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OFFICE OF
INSURANCE COMMISSIONER

2013 AUG 30 P 3:17

HEARINGS UNIT
Fax: (360) 664-2782

Hearings Unit, DIC
Patricia D. Petersen
Chief Hearing Officer
Kelly A. Cairns
Paralegal
(360) 725-7002
KellyC@oic.wa.gov

Patricia D. Petersen
Chief Presiding Officer
(360) 725-7105

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of)	Docket No. 13-0244
)	
MOLINA HEALTHCARE OF)	NOTICE OF HEARING
WASHINGTON, INC.,)	
)	
A Health Maintenance Organization.)	
_____)	

TO: Molina Healthcare of Washington, Inc.
P.O. Box 4004
Bothell, WA 98041-4004

Timothy J. Parker, Esq.
Carney Badley Spellman, P.S.
701 Fifth Avenue, Suite 3600
Seattle, WA 98104-7010

Amy Dobberteen, Esq.
AVP, Marketplace Development
Molina Healthcare, Inc.
200 Oceangate, Suite 100
Long Beach, CA 90802

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

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On July 31, 2013, the Insurance Commissioner (OIC) issued a Disapproval Letter disapproving the filings submitted by Molina Healthcare of Washington, Inc. ("Molina") for its proposed participation in the individual market of the new Washington Health Benefit Exchange ("Exchange"). On August 30, Timothy J. Parker of Carney Badley Spellman, Counsel for Molina, filed a second Demand for Hearing contesting the OIC's July 31 disapproval.

Previously, on July 31, 2013 Molina filed a Demand for Hearing to contest this same July 31 OIC disapproval of its Exchange filings, but states it withdrew that Demand when the OIC advised Molina it would not communicate with Molina or reconsider Molina's filings because Molina had requested a hearing to contest the OIC's disapproval and therefore the OIC was not allowed to communicate with Molina because they were in litigation. (As reflected in the Order Terminating Proceeding entered August 14 relative to the first Demand for Hearing, the OIC agreed not to contest the matter should Molina later file a second Demand on this same July 31 disapproval.)

In its second Demand for Hearing filed August 30, 2013, Molina states that the Exchange on August 21 and 29 delayed certification of Qualified Health Plans ("QHP") in order to encourage the OIC to certify Medicaid health plans as QHPs and yet the OIC has refused to consider Molina's Exchange filings; the OIC failed to timely provide information to Molina regarding alleged deficiencies in its filings; and the OIC refused to approve Molina's filings. Molina asserts it is aggrieved by the OIC's acts in that, briefly, 1) the OIC unreasonably excludes Molina from the Exchange marketplace and prejudices Molina enrollees and potential enrollees by the potential loss of their provider relationships when they become ineligible for Medicaid and seek coverage through the Exchange; 2) that Molina's filings which the OIC disapproved July 31 did 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 Molina received timely notice of intent to disapprove which did not allow Molina any time to address any objections or concerns of the OIC; 3) that the OIC failed to adequately explain or justify its decision; 4) that the OIC arbitrarily applied provider network access standards to Molina's exchange filings that were neither properly nor publicly adopted and never clearly communicated to Molina; 5) that notwithstanding extension of the QHP qualification period by both federal and state authorities, the OIC has refused to allow Molina to submit additional Exchange filings after July 31 to cure any known or perceived deficiencies and has neither reviewed nor approved these filings made after July 31; and 6) that the OIC applied an arbitrary application of deadlines in this review and approval process. Molina seeks to reopen the application process, seeks approval of its filings and requests an expedited hearing on or before September 5. The OIC has also requested that this hearing be held on an expedited basis in recognition of the applicable timelines which are involved in this Exchange process.

Because Molina has asked for an expedited proceeding, on August 30, 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.

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Molina appeared by and through its attorney, Timothy J. Parker, Esq. of Carney Badley Spellman, Seattle, Washington. The parties agreed that a second prehearing conference would be held on September 3 to discuss the status of this matter. Specifically, the parties both advised that they are actively negotiating terms of agreement in this matter, that they both expect that Molina will shortly make a new Exchange filing with the OIC and that therefore if the OIC approves this new filing then the case will be settled. The parties further agreed, however, that should the matter not be settled at the time of the second prehearing conference on September 3, a portion of the hearing in this matter would commence on September 3 following the status conference and that the hearing should be scheduled for September 4 as well.

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.

Accordingly, **YOU ARE HEREBY NOTIFIED** that a prehearing status conference will be held, by telephone, commencing on September 3, 2013, at 9:00 a.m. Pacific Daylight Time which may be followed by commencement of a portion of the hearing in this matter, depending on its status, by telephone on September 3, 2013 following this prehearing status conference. **YOU ARE FURTHER NOTIFIED** that the hearing is scheduled to either commence or continue to September 4, 2013, at 9:00 a.m. Pacific Daylight Time. The purpose of the prehearing status conference, which will include all parties and the undersigned, is to consider the status of the OIC's and Molina's negotiations concerning the OIC's review of Molina's above referenced new Exchange filings and whether the matter is ready for hearing. The purpose of the hearing in this matter is to hear evidence and argument and to enter a decision whether Molina's Exchange filings which were disapproved by the OIC on July 31 should be approved as qualified health plans for the individual market of the Exchange and/or whether Molina should be given the opportunity to address and remedy any legally required alleged deficiencies or omissions. The OIC has advised that it does not believe the issue of the OIC's July 31 disapproval is moot, 1) because the undersigned might order that those filings should have been approved (and so, although Molina withdrew them, they would be required to now be approved and sent to the Exchange for certification); and/or 2) because Molina will be making a new Exchange filing with the OIC soon -- and it may be that the Exchange's current or possible future extensions of deadlines would result in either Molina's filings disapproved on July 31 or filings to be made soon (should the OIC approve those new filings) would result in Molina's Exchange filings being timely approved and sent to the Exchange for certification.

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. Molina will be represented by its attorney Timothy J. Parker, Esq. of Carney Badley Spellman, P.S. Mr. Parker's address is 701 Fifth Avenue, Suite 3600, Seattle, WA 98104-7010 and his telephone number is (206) 622-8020.

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Patricia D. Peterson, 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 Molina'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 a prehearing status conference will be held, by telephone, commencing on September 3, 2013, at 9:00 a.m. Pacific Daylight Time which may be followed by commencement of a portion of the hearing in this matter, depending on its status, by telephone on September 3, 2013 following this prehearing status conference. **IT IS FURTHER ORDERED** that the hearing, in person, is scheduled to either commence or continue on September 4, 2013, at 9:00 a.m. Pacific Daylight Time, in the Office of the Insurance Commissioner, 5000 Capitol Blvd., Tumwater, WA.

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ENTERED AT TUMWATER, WASHINGTON, this 30th 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: Molina Healthcare of Washington, Inc., Timothy J. Parker, Esq., Amy Dobberteen, Esq., Mike Kreidler, James T. Odiome, Molly Nollette, and AnnaLisa Gellermann, Esq.

DATED this 30th day of August, 2013.


KELLY A. CAIRNS

HEARINGS UNIT
Fax: (360) 664-2782

Patricia D. Petersen
Chief Presiding Officer
(360) 725-7105

Hearings Unit
Paralegal
(360) 725-7002
Hearings@oic.wa.gov

To request an interpreter, complete and mail this form to:

Chief Presiding Officer
Office of Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255

REQUEST FOR INTERPRETER

I am a party or witness in Matter No. 13-0244 before the Insurance Commissioner. I NEED AN INTERPRETER and request that one be furnished.

Please check the statements that apply to you:

I am a non-English-speaking person. I cannot readily speak or understand the English language. My primary language is _____ (insert your primary language). I need an interpreter who can translate to and from the primary language and English.

I am unable to readily understand or communicate the spoken English language because:

- I am deaf.
- I have an impairment of hearing.
- I have an impairment of speech.

[Please state below or on the reverse side any details which would assist the Commissioner or Presiding Officer in arranging for a suitable interpreter or in providing appropriate mechanical or electronic amplification, viewing, or communication equipment.]

Date: _____

Signed: _____

Please print or type your name: _____

Address: _____

Telephone: _____