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OIC HEARINGS UNIT
PATRICIA D. PETERSEN
CHIEF PRESIDING OFFICER

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of the Proposed Merger of:

NO. 14-0064

VISION SERVICE PLAN
(WASHINGTON), a Washington Limited
Health Care Service Contractor,

**DECLARATION OF
RONALD J. PASTUCH**

With and into

MID-ATLANTIC VISION SERVICE
PLAN, INC, a Virginia Not-for-Profit
Optometric Services Corporation.

Ronald J. Pastuch, under penalty of perjury under the laws of the State of Washington,
declares as follows:

1. I am the Holding Company Manager in the Company Supervision Division of
the Washington State Office of Insurance Commissioner ("OIC"). I am over the age of
eighteen years old and I am competent to testify in this matter. I make this Declaration based
upon my personal knowledge.

2. I am a graduate of Pacific Lutheran University, where I earned a Bachelor of
Arts Degree in Business Administration in 1988. I received my CPA license in 2003.

1 3. My previous state employment includes the Washington Department of
2 Veterans Affairs from 1980 to 1987 in accounting and human resource positions, and the
3 Office of the Insurance Commissioner from 1987 to 1991 as a staff accountant, from 1991 to
4 1993 as a field Insurance Examiner in the OIC Company Supervision Division, and from
5 1993 to 2006 as a Financial Analyst at various levels within the same division.

6 4. On February 16, 2006, I was appointed the Holding Company Manager in the
7 same division. As the Holding Company Manager, my primary duties consist of reviewing
8 and approving holding company transactions, which include reviewing and recommending
9 OIC staff's position on proposed requests for insurance company and health carrier
10 acquisitions and mergers, including disclaimers of control.

11 5. On November 27, 2013, Mid-Atlantic Vision Service Plan, Inc. ("Mid Atlantic
12 VSP") and Vision Service Plan (Washington) ("VSP-WA") filed a Form A application for
13 approval of the proposed merger between the two companies. VSP-WA is a Washington
14 nonprofit corporation incorporated on March 6, 1959 under the name of Western Vision
15 Services, and began writing business on that same day. Western Vision Services was
16 registered with the Washington Insurance Commissioner as a health care service contractor on
17 March 31, 1961. It changed its corporate name to VSP-WA on April 11, 1990, and later
18 changed its registration as a limited health care services contractor on October 18, 1990.

19 Mid Atlantic VSP was a Maryland not-for-profit corporation incorporated on
20 April 26, 1960, under its original corporate name of Vision Care Services, Inc. and later
21 changed its corporate name to Mid Atlantic VSP in 1982. In March 1988, it became affiliated
22 with Vision Service Plan (California), and was licensed in Virginia as an optometric services
23 corporation in December 1996. It redomiciled from Maryland to Virginia on May 31, 2002 as
a non-agent nonstock corporation. Mid Atlantic VSP became registered as a limited health
care service contractor in Washington on August 27, 2013.

1 Vision Service Plan (California) is a California not-for-profit corporation and
2 is the sole member of Mid Atlantic VSP and VSP-WA respectively.

3 6. Included within the application, Mid Atlantic VSP and VSP-WA will enter
4 into a Plan of Merger Agreement, where VSP-WA would merge with Mid Atlantic VSP in a
5 merger transaction. After the merger transaction, Mid Atlantic VSP would become the
6 surviving entity and remain a subsidiary of Vision Service Plan (California).

7 7. Mid Atlantic VSP and VSP-WA submitted the Plan of Merger Agreement,
8 various exhibits in their application of merger filing, including the fore mentioned Plan of
9 Merger Agreement which included the Articles of Merger, organizational charts, and financial
10 statements of Mid-Atlantic VSP and VSP-WA.

11 8. On February 10, 2014, the OIC received supplemental information, exhibits,
12 and attachments regarding the application filing from the companies.

13 9. On March 3, 2014 and March 26, 2014, Mid-Atlantic VSP and VSP-WA
14 provided their 2013 statutory annual statements for the application filing.

15 10. On March 19, 2014, the OIC received correspondence from the Washington
16 Attorney General Office and agreed that further review by the AGO is not necessary due to
17 nature of the transaction and the affiliation of Mid-Atlantic VSP and VSP-WA with Vision
18 Service Plan (California).

19 11. On March 28, 2014, the OIC sent a letter to the Chief Hearing Officer
20 regarding this application filing with the plan of merger as being complete and requested a
21 hearing to decide on such matter.

22 12. Unrelated to the information filed with the application filing but subject to this
23 request for merger, on November 8, 2012, VSP-WA agreed to a consent order #12-0153 with
the Washington Insurance Commissioner subject to pay a fine with a partial suspension of
that fine and fully carrying out its obligations under the compliance plan attached to such
order and certain terms and conditions set forth. Those terms and conditions included a

1 provision where if the Insurance Commissioner approves any proposal by the Company
2 (VSP-WA) to merge into any other corporation, the Commissioner shall consider whether or
3 not to grant any request that the survivor of any such merger be allowed to become the
4 succeeding obligor to any remaining Company obligations under the order, and the parties of
5 the order agree and understand that the Insurance Commissioner will not approve any such
6 merger proposal and/or succession to the Company's obligations except and unless the
7 Insurance Commissioner, in his sole discretion, determines to take any such action or actions.

8 On November 13, 2012, the Insurance Commissioner entered the order that
9 imposed a fine of sixty thousand five hundred dollars and suspended ten thousand dollars of
10 that fine subject to the conditions listed in that order. That order remains in effect for a period
11 of two years from the date the order was entered.

12 13. I have reviewed and analyzed these submittals. My analysis was performed
13 under the criteria set forth in RCW 48.31.010 and RCW 48.31C.030(5). From my analysis,

14 a. The domestic health care service contractor would be able to satisfy the
15 requirements for the issuance of a registration to write its current lines of business for which it
16 is presently registered. Mid-Atlantic VSP is presently registered to write limited health care
17 services (vision) according to Chapter 48.44 RCW. Mid-Atlantic's minimum capital and
18 surplus (or net worth) as of the date of this Declaration is \$300,000 and VSP-WA minimum
19 capital and surplus (or net worth) as of the date of this Declaration is \$300,000 according to
20 RCW 48.44.035(3). According to their respective statutory annual statements filed with the
21 OIC, Mid-Atlantic VSP's total capital and surplus (or net worth) was reported at \$70.7
22 million and VSP-WA's total capital and surplus (or net worth) was reported at \$49.2 million
23 as of December 31, 2013. Also, Mid Atlantic VSP and VSP-WA's latest risk-based capital
ratio exceeded its company action level as defined under RCW 48.43.305 and RCW
48.43.310. Mid Atlantic VSP and VSP-WA's current capital and surplus (or net worth)
exceeds its required minimum capital and surplus and risk-based capital requirements.

1 b. The effect of the proposed acquisition of control would not lessen
2 competition in this state or tend to create a monopoly therein. We performed a market
3 analysis on the domestic and foreign health carrier writings in the 2013 Washington health
4 insurance market. Since Mid Atlantic VSP and VSP-WA write vision services only, the
5 analysis was limited to that market segment. VSP-WA maintains a 97.5 percent market share
6 of the Washington market and Mid Atlantic VSP has no writings to date. Six other health
7 plans reportedly have vision business written in Washington during 2013.

8 Other licensed health plans do not write vision services in their health
9 packages. Most health carriers have entered into arrangements with health plans such as VSP-
10 WA that offer vision services only for their subscribers.

11 The effect of the proposed merger of control would not lessen competition in
12 this state or tend to create a monopoly therein. Mid-Atlantic VSP and VSP-WA are affiliates
13 within the Vision Service Plan (California) holding company system and the proposed merger
14 (acquisition) is therefore exempt from OIC review according to RCW 48.31C.020(5).

15 Based on this information and AGO's conclusion on its review of the Form A
16 information, there would be no violation of the competitive standard set forth in
17 RCW 48.31C.020(1).

18 c. The financial condition of the Applicant (Mid Atlantic VSP) appears that it
19 would not jeopardize the financial stability of the domestic health carrier insurer or prejudice
20 its subscribers' interest. Its latest financial statement information filed, its total statutory assets
21 at \$77.9 million and total statutory equity (net worth) at \$70.7 million as of December 31,
22 2013. The Applicant's AM Best long-term debt rating ranges between "a" (Excellent) and its
23 financial strength rating of A (Excellent) remains stable as of February 7, 2014. Based on
these facts, the proposed merger transaction would not jeopardize the financial stability of
Mid Atlantic VSP as the surviving entity or prejudice the interest of Mid Atlantic VSP or

1 VSP-WA subscribers from the proposed transfer of VSP-WA contracts through the merger
2 transaction into Mid Atlantic VSP.

3 d. VSP-WA is proposing to merge with the Applicant and is the reason for this
4 application filing. We are not aware of any other plans or proposals by the Applicant to
5 liquidate, sell its assets, consolidate, or merge it with any person, or make any other material
6 changes in its business, corporate structure, or management that are unfair and unreasonable
7 to the Washington subscribers and not in the public interest. VSP-WA would merge all assets
8 and liabilities of its business with and into Mid Atlantic VSP as a result of this merger. There
9 are no outstanding stock certificates of VSP-WA; however, VSP-WA will cease to exist as a
10 corporation after the consummation of the merger. Mid-Atlantic VSP operations will remain
11 in Rancho Cordova, California and reportedly no changes its existing staff. The Applicant
12 intends take over the VSP-WA block of business and conduct its business and operations as
13 presently conducted by VSP-WA.

14 e. We verified the same persons who were listed in the Form A filing and are
15 currently the directors and/or officers of Mid Atlantic VSP and VSP-WA. There are no
16 reported changes to the listed persons' biographical affidavits on file. We did not detect any
17 representation that would question the integrity of the current directors and officers of either
18 Mid Atlantic VSP or VSP-WA included the information filed with the application for merger
19 filing.

20 f. We are not aware that the acquisition (merger) is likely to be hazardous or
21 prejudicial to the insurance-buying public. We have reviewed the latest commentary from AM
22 Best and did not detect any notable concerns. Mid Atlantic VSP would continue to operate as
23 it is currently conducting its business and operations. Mid Atlantic VSP and VSP-WA
existing directors and executive officers will remain the same. There will no impact to the
Washington buying public.

1 We did note that Mid Atlantic VSP had some recent regulatory activity from
2 other states for late filings and use of unapproved filings. It appears that Mid Atlantic VSP
3 has made restitution with those states for those infractions.

4 14. We also reviewed the proposed merger transaction according to the
5 requirements of RCW 48.31.010(1) which lists the required documents and conditions where
6 a domestic insurer (or health carrier) may merge or consolidate with another insurer (or health
7 carrier). Those conditions are listed as follows:

8 a. The plan of merger or consolidation must be submitted to and be approved
9 by the commissioner in advance of the merger or consolidation. That plan of merger was
10 filed on February 10, 2014;

11 b. The plan of merger is to be fair, equitable, and consistent with law, and that
12 no reasonable objection exists. Mid Atlantic VSP will be the surviving entity and VSP-WA
13 will be the merged (disappearing) entity. VSP-WA Sub will merge all of its assets, corporate
14 books and records with Mid Atlantic VSP as a result of this proposed merger;

15 c. No director, officer, or member, or subscriber of any such insurer, except as
16 is expressly provided by the plan of merger, shall receive any fee, commission, other
17 compensation, or valuable compensation whatsoever, for in any manner aiding, promoting or
18 assisting in this proposed merger according to affidavits of Mid Atlantic VSP and VSP-WA
19 signed February 7, 2014, respectively;

20 d. Any merger as to the incorporated domestic insurer shall in other respects be
21 governed by the general laws of this state relating to business corporations. We reviewed the
22 Washington Nonprofit Corporations and Associations Act regarding mergers pursuant to
23 chapter 24.06 RCW. We also reviewed those statutory requirements within that chapter
according to the plan of merger, merger of subsidiary, articles of merger, and the effect of
merger with domestic and foreign entities.

1 15. According to RCW 24.06.220, where the members of any merging corporation
2 have voting rights with regard to the question, the board of directors of such corporation shall
3 adopt a resolution approving the proposed plan and directing that it be submitted to a vote at a
4 meeting of members having voting rights. The proposed plan shall be adopted upon receiving
5 at least two-thirds of the votes which members present at such meeting are entitled to cast.
6 VSP-WA board of directors has not adopted the resolution of the plan of merger pending
approval of the merger transaction by the Commissioner.

7 16. According to RCW 24.06.225, where a merging corporation has no members
8 with voting rights with regard to the question, a plan of merger shall be adopted at a meeting
9 of the board of directors of such corporation upon receiving the vote of a majority of the
10 directors in office. Since the resolution does not state that there are no members with voting
11 rights with regard to the question, the Mid Atlantic VSP and VSP-WA board of directors will
12 be required to adopt the resolution regarding the approval of the plan of reorganization and
merger.

13 17. According to RCW 24.06.235, the articles of merger are to incorporate the plan
14 of merger and a statement whether that the merger was duly approved by the shareholders of
15 each corporation. Mid Atlantic VSP and VSP-WA submitted an unsigned copy of the plan of
16 merger which included proposed Articles of Merger. According to Article 1, VSP-WA agrees
17 to merge with Mid Atlantic VSP. According to Article 2, the effect of the merger will be Mid
18 Atlantic VSP shall be the surviving corporation and shall continue unaffected and unimpaired.
19 VSP-WA shall be completely liquidated and shall cease to do business at the effective time
20 and shall distribute all of its assets and liabilities to Mid Atlantic VSP. Those Articles now
meet the statutory requirements of RCW 24.06.220 and 24.06.225.

21 18. The OIC is satisfied that the proposed plan of merger which included the
22 Articles of Merger submitted for OIC consideration meet the statutory requirements according
23 to the above statutes.

1 19. VSP-WA has submitted the necessary documents to the OIC in connection
2 with the proposed merger. VSP-WA will be required to file the finalized plan of merger
3 which include the Articles of Merger, board resolutions and board approvals of the plan of
4 merger in order to satisfy with the necessary documents meeting the statutory requirements
5 for a merger according to RCW 48.31.010.

6 Accordingly, the OIC recommends to the presiding officer to approve the
7 merger of Mid Atlantic VSP and VSP-WA subject to the following conditions:

- 8 a. Mid Atlantic VSP and VSP-WA must submit the final documents pertaining to
9 the plan of merger, merger agreement and board resolutions regarding the plan of
10 merger and merger agreement subject to this filing and to effectuate the merger to
11 the OIC;
- 12 b. Subject to the provisions of Consent Order #12-0153, Mid Atlantic VSP must be
13 subject to the same conditions imposed on VSP-WA and comply with those
14 similar conditions through and up to the expiration date of that order.

15 20. From a procedural standpoint, the OIC requires that notice of the plan of
16 merger be given to the public via the Internet (on the Insurance Commissioner's website). On
17 April 17, 2014, the OIC posted notice on the Insurance Commissioner's website concerning
18 the hearing regarding the plan of merger of Mid Atlantic VSP and VSP-WA with information
19 about the OIC's hearing process, a true and correct copy of which is attached hereto as
20 Exhibit "A". Such notice included information regarding the hearing, via the Notice of
21 Hearing and announcement posted on the website. The Notice of Hearing was filed by the
22 Hearings Unit on the same day (April 17, 2014). We understand that notice has remained and
23 will remain posted on the website from the date of this Declaration to the date of the hearing.

21 21. The Notice of Hearing informs and advises all interested parties that any
22 individual or entity is permitted to submit comments on, or objections to, this proposed
23

1 merger. The Notice of Hearing states that any questions or concerns should be directed to Ms.
2 Kelly A. Cairns, Paralegal to the OIC Chief Presiding Officer.

3 22. As of the date of this Declaration, I personally have not received any
4 comments, questions, or objections through letter, correspondence, email, or phone, nor am I
5 aware of any comments, questions, or objections having been received by the OIC Chief
6 Presiding Officer.

7 SIGNED this 6th day of May, 2014.

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Ronald J. Pastuch

2014 Public and hearing notices

May 2014

Public Hearing: 14-0064 Hearing set to consider merger plan of Vision Service Plan (Word, 19KB) - 5/9/14

April 2014

Rule-making hearing: R 2013-19 Stand-alone dental insurance plans (PDF, 51KB) - 4/8/14

Rule-making hearing: R 2013-22 Health insurance provider networks (PDF, 204KB) - 4/22/14

Rule-making hearing: R 2013-15 Title insurance rates (PDF, 137KB) - 4/22/14

March 2014

Judicial hearing: 14-0023 Steven W. Lusa hearing to challenge denial of license application (PDF, 143KB) - 03/27/14

Rule-making hearing: R 2013-27 Plan management for individual, small group and large group health coverage markets (PDF, 110 KB) - 3/11/14

Judicial hearing: 13-0108 Charles D. Oliver, et al., and 13-0110 Steven H. Minnich (consolidated) hearing to challenge cease and desist order and for imposition of fines - Stricken; case settled.

February 2014

Rule-making hearing: R 2013-28 Substitution of essential health benefits in individual and small group health benefit plans (PDF, 114 KB) - 2/25/14

Hearing set to consider redomestication and merger plan involving Western United Life Assurance Company (Word, 17KB) - 02/10/14

Hearing of motions: 13-0293 Seattle Children's Hospital: SCH's Motion for Partial Summary Judgment; OIC's Motion to Dismiss; Intervenors' Motion for Summary Judgment - 02/03/14

Notice

Mike Kreidler
Washington state Insurance Commissioner

Contact Ron Pastuch: 360-725-7211

04/17/2014

Hearing set to consider merger plan involving Vision Service Plan in Washington

OLYMPIA, Wash. – The Insurance Commissioner has scheduled a hearing on May 9, 2014, at 10:00 a.m. Pacific Daylight Savings Time in his Olympia, Washington office to consider whether he should approve or deny the corporate action involving Vision Service Plan (Washington) based in Seattle, WA with its main administrative office in Rancho Cordova, CA.

Mid-Atlantic Vision Service Plan, a Virginia based nonprofit optometric services health plan, and Vision Service Plan (Washington) are subsidiaries of Vision Service Plan (California) based in Rancho Cordova, CA. The plan involves Vision Service Plan (Washington) proposal to merge with and into Mid-Atlantic Vision Service Plan, and the final result would be Mid-Atlantic Vision Service Plan as being the surviving entity.

If approved, all Washington subscribers currently under Vision Service Plan (Washington) will be serviced by Mid-Atlantic Vision Service Plan, which is based in Richmond, VA and its main administrative office in Rancho Cordova, CA.

The public is notified that all interested parties may submit letters of support or concerns or objections and/or may participate in the hearing by appearing in person or by telephone at no charge.

To view the Notice of Hearing, which includes advice on how to participate in the hearing process, and to view all documents filed in this matter including the merger application and agreement of merger plan between the parties, and all other documents such as organizational charts and finances, regulatory actions and any litigation filed in this proceeding, go to Vision Service Plan #14-0064 at

<http://www.insurance.wa.gov/laws-rules/administrative-hearings/judicial-proceedings/u-v/>.