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VIA EMAIL AND U.S. MAIL

Hearings Unit
Office of the Insurance Commissioner
PO Box 40255
Olympia, Washington 98504-0255
[\[hearings@oic.wa.gov\]](mailto:hearings@oic.wa.gov)

Hearings Unit, OIC
Patricia D. Peterson
Chief Hearing Officer

Re: Demand for Expedited Hearing
Disapproval of 2014 Willamette Dental of Washington stand-alone dental plans intended for sale on the Washington Health Benefit Exchange (SERFF Tracking numbers: WDIC-129149708, WDIC-129149713, WDIC-129149704, WDIC-129118818, WDIC-129118793, WDIC-129118771, and WDIC-WA14-125003503)

To Whom It May Concern,

Willamette Dental of Washington (WDW), through its undersigned counsel, requests an expedited hearing, as provided under RCW 48.04.010(1)(b) and 48.44.020, to challenge the Washington Office of the Insurance Commissioner's (OIC) disapproval of the Willamette Dental 2014 Stand Alone Dental Plan Binder and related rates and forms filed for sale in the Washington Health Benefit Exchange. The OIC's disapproval of the WDW dental plan filings exceeded the scope of the OIC's authority, was arbitrary and capricious, and biased.

WDW filed stand-alone dental coverage for OIC review as required under state and federal law in the System for Electronic Rate and Form Filing (SERFF) as noted in the subject heading of this letter. The OIC disapproved the filings based upon erroneous application of federal law, technical errors in how the OIC wanted benefit templates to appear, and for grounds inconsistently applied and constantly changing. Moreover, OIC disapproved the filings on the very last day for submission of Exchange filings and then rejected WDW's resubmission of filings correcting technical errors.

Willamette Dental Group is the largest multi-specialty group dental practice in the Pacific Northwest, with more than 50 office locations in Oregon, Idaho, and Washington. Willamette Dental provides a combination of dental care services, dental insurance, and administrative services. In Washington, Willamette Dental provides benefits to over 130,000 people and wants continue meeting the needs of its customers by participating in the state's benefit exchange.

1. Erroneous Interpretations and application of federal requirements.

Through much effort and repeated inquiries made by WDW attempting to satisfy OIC requirements, WDW worked to complete "Templates" as required by SERFF. The standards and demands changed constantly throughout May and June of 2013.

In its July 31, 2013 communication rejecting the WDW filings, the OIC noted that “the benefit structure in the rate and from filings must match the benefit levels in the Plan and Benefits Template.” [State Tracking #257639] WDW repeatedly attempted to explain its managed care dental program and the design that made OIC’s narrow standard impossible to meet and inconsequential to the purpose of the Template. The OIC did not like WDW’s description of coverage in parts of its filings that disclosed patient costs. The OIC insisted on a nearly impossible symmetry between benefits and disclosures. These demands were in spite of CMS instructions.

"Q14: The dental benefits in the Plan & Benefits template seem very general compared to the benchmark plan. How do I indicate that I cover other benefits or have more specific limits and do I need to enter these at a diagnostic code level?

A14: The pediatric dental EHB is determined by the benchmark plan selected by the state, not by the categories of benefits in the Plan & Benefits template. For the purposes of meeting EHB requirements, pursuant to 45 CFR 156.115(a)(1), the plan must offer benefits and limits that are substantially equal to the state's EHB benchmark plan. Although the categories of benefits may be broader than what is included in the benchmark plan, issuers should fill out the template in a manner that best represents the EHB covered by the plan. **This does not need to be at a diagnostic code level.** An issuer **may** add additional or more granular benefits and limits using the "Other" tab in the plan and benefits template." [CMS/Serf QA]

Furthermore, these templates do not constitute “contracts” as contemplated by RCW 48.44.020’s grant of authority to review dental “contracts.” All of the OIC fussing on these matters does not change the actual benefits sold or the consumer’s understanding of the benefits purchased.

Parenthetically, it’s worth noting that Oregon was able to approve WDW benefit design and Templates for the Oregon Health Insurance Exchange which are nearly identical to those submitted for the Washington Exchange.

2. Inconsistent application of regulatory standards.

When WDW presented alternatives to address OIC concerns, such as use of the “Add Benefits” option of the Plan Benefits Template, OIC initially rejected this proposal even though the OIC approved filings using the “Add Benefits” feature for WDW competitors.

In addition, WDW’s filing was rejected in part, because certain rows of data did not appear in the Excel file submitted. These viewing issues arose from flaws in the SERFF programming. The OIC allowed Premera (e.g., PBCC-WA14-125001926) to correct a SERFF flaw they encountered by uploading an Excel file to the Supporting Documentation tab. A similar option was not offered to WDW.

3. Hyper-technical and constantly changing standards for review

While no one disputes the OIC’s necessary role in reviewing plans sold to the public, the OIC’s grounds for preventing WDW sale of plans on the Washington Exchange based upon minor technical grounds defies understanding. Nothing captures the hyper-technical and superficial grounds for disapproval employed by the OIC than the agency’s declaration that the WDW

filing was defective in failing to identify the Washington Health Benefit Exchange as a third party administrator for Willamette Dental.

From a perspective of common business sense, no plan issuer would view a newly created government agency as the equivalent of a traditional third party administrator hired by the issuer. OIC statutory authority to review rates and forms requires actual regulations that permit plan issuers to understand obligations.

A reading of OIC standards for review and approval of rates and forms reveal a mish mash of Power Points, memos, website instructions, and some actual regulations that issuers must take in as whole and divine regulatory intentions. Even granting that OIC has finally corralled its various opinions and instructions together in one place, the legal basis for some grounds for disapproval do not rely upon properly adopted rules or any rule at all. Consequently, when informed that the OIC required more, WDW learned too late to respond in any meaningful fashion or with reference to clear standards.

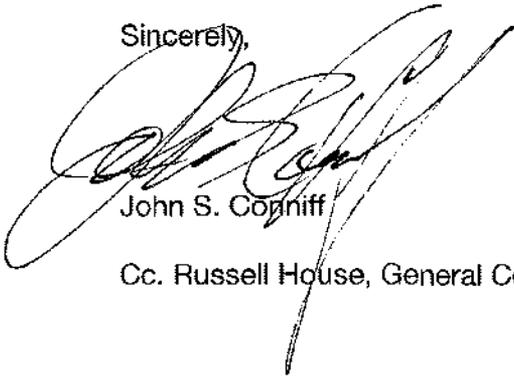
4. Arbitrary deadlines and failure of due process

While WDW understands the need to act quickly to meet health care reform deadlines, state statutes do not authorize the OIC to arbitrarily refuse to accept or reject legally submitted regulatory filings. Inconvenience or workload burdens do not constitute judicially recognized grounds for ignoring due process or statutory standards.

WDW has responded to OIC demands by redrafting and resubmitting documents. In return, OIC has reacted by rejecting on the grounds that either the agency has no time or that the issuer should "try again next year." WDW does not wish to wait and respectfully requests an expedited hearing so that it might participate in the Washington Exchange in 2014.

If an expedited hearing cannot be granted with enough speed, WDW requests the opportunity to resubmit its filing in time for the Exchange to qualify WDW stand-alone dental plans. The company stands ready to respond as quickly as possible to ensure its participation in the Washington Exchange and would prefer negotiation over legal sparring.

Sincerely,



John S. Conniff

Cc. Russell House, General Counsel

From: [George Ah Yo](#)
To: [MollyN@oic.wa.gov](#); [LaFlash, Janis \(OIC\)](#); [Kreitler, Jennifer \(OIC\)](#) ([JenniferK@oic.wa.gov](#))
Cc: [John Conniff](#); [Russ House](#); [Matthew Sinnott](#)
Subject: Willamette Dental of Washington, Inc. - Request for Appeal
Date: Thursday, August 29, 2013 11:16:16 AM

Dear Ms. Nollette, Ms. LaFlash, and Ms. Kreidler,

Willamette Dental of Washington, Inc., would like to appeal the decision made by the OIC on July 31, 2013 regarding the disapproval of its WeeCare Washington plan intended for sale on the Washington Health Benefit Exchange (SERFF Tracking numbers: WDIC-129118818, WDIC-129118793, WDIC-129118771, and WDIC-WA14-125003503).

Could you please advise how Willamette Dental of Washington, Inc., should request this expedited appeal and describe the expedited appeal process?

Thank you.

[George Ah Yo](#)
Contracts and Compliance Manager



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Disposition for WDIC-WA14-125003503

[Close](#)

Binder Name: Individual Pediatric Stand Alone Dental	Plan Year: 2014	Market Type: Individual	Authors: Grace Ah Yo
SERFF Tracking Num: WDIC- WA14-125003503	State: Washington	State Tracking Num: 257611	Reviewers: Katie Goring (primary)
Binder Type: Dental Only		Company: Willamette Dental of Washington, Inc	Company Tracking Num: PedBinder2014

Date Submitted:

07/31/2013 11:49 AM

Comments:

The binder, form and rate filings for the WeeCare Low Plan are disapproved and closed per RCW 48.44.020(2)(a) for failing to provide consistent and explicit contract provisions in the form, rate and binder filings, and per RCW 48.44.020 (2)(f) for failing to conform to minimum provisions or standards required by regulation.

The rate, form and binder filings are disapproved for the following reasons:

Inconsistent and ambiguous benefit designs are filed in binder, form and rate filings.

As stated in previous communication, the benefit structure in the rate and form filings must match the benefit levels listed in the Plan and Benefits Template.

In the form filing (State Tracking #257639) and in the rate filings (State Tracking #257641 for public rate filing and State Tracking #257640 for proprietary rate filing), except for General Office Visit and Specialist Office Visit, the benefit structures and cost share variances are categorized by various services and Diagnostic Services Codes (DSCs).

In the binder filing (State Tracking #257611), the Cost Share Variances in the Plan and Benefits Template include many categories of benefits and copayments. However, they are not categorized by DSCs as stated in the form and rate filings. Furthermore, the following categories of services are not listed as covered services in the "Benefit Package 1" Tab of the Plan and Benefits Template, but they are listed as covered services in the "Cost Share Variances" Tab of the Plan and Benefits Template, and in the rate and form filings:

TOPICAL FLUORIDE APPLICATION AND SEALANTS
 AMALGAM FILLING
 RESIN-BASED COMPOSITE FILLING
 PREFABRICATED CROWNS
 GENERAL RESTORATIVE AND PERIODONTIC SERVICES
 ENDODONTIC SERVICES -- ANTERIOR TOOTH
 ENDODONTIC SERVICES -- BICUSPID TOOTH
 ENDODONTIC SERVICES -- MOLAR AND INITIAL APEXIFICATION
 GINGIVECTOMY (1-3 TEETH)
 GINGIVECTOMY (4 OR MORE TEETH)

You must reconcile the benefit structure in the rate and form filings with the benefit level listed in the Plan and Benefits Template.

In addition to the above issue, the following items are specific to the rate filing and binder filing:

Rate Filing:

- You did not submit the required information under WAC 284-43-945.
- You did not submit the complete documentation and justification for the rate development for the Care Delivery Cost.

There are no cost estimates for the dental services with the DSCs under 1000 in the development \$832,617 Care Delivery Cost.

Binder Filing:

- The Administrative Template does not acknowledge use of Third Party Administrator for Enrollment (The Health Benefit Exchange).
- The Rating Business Rules Template cannot require that foster child resides in the same household as the primary subscriber

Plan Name	Standard Component ID	Plan Availability	Plan Disposition Status	Plan State Status
WeeCare Washington - Low Plan	37462WA0010001	On Exchange	Complete	Disapproved

Attachments:

Close

Disposition for WDIC-129149713

SERFF Tracking Number: WDIC-129149713 **State:** Washington
Filing Company: Willamette Dental of Washington, Inc **State Tracking Number:** 258765
Company Tracking Number: 001WEEWA114SUB4
TOI: H10I Individual Health - Dental **Sub-TOI:** H10I.000 Health Dental
Product Name: Exchange Market WeeCare Washington - Low Plan
Project Name:

Disposition Date:
08/12/2013

Implementation Date:

Status:

Disapproved

Comments:

This form filing is disapproved and closed because the July 31, 2013 deadline for the OIC to approve plans intended for QHP certification by the Washington Health Benefit Exchange has passed.

Schedule Items

Item Type	Item Name	Item Status	Public Access
Supporting Document	Expense Product Outline of Coverage - L&D	Disapproved	Yes
Supporting Document	Filing Instructions	Disapproved	Yes
Supporting Document	Individual Fixed Payment Insurance Disclosure Notice - L&D	Disapproved	Yes
Supporting Document	Individual Form Filing Requirements - L&D, HCSC	Disapproved	Yes
Supporting Document	Filing Summary	Disapproved	Yes
Supporting Document	Individual Exchange Market Analyst Checklist	Disapproved	Yes
Supporting Document	Statement of Variability - Declaration Page	Disapproved	Yes
Supporting Document	Summary of Corrections	Disapproved	Yes
Form	001WEEWA114, Policy/Contract/Fraternal Certificate, Policy	Disapproved	Yes
Form	001WEEWA114D, Data/Declaration Pages, Declaration Page	Disapproved	Yes