, upon determining that the petitioner qualifies as an intervenor under any provision of law and that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

(2) If a petitioner qualifies for intervention, the presiding officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition; and

(b) Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

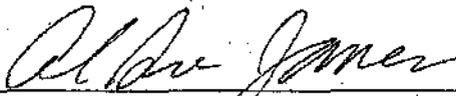
(3) The presiding officer shall timely grant or deny each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The presiding officer may modify the order at any time, stating the reasons for the modification. The presiding officer shall promptly give notice of the decision granting, denying, or modifying intervention to the petitioner for intervention and to all parties.

RCW 48.04.010(1) allows the Commissioner to "hold a hearing for any purpose within the scope of this code as he or she may deem necessary." WAC 284-02-070 entitles any "aggrieved person" to a hearing before the Commissioner. Even after judgment has been entered, intervention remains available if the particular circumstances warrant it. *Columbia Gorge Audubon Society v. Klickitat Cy.*, 98 Wn. App. 618, 623, 989 P.2d 1260 (1999) (citing *Kreidler v. Eikenberry*, 111 Wn.2d 828, 832, 766 P.2d 438 (1989); see also *Columbia Gorge*, at 625 ("[n]umerous state and federal decisions affirm the discretion of the court to rule an intervention timely even after entry of judgment").

In light of the OIC's pending motion for reconsideration, participation by SCH will be particularly relevant and timely in order for the tribunal to make its decision based on complete and accurate information and after hearing from other parties with a substantial interest in the outcome. Although SCH has recently filed a timely demand for hearing to review the OIC's approval of Exchange plans by four different carriers (including CCC), all of which have failed to include SCH in their networks, SCH also seeks intervention in this action so that the decision in that action and this action will be made consistently, after full consideration of the significant interests of SCH and its patients.

DATED this 25th day of October, 2013.

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CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of this document on all parties or their counsel of record on the date below by legal messenger on today's date addressed to the following:

Hearings Unit

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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed at Seattle, Washington, this 24th day of October, 2013.



Carrie Coleman
Legal Assistant

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