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600 University Street, Suite 3600  
Seattle, Washington 98101  
main 206.424.0900  
fax 206.386.2500  
www.stoel.com

MAREN R. NORTON  
Direct (206) 386-7607  
maren.norton@stoel.com

July 24, 2015

VIA EMAIL AND U.S. MAIL

Hon. George Finkle (Ret.)  
OIC Presiding Officer  
Hearings Unit, Office of Insurance Commissioner  
P.O. Box 40255  
Olympia, WA 98504-0255

**Re: OIC's Request for Stay - Moda Health Plan Inc. et al., 15-0063**

Dear Judge Finkle:

Moda Health Plan, Inc. ("Moda") respectfully opposes the Request for Stay submitted by the Office of the Insurance Commissioner ("OIC") on July 17, 2015.

The OIC's Request for Stay hinges on a mischaracterization of your July 1, 2015 Orders ("the Orders") in the parallel appeals filed by the Washington Counties Insurance Fund ("the WCIF Appeal") and by the Building Industry Association of Washington Health Insurance Trust, the Master Builders Association of King and Snohomish Counties and MBA Trust, the Northwest Marine Trade Association and NMTA Trust, and Cambia Health Solutions ("the BIAW Appeal"). In its Request for Stay, the OIC states: "I understand these decisions to remand the 2014 disapprovals in those cases to the OIC Rates and Forms division for review based on the standard that association health plans are permitted to rate at the employer level." (OIC's Request for Stay, p. 1). Thus, the OIC "request[s] a stay of the briefing schedules for 60 days in all of the . . . remaining cases to allow review of all of the 2014 disapprovals in accordance with your decision in the WCIF, MBA, Cambia, BIAW and NMTA cases." (*Id.* at 2).

The appellants' motions for summary judgment in the WCIF and BIAW Appeals expressly requested that the OIC's disapprovals of the 2014 filings at issue ("the Filings") "be overturned and that the 2014 rate and form Filings be approved by the OIC." (WCIF's Motion for Summary Judgment, p. 20; Cambia et al.'s Motion for Summary Judgment, p. 27). The Orders granted the appellants' motions in their entirety. It is Moda's understanding that the Orders therefore require the OIC to overturn its disapprovals of the Filings and to immediately approve them. Nothing in the Orders indicated that those matter had instead been remanded to the OIC for its review. Similarly, nothing in the Orders indicates that it would be appropriate for the OIC to delay any



Judge George Finkle  
July 24, 2015  
Page 2

further its approval of the Filings at issue in this case insofar as the OIC's disapprovals were based on the erroneous reasoning rejected in the Orders.

The OIC has failed to articulate any justification for a stay of the briefing in this case or the other pending appeals. Because a stay of the WCIF and BIAW Appeals is not warranted, there is no reason to stay the remaining appeals. The fundamental legal issue regarding the appropriate rating methodology for association health plans has already been decided. For that reason, there is simply no basis for the OIC's request for additional time. Furthermore, the 2015 filings of the association health plans are still pending, and it is critical for the remaining appeals to be resolved promptly so that the association health plans can effectively market their products.

Finally, a stay of the briefing in this matter would serve no purpose. The deadline for the parties to file their dispositive motions is October 9, 2015, with opposition papers due on October 30, 2015, and replies due on November 6, 2015. All of those dates are beyond the 60-day time period during which the OIC requests a stay. Accordingly, no stay is required.

Best regards,

Maren R. Norton

cc: AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division  
Email: [annalisag@oic.wa.gov](mailto:annalisag@oic.wa.gov)  
Charles Brown, Sr., Insurance Enforcement Specialist, Legal Affairs Division  
Email: [charlesb@oic.wa.gov](mailto:charlesb@oic.wa.gov)  
Richard J. Birmingham  
Email: [richbirmingham@dwt.com](mailto:richbirmingham@dwt.com)  
Christine Hawkins  
Email: [christinehawkins@dwt.com](mailto:christinehawkins@dwt.com)  
Marta DeLeon  
Email: [Martad@atg.wa.gov](mailto:Martad@atg.wa.gov)