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HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

BEFORE THE STATE OF WASHINGTON
OFFICE OF THE INSURANCE COMMISSIONER

IN THE MATTER OF: WASHINGTON TECHNOLOGY INDUSTRY ASSOCIATION ("WTIA") – DISAPPROVAL OF APPLICATION TO OPERATE SELF-FUNDED MEWA No. 15-0290	Docket No. 15-0290 MOTION FOR SUMMARY JUDGMENT BY WTIA

I. INTRODUCTION

Washington Technology Industry Association ("WTIA") established and maintains the Washington Technology Industry Association Employee Benefit Trust ("Trust"), which provides fully-insured health and welfare benefits to employees and their eligible dependents on behalf of technology employers across the state of Washington. To better serve its membership and to help improve access to affordable health care in the state, WTIA applied for a certificate of authority ("COA") to operate a self-funded multiple employer welfare arrangement ("self-funded MEWA") under RCW Chapter 48.125 (the "Statute"). The Office of Insurance Commissioner ("OIC") denied WTIA's application. That denial was contrary to law, and deprives thousands of Washington residents the opportunity to access more affordable and comprehensive health care

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services for themselves and their families. WTIA, therefore, moves for judgment as a matter of law, pursuant to WAC 10-08-135.

II. BACKGROUND

WTIA was founded in 1984 as a not-for-profit industry trade association to serve the technology industry and the information and communication technology cluster in the state of Washington, as well as the business community that supports these industries. Declaration of Michael Monroe in Support of WTIA's Motion for Summary Judgment ("Monroe Decl."), at ¶ 2. On January 1, 2000, WTIA established the Trust as a multiple employer welfare arrangement to provide fully-insured health and welfare benefits to its members' employees and their eligible dependents. *Id.* at ¶ 3. In 2015, approximately 13,000 Washington state residents received fully-insured health care services under the Trust. *Id.*

Since 2014, WTIA has been working in good faith with the OIC on the Trust's association health plan status, rating methodology and request for the COA to operate a self-funded MEWA. *Id.* at ¶¶ 5–28. In 2014, WTIA met with the OIC to discuss OIC concerns about the Trust's "bona fide association health plan" status and the rating methodology used for association health plans generally. *Id.* at ¶ 5. As a result of that meeting, WTIA made changes to the Trust, including changes to its governance structure and its member participation, to ensure the Trust's status as a bona fide association health plan and to comply with rating standards.[1] *Id.* at ¶ 6. During that time, WTIA also began analyzing funding strategies that would allow the Trust to better serve its membership and to help improve access to affordable health care in the state of Washington. *Id.* WTIA concluded that the best way to achieve its goals is to make self-funded health care services available under the Trust. *Id.* WTIA set out to apply for a COA under the Statute to operate the Trust as a self-funded MEWA. *Id.*

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[1] The Trust's status as a bona fide association health plan, WTIA's status as a bona fide association, and the rating standards used by association health plans are not in dispute nor relevant to this matter, which turns solely on the legal question of whether WTIA can apply for a COA under this Washington Statute after April 1, 2005.

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In late March 2015, after nearly a year of engaging in direct conversations with WTIA about its COA and the above-mentioned matters, the OIC confirmed that there is no prescribed COA application form available under the Statute. *Id.* at ¶ 9. In light of that, WTIA submitted a letter on March 27, 2015, enclosing the documentation listed in RCW 48.125.050 for a COA application and requesting that the submission serve as WTIA's formal application for a COA under the Statute. *Id.* at ¶ 10 & Ex. 1 ("Initial Application"). Thereafter, on June 22, 2015, WTIA met with representatives of the OIC to discuss the application. *Id.* at ¶ 16. The OIC raised concerns that RCW 48.125.020(3) and RCW 48.125.030(8) might bar an association from applying for a COA after April 1, 2005. *Id.* & Exs. 4–5. In response, believing that the success of its application for a COA under the Statute would ultimately depend on this threshold legal question, WTIA provided a comprehensive legal analysis of the Statute for the OIC's review and response. *Id.* at ¶¶ 17–18 & Ex. 7. The OIC did not respond or comment on the analysis provided.

Despite WTIA's good faith efforts to respond to multiple requests from the OIC for additional information, the OIC denied WTIA's Initial Application on September 23, 2015. *Id.* at ¶ 25. It did so on the grounds that the application was incomplete in certain ways. *Id.* When WTIA tried to work with the OIC to provide the additional information that the OIC believed was necessary, the OIC declined to engage WTIA any further on the matter unless and until a new COA application was filed with the OIC. *Id.* at ¶ 26; *see also* Declaration of Kiran H. Griffith ("Griffith Decl."), at ¶¶ 13–14 & Ex. 15. The OIC declined to discuss the threshold legal question of whether anyone, let alone WTIA, is eligible to apply for a COA under the Statute after April 1, 2005, but it nonetheless instructed WTIA to file a <u>second</u> application. Monroe Decl., at ¶ 26; Griffith Decl., at ¶ 14.

As instructed, WTIA resubmitted its application for a COA on October 26, 2015. Monroe Decl., at ¶ 27 & Exs. 12-13 ("Resubmitted Application"). The Resubmitted Application included additional information that the OIC alleged was missing from the Initial Application.

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Id. In an effort to engage OIC leadership on the fundamental legal question of whether an association could apply for a COA after April 1, 2005, WTIA requested in its transmittal letter to meet with Commissioner Mike Kreidler and Chief Deputy Commissioner Jim Odiorne about its applications. *Id.* The OIC did not respond to the request for a meeting with the Commissioner or Chief Deputy Commissioner. *Id.* at ¶ 28.

The OIC denied WTIA's Resubmitted Application on November 18, 2015. *Id.* at ¶ 29 & Ex. 15. Four months after WTIA proactively shared its legal analysis and nearly eight months after WTIA filed its Initial Application (which the OIC denied on other grounds), the OIC stated for the first time that WTIA is barred from applying for a COA under the Statute. *Id.* In response, WTIA timely filed a demand for hearing challenging the OIC's denial of WTIA's Resubmitted Application. *See* Demand for Hearing filed by WTIA, Ex. 16 to Monroe Decl.

III. STANDARD OF DECISION

The parties have agreed that this matter presents a legal issue that would be decided most efficiently via dispositive motions for summary judgment. *See* Prehearing Conference Order, Ex. 16 to Griffith Decl. Summary judgment is appropriate in an administrative proceeding "if the written record shows that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law." WAC 10-08-135; *see also Stewart v. Dep't of Soc. & Health Servs.*, 162 Wn. App. 266, 270, 252 P.3d 920 (2011). All facts are to be viewed "in the light most favorable to the nonmoving party." *Granton v. Wash. State Lottery Comm'n*, 143 Wn. App. 225, 230, 177 P.3d 745 (2008).

IV. ARGUMENT

A. <u>The OIC's Position Is Not Supported by the Plain Meaning of the Statute, Its Legislative History, or Its Stated Purpose</u>

The OIC denied WTIA's Resubmitted Application for the following reason:

> The agency has carefully considered your letter that accompanied the resubmitted application and your earlier letter of July 7, 2015, proposing that the April 1, 2005, cut-off date set for filing a

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> substantially complete application for a certificate of authority set out in RCW 48.125.020(3) should be applied only to arrangements that were then operating on a self-funded basis.
>
> However, the agency interprets RCW Chapter 48.125[sic], read together with the seasoning requirements of RCW 48.125.030(8), to have provided a legal avenue for the self-funded MEWAs that were then operating in Washington to continue to operate. We do not believe that RCW Chapter 48.125 authorizes the Commissioner to issue a certificate of authority to a MEWA such as the Washington Technology Industry Association that has no history of self-funded operation and that failed to submit a substantially complete application by the April 1, 2005 statutory cut-off date.

Monroe Decl., Ex. 15. The OIC's position is not supported by RCW 48.125.020, RCW 48.125.030, the Statute's legislative history, or the Statute's stated purpose.

1. RCW 48.125.020 Does Not Support the OIC's Position

To determine the meaning of a statute, Washington courts apply general principles of statutory construction. *Harmon v. Dep't of Soc. & Health Servs.*, 134 Wn.2d 523, 530, 951 P.2d 770 (1988). "These principles begin with the premise that if a statute is plain and unambiguous, its meaning must be derived from the language of the statute itself." *Id.* The plain meaning of a statute "is discerned from the ordinary meaning of the language at issue, the context of the statute in which that provision is found, related provisions, and the statutory scheme as a whole." *State v. Engel*, 166 Wn.2d 572, 578, 210 P.3d 1007, 101 (2009). If the statute's plain meaning is unambiguous, "the court's inquiry is at an end." *Id.*; *see also W. Telepage, Inc., v. City of Tacoma Dep't of Fin.*, 140 Wn.2d 599, 608–09, 998 P.2d 884 (2000) ("the court should assume that the legislature means exactly what it says. Plain words do not require construction." (internal quotation marks and citation omitted)).

The language of the Statute is unambiguous. RCW 48.125.020(3) does not, as the OIC erroneously suggests, require every fully-insured multiple employer welfare arrangement that might possibly operate on a self-funded basis in the future to have applied for a COA by April 1, 2005, or forever lose its eligibility to do so. Rather, the plain language of this provision imposes

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this statutory cut-off date only on self-funded MEWAs operating prior to December 31, 2003, requiring such preexisting self-funded MEWAs to apply for a COA by April 1, 2005, in order to continue operating without being in violation of the Statute:

> An arrangement established, operated, providing benefits, or maintained in this state prior to December 31, 2003, has until April 1, 2005, to file a substantially complete application for a certificate of authority. An arrangement that files a substantially complete application for a certificate of authority by that date is allowed to continue to operate without a certificate of authority until the commissioner approves or denies the arrangement's application for a certificate of authority. (emphasis added)

The Statute defines the term "arrangement," as well as the term "self-funded multiple employer welfare arrangement," to mean a multiple employer welfare arrangement that does not provide benefits solely through insurance. RCW 48.125.010(7). In contrast, the term "multiple employer welfare arrangement" is defined as provided under ERISA (with certain exceptions not relevant to this matter), without regard to whether it is self-funded or fully-insured. RCW 48.125.010(5), *citing* 29 U.S.C. § 1002.[2]

Here, the Trust was not established, operated, providing benefits, or maintained on a self-funded basis prior to December 31, 2003. Rather, the Trust is a "multiple employer welfare arrangement" under RCW 48.125.010(5) with no history of self-funded operation. Therefore, RCW 48.125.020(3) does not apply to the Trust. If this were not the case, there would be no reason for the Legislature to have also included Subsection (1), which explicitly addresses the necessity of a COA if an entity was not a self-funded MEWA prior to December 31, 2003. Section 1 of RCW 48.125.020 provides that:

> Except as provided in subsection (3) of this section, a person may not establish, operate, provide benefits, or maintain a self-funded multiple employer welfare arrangement in this state unless the arrangement first obtains a certificate of authority from the commissioner. (emphasis added)

[2] The Statute merely incorporates by reference a definition provided under ERISA. This federal law has no other relevance to this matter, which turns solely on the legal question of whether WTIA can apply for a COA under this Washington Statute after April 1, 2005.

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If the Statute imposed a blanket prohibition on self-funded MEWAs unless in existence prior to December 31, 2003, Subsection (1) of RCW 48.125.020 would be rendered meaningless. But this is what the OIC's interpretation requires. And the OIC is wrong.

Subsections (1) and (3) of RCW 48.125.020 must be read in the context and entirety of the Statute. Subsection (1) would not have included the phrases, "Except as provided in subsection (3) of this section" and "unless the arrangement first obtains a certificate of authority from the commissioner," if a multiple employer welfare arrangement with no history of self-funded operation was required under Subsection (3) to file an application by April 1, 2005. Instead, Subsection (1) provides that a multiple employer welfare arrangement with no history of self-funded operation, like the Trust, could operate on a self-funded basis after April 1, 2005, but only if it first obtained a COA.

Put another way, if you were a self-funded MEWA operating prior to December 31, 2003, you had until April 1, 2005 to file your paperwork for a COA to continue as such; if you were not a self-funded MEWA at that time, you cannot begin operating as one until you first obtain a COA to do so. That is precisely what WTIA has applied for here. A plain reading of the Statute permits WTIA to do so. Pursuant to RCW 48.125.020(1), WTIA applied for a COA before establishing or operating a self-funded MEWA.

2. RCW 48.125.030(8) Does Not Support the OIC's Position

RCW 48.125.030(8) likewise does not support the OIC's position. It does not, as the OIC contends, bar a fully-insured multiple employer welfare arrangement from ever operating on a self-funded basis if it fails to apply for a COA by April 1, 2005. RCW 48.125.030(8), which the OIC refers to as the "seasoning requirement," provides:

> The commissioner may not issue a certificate of authority to a self-funded multiple employer welfare arrangement unless the arrangement establishes to the satisfaction of the commissioner the following requirements have been satisfied by the arrangement:
>
> * * *

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> (8) The arrangement has been in existence and operated actively for a continuous period of not less than ten years as of December 31, 2003, except for an arrangement that has been in existence and operated actively since December 31, 2000, and is sponsored by an association that has been in existence more than twenty-five years[.] (emphasis added)

The plain language of this provision imposes a seasoning requirement only on an "arrangement"—that is, as noted above, a self-funded MEWA—and thus does not apply to the Trust. However, the OIC appears to have interpreted this provision as authorizing the issuance of COAs only to self-funded MEWAs who meet the seasoning requirement in RCW 48.125.030(8) (i.e., self-funded MEWAs operating prior to December 31, 2003). No such restriction is provided in Subsection (8) or anywhere else in RCW 48.125.030. Therefore, given the plain language of RCW 48.125.030(8), and that of RCW 48.125.020 discussed previously herein, the OIC's interpretation fails.

3. The OIC's Position Is Not Supported By the Legislative History

The legislative history compels the above plain reading of the statutory language. Nothing in the legislative history suggests that the Legislature had ever intended for the Statute to permit the operations of only preexisting self-funded MEWAs or to bar the formation of any new self-funded MEWAs after April 1, 2005. Rather, the text of the original Senate Bill 6112 reflects intent to specifically allow new self-funded MEWAs to form after October 1, 2004.[3] Specifically, Section 6(1) of the original bill provided: "In addition to the requirements under section 5 of this act, self-funded multiple employer welfare arrangements formed after October 1, 2004, are subject to the following requirements", including obtaining aggregate stop loss coverage if the self-funded multiple employer welfare arrangement had fewer than one thousand lives in its "first year of operation."[4] In addition, Section 8 provided that a surplus must be

[3] S.B. 6112, 58th Leg., 2004 Reg. Sess. (Jan. 12, 2004), *available at* http://lawfilesext.leg.wa.gov/biennium/2003-04/Pdf/Bills/Senate%20Bills/6112.pdf (last visited January 6, 2016) ["Original Senate Bill"] (Griffith Decl., Ex. 5); *see also* H.B. 2526, 58th Leg., 2004 Reg. Sess. (Jan. 15, 2004), *available at* http://lawfilesext.leg.wa.gov/biennium/2003-04/Pdf/Bills/House%20Bills/2526.pdf (last visited January 6, 2016) (Griffith Decl., Ex. 6).

[4] Original Senate Bill, *supra* n. 3, at 5 (emphasis added).

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established "upon inception" of the self-funded multiple employer welfare arrangement and continuously maintained thereafter.[5] Finally, Section 3(1) required a bona fide association to be in existence for at least five years "prior to sponsoring a self-funded multiple employer welfare arrangement," except for associations that "began sponsoring an arrangement prior to October 1, 2004."[6]

The text of the original bill clearly permitted, and imposed solvency and operational requirements on, self-funded MEWAs formed after a certain date (October 1, 2004). Had there been a change in legislative intent for the scope or purpose of this Statute since the original bill was introduced—especially on something as critical as foreclosing the opportunity for anyone to create a self-funded MEWA in the future—the legislative history should have clearly reflected or at least discussed such an important change. It does not. The Bill Analysis ESSB 6112 and the House Bill Report ESSB 6112 each used the term "MEWA" to refer to a self-funded MEWA, and each included a paragraph about a seasoning requirement and statutory cut-off date.[7] However, there is no indication that the Legislature had intended for such requirements to restrict the issuance of COAs to only self-funded MEWAs operating prior to the Statute's enactment or to bar a multiple employer welfare arrangement like the Trust from ever operating as a self-funded MEWA after the statutory cut-off date:

> To obtain a certificate of authority, a MEWA must have been in existence and actively operated continuously for at least 10 years as of December 31, 2003. An exception is provided for any MEWA in existence and actively operated since December 31,

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[5] Original Senate Bill, *supra* n. 3, at 7–9.

[6] Original Senate Bill, *supra* n. 3, at 2 (emphasis added).

[7] *Bill Analysis: Hearing Before Fin. Inst. & Ins. Comm. on Engrossed Substitute Senate Bill 6112*, 58th Leg., 2004 Reg. Sess. (Feb. 25, 2004), *available at* http://lawfilesext.leg.wa.gov/biennium/2003-04/Pdf/Bill%20Reports/House/6112-S.HBA.pdf (last visited January 6, 2016) ["Bill Analysis ESSB 6112"] (Griffith Decl., Ex. 7) (referring to solvency, operational, and reporting requirements intended to apply only to self-funded MEWAs to be regulated by the Statute); *House Bill Report: Engrossed Substitute Senate Bill 6112*, 58th Leg., 2004 Reg. Sess. (Mar. 9, 2004), *available at* http://lawfilesext.leg.wa.gov/biennium/2003-04/Pdf/Bill%20Reports/House/6112-S.HBR.pdf (last visited January 6, 2016) ["House Bill ESSB 6112"] (Griffith Decl., Ex. 8) (referring as well as to solvency, operational, and reporting requirements intended to apply only to self-funded MEWAs to be regulated by the Statute).

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> 2000, that is sponsored by an association in existence more than 25 years. MEWAs operating before December 31, 2003, have until April 1, 2005, to file an application for a certificate of authority and may continue to operate until the Commissioner makes a decision regarding the application.[8]

As noted above, these legislative reports use the term "MEWA" to refer to self-funded MEWAs. In light of this, the paragraph above reflects a legislative intent to impose a statutory cut-off date and seasoning requirement only on self-funded MEWAs operating before December 31, 2003, and no one else. It does not impose any bar on future self-funded MEWAs. Indeed, the Legislature could have, but chose not to impose a statutory cut-off date and seasoning requirement on multiple employer welfare arrangements that were fully-insured as of December 31, 2003. The only multiple employer welfare arrangement that would be concerned about an ability to "continue to operate" pending the OIC's review of its application was a self-insured MEWA operating prior to December 31, 2003, which would have been in violation of the Statute as soon as it went into effect. Fully-insured multiple employer welfare arrangements operating prior to December 31, 2003, like the Trust, could continue to operate without issue, because the Legislature had never intended for this Statute to regulate them. The OIC's interpretation conflicts with the intent of the Legislature that is reflected in the legislative history.

4. The Stated Purpose of the Statute Does Not Support the OIC's Position

The purposes of the Statute are to provide for the "authorization and registration" of self-funded MEWAs and to "regulate" and "ensure the financial integrity" of self-funded MEWAs. RCW 48.125.005.[9] It is illogical to have a statute for the purposes of authorizing and regulating self-funded MEWAs if self-funded MEWAs were no longer going to be permitted in Washington State. Thus, it is not surprising that nowhere is it stated that the Statute's purpose is to ban the formation of new self-funded MEWAs after a certain date, or to only provide a legal

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[8] Bill Analysis ESSB 6112, *supra* n. 7, at 2 (emphasis added); *see also* House Bill Report ESSB 6112, *supra* n. 7, at 3.

[9] *See also* S.B. 6112-S.E. – Digest as Enacted, 58th Leg., 2004 Reg. Sess., *available at* http://lawfilesext.leg.wa.gov/biennium/2003-04/Pdf/Digests/Senate/6112-S.DIG.pdf (last visited Jan. 18, 2016).

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mechanism for approving and regulating self-funded MEWAs preexisting the Statute's enactment, as the OIC erroneously contends.

Additionally, had the Statute's purpose been to require all multiple employer welfare arrangements to file an application by April 1, 2005, or else forever lose the opportunity to operate on a self-funded basis in the state of Washington, this would presumably have been explicitly noted in the Statute or at least mentioned in the legislative history. It is not. Instead, legislative testimony notes that, while the Statute would promote consumer protection by imposing stricter standards than other states and the strongest financial requirements in the country, its scope might not be fully understood beyond the few self-funded MEWAs already in existence.[10] It makes no sense to have concern about the scope and impact of this Statute, prompting a one-year moratorium on its enforcement,[11] had its purpose been merely to provide a legal mechanism to permit only preexisting self-funded MEWAs to continue to operate.

The fundamental objective of statutory construction is to ascertain and implement the intent of the legislature. *Dep't of Ecology v. Campbell & Gwinn, L.L.C.*, 146 Wn.2d 1, 9–10, 43 P.3d 4 (2002). Here, as reflected in the legislative history and stated purpose of the Statute, the Legislature had intended to create a statutory scheme for approving and regulating self-funded MEWAs in the state of Washington. It did not intend to bar the formation of self-funded MEWAs after April 1, 2005.

B. <u>WTIA's Resubmitted Application is Not Deficient or Incomplete</u>

Although the threshold legal question of whether self-funded MEWAs are permitted in Washington State was apparently the reason for its denial, the OIC also alleged that the Resubmitted Application was still deficient:

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[10] *Senate Bill Report on S.B. 6112 by Senate Comm. on Fin. Servs., Ins. & Housing*, 58th Leg., 2004 Reg. Sess. (Jan. 27, 2004), *available* at http://lawfilesext.leg.wa.gov/biennium/2003-04/Pdf/Bill%20Reports/Senate/6112.SBR.pdf (last visited Jan. 21, 2016); *Senate Bill Report on E.S.S.B. 6112*, 58th Leg., 2004 Reg. Sess. (Feb. 12, 2004), *available* at http://lawfilesext.leg.wa.gov/biennium/2003-04/Pdf/Bill%20Reports/Senate/6112-S.SBR.pdf (last visited Jan. 21, 2016); House Bill ESSB 6112, *supra* n. 7.

[11] Wash. H.B. Amend. S.B. 6112, 58th Leg., 2004 Reg. Sess. (Mar. 9, 2004).

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> In addition, like the initial application as stated in OIC Company Licensing Manager Gayle Pasero's letter of September 23, 2015, the resubmitted application does not provide all of the information required in RCW 48.125.030 through 48.125.070 and does not demonstrate compliance with these other statutory requirements. Like the original submission, the resubmitted application is also deficient and incomplete.

Monroe Decl., Ex. 15 (emphasis added). Notably, if self-funded MEWAs are not permitted at all (or not permitted after April 1, 2005), such alleged deficiencies would be irrelevant and unnecessary to include in the denial. Likewise, the Initial Application would not have been denied on the basis of incompleteness if there was a clear, blanket prohibition on self-funded MEWAs, as the OIC now contends. Thus, the OIC's inclusion of such reasons lends even more credence to the arguments above and is further confirmation that the Statute should not, and cannot, be read as the OIC suggests.

That being said, this tribunal should not only find that self-funded MEWAs are permissible, but also that WTIA's Resubmitted Application was not deficient or incomplete. WTIA's Resubmitted Application included all applicable documentation under RCW 48.125.050. RCW 48.125.050 provides that the applicant must submit specific documentation listed thereunder, along with a "form prescribed by the commissioner." As noted previously, WTIA was never provided with a "form prescribed" by the OIC. Therefore, its Resubmitted Application enclosed all of the documentation listed under RCW 48.125.050, with the exception of third-party verification reports that the approved vendor would submit directly to the OIC pursuant to the vendor's procedures. Monroe Decl., Ex. 13.

Additionally, WTIA's Resubmitted Application was completed pursuant to guidance that WTIA received during the OIC's review and denial of its Initial Application. The OIC denied WTIA's Resubmitted Application partially on grounds that WTIA allegedly failed to satisfy certain financial requirements applicable to self-funded MEWAs, the same grounds on which it had denied the Initial Application. However, the OIC has not provided guidance on when and how to satisfy these requirements, despite WTIA's concerted efforts to obtain this guidance.

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When, upon receipt of the OIC's denial of the Initial Application, WTIA asked the OIC to identify the specific steps that needed to be taken to resolve its purported concerns, the OIC was unable to do so. Monroe Decl., at ¶ 26. WTIA provided multiple opportunities for the OIC to give instruction or guidance on how to satisfy these requirements. The OIC has been unable to provide any such guidance, and yet cites WTIA's failure to satisfy these very requirements as partial grounds for its denial.

C. Equitable Considerations Further Weigh Against the OIC's Position

The OIC's denial, which is not supported by the plain meaning of the Statute, its legislative history, or its stated purpose, deprives thousands of Washington state residents from the opportunity to access more affordable and comprehensive health care services for themselves and their families. Moreover, its denial is contrary to the public interest and does not advance the objectives of the OIC.

In addition, the OIC's denial on grounds that WTIA's Resubmitted Application is deficient and incomplete is particularly egregious, given that WTIA's Resubmitted Application reflected all of the information it had received from the OIC and was completed pursuant to that guidance. The OIC failed to provide any instruction on how to meet key financial requirements under the Statute, which the OIC then demanded be satisfied before it would grant any COA in this matter.

Finally, in addition to the concerns above, the OIC's long delay in determining whether any association, let alone the WTIA, is eligible to apply for a COA after April 1, 2005, has prejudiced WTIA and the Trust. The OIC did not provide its formal position on this threshold legal question until November 18, 2015, over four months after WTIA proactively shared its legal analysis and nearly eight months after WTIA filed its Initial Application, which the OIC denied on other grounds. For almost all of 2015, the OIC declined to engage in any meaningful discussion with WTIA about this threshold legal question. Instead, WTIA spent time, effort, and money to provide additional information and documentation to the OIC, which preserved its

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right at every turn to ultimately decide that WTIA was never eligible to apply for a COA in the first place.

V. CONCLUSION

For the reasons set forth above, WTIA respectfully requests that the OIC's denial be overturned and that WTIA's application for a COA be approved.

Dated this 22nd day of January, 2016.

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CERTIFICATE OF SERVICE

I, Shannon Liberio, certify under penalty of perjury under the laws of the State of Washington that, on January 22, 2016, I caused the foregoing document to be served on the persons listed below in the manner shown:

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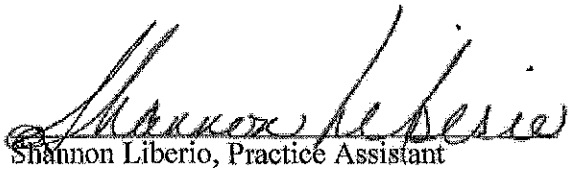

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