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OFFICE OF  
INSURANCE COMMISSIONER  
HEARINGS UNIT

2013 AUG 29 A 11: 07

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BEFORE THE STATE OF WASHINGTON  
OFFICE OF INSURANCE COMMISSIONER

In the Matter of	)	<b>Docket No. 13-0243</b>
	)	
<b>DENTAL HEALTH SERVICES,</b>	)	<b>NOTICE OF HEARING</b>
	)	
A Limited Health Care Service Contractor.	)	
_____	)	

**TO:** Josh Nace, Executive Vice President  
Dental Health Services  
936 North 34<sup>th</sup> Street, Suite 208  
Seattle, WA 98103

Jeffrey I. Gingold, Esq.  
Gingold Law Firm PLLC  
400 Harborview Drive SE, Suite 237  
Bainbridge Island, WA 98110-2467

**COPY TO:** Mike Kreidler, Insurance Commissioner  
James T. Odiorne, J.D., CPA, Chief Deputy Insurance Commissioner  
Molly Nollette, Deputy Commissioner, Rates and Forms Division  
Anna Lisa Gellermann, Esq., Deputy Commissioner, Legal Affairs Division  
Office of the Insurance Commissioner  
PO Box 40255  
Olympia, WA 98504-0255

On July 31, 2013, the Insurance Commissioner ("OIC") issued a Letter of Disapproval, disapproving the binder, form and rate filings of Dental Health Services ("DHS"), disapproving its proposed Washington Health Benefit Exchange individual market product, First Smile EarlyCare. The bases for the OIC's disapproval are as set forth in the OIC's Letter of Disapproval, which is by this reference incorporated herein. In response, on August 28, 2013,

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DHS filed a Demand for Hearing to contest the OIC's disapproval. The bases for DHS's Demand for Hearing are that 1) DHS's Individual Exchange filings substantially comply with applicable, properly implemented federal and state requirements and/or could have been readily amended or remedied to satisfy all such requirements had DHS received timely notice of intent to disapprove, and the OIC failed to adequately explain or justify its decision; 2) on Friday, July 31, 2013, the OIC for the first time cited issues that it had failed to mention previously when the same information had been filed in compliance with OIC guidelines, and so DIIS asserts that it appears that the OIC failed to provide fair and reasonable review of Early Care filings; 3) that OIC does not appear to have treated all carriers' filings the same, e.g., DHS alleges that the OIC extended the time frame for SHOP QHP certification until after the July 31, 2013 deadline while not doing the same for all health plans, and extended the time frame for outside individual plan certification until August 6, 2013 while refusing to extend the same opportunity to dental health plans such as DHS that sought a QHP certification in the individual market, and so has arbitrarily applied different standards, procedures and agency resources to different carriers' individual market filings necessary for QHP certification.

Because DHS has asked for an expedited proceeding, on August 29, 2013 the undersigned held a first prehearing conference in this matter, which included all parties. The OIC was represented by AnnaLisa Gellermann, Esq., the Deputy Commissioner for OIC's Legal Affairs Division. DHS appeared pro se, by and through Josh Nace, its Executive Vice President. However, at the end of the prehearing conference Mr. Nace informed the OIC and the undersigned that DIIS would be represented by Jeffrey L. Gingold of Gingold Law Firm PLLC in Seattle, that DHS appearing without counsel for this prehearing conference was appropriate and acceptable, and that Mr. Gingold will file a Notice of Appearance, informing the OIC counsel and the undersigned that he will be representing DHS from that time of filing on. Also in attendance was Tim Nekuza of DHS. The undersigned reviewed procedure to be expected at hearing and answered all questions and concerns of the parties. The parties agreed that this hearing should be held on September 5, 2013. In order to accommodate DIIS, the OIC has requested along with DHS that this proceeding be handled on an expedited basis. Therefore, this matter has been handled on an expedited basis since the original filing with the undersigned on August 28, 2013 and will continue to be handled on an expedited basis throughout this proceeding.

The parties are advised that should they have further questions or concerns prior to the hearing date, or to schedule another prehearing conference which would include all parties and the undersigned, they should contact the undersigned's paralegal, Kelly Cairns, at (360)725-7002 or [KellyC@oic.wa.gov](mailto:KellyC@oic.wa.gov).

Accordingly, **YOU ARE HEREBY NOTIFIED that a hearing will be held commencing on September 5, 2013, at 9:00 a.m. Pacific Daylight Time.** The purpose of this hearing, which will include all parties, is to consider whether DHS's above referenced filings should be approved as qualified health plans for the individual market of the Exchange and/or whether DHS should be given the opportunity to address and remedy any legally required alleged deficiencies or omissions.

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The OIC will appear by and through AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division. Her address is Office of the Insurance Commissioner, Legal Affairs Division, P.O. Box 40255, Olympia, WA 98504-0255. Ms. Gellermann's telephone number is (360) 725-7050. DHS will be represented by its attorney Jeffrey L. Gingold of Gingold Law Firm PLLC. Mr. Gingold's address is 400 Harborview Drive SE, Suite 237, Bainbridge Island, WA 98110-2467 and his telephone number is (206) 451-4665.

Patricia D. Petersen, Esq., Presiding Officer, who serves as Chief Presiding Officer for the Office of the Insurance Commissioner, has been designated to hear and determine this matter. Her address is Office of Insurance Commissioner, P.O. Box 40255, Olympia, Washington 98504-0255. Her telephone number is (360) 725-7105. All interested individuals and entities who have questions or concerns concerning this proceeding should direct them to her paralegal, Kelly Cairns, at the same address. Ms. Cairns' telephone number is (360) 725-7002.

The hearing will be held under the authority granted by the Insurance Commissioner under Chapter 48.04 RCW. The basic facts relied upon are those set forth above, which are more specifically included in the OIC's above-referenced findings letter and in DHS's above-referenced Demand for Hearing.

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. All parties may be represented at the hearing. They may examine witnesses and fully respond and present evidence and argument on all issues involved.

As required by RCW 34.05.434(2)(i), you are advised that 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.

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. A Request for Interpreter form is attached to the original of this Notice, with instructions thereon.

This Notice is provided pursuant to RCW 48.04.010 and RCW 34.05.434.

Based upon the above activity,

**IT IS HEREBY ORDERED** that the adjudicative proceeding in this matter shall commence on September 5, 2013, at 9:00 a.m. Pacific Daylight Time, continuing on each successive day until terminated, in the Office of the Insurance Commissioner, 5000 Capitol Blvd., Tumwater, WA.

ENTERED AT TUMWATER, WASHINGTON, this 29<sup>th</sup> day of August, 2013, pursuant to Title 48 RCW and specifically RCW 48.04 and 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: Josh Nace, Jeffrey Gingold, Esq., Mike Kreidler, James T. Odiome, Molly Nollette, and AnnaLisa Gellermann, Esq.

DATED this 29<sup>th</sup> day of August, 2013.



KELLY A. CAIRNS