



OFFICE OF
INSURANCE COMMISSIONER
HEARINGS UNIT

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BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

In the Matter of:)	
)	No. D09-0091
ADVANTAGE DENTAL PLAN,)	
INCORPORATED)	NOTICE OF HEARING
)	
A registered health service contractor.)	

TO: Mike Shirtcliff, President and Chief Executive Officer
Advantage Dental Plan, Inc.
442 SW Umatilla Avenue, Suite 200
Redmond, OR 97756

Michelle Blackwell, Attorney at Law
Watkinson, Laird, Rubenstein, Baldwin & Burgess
200 Parkview Place
101 East Broadway
Eugene, OR 97401-3114

COPY TO: Mike Kreidler, Insurance Commissioner
Mike Watson, Chief Deputy Insurance Commissioner
Carol Sureau, Deputy Commissioner, Legal Affairs Division
Charles D. Brown, Sr. Staff Attorney, Legal Affairs Division
James T. Odiorne, Deputy Commissioner, Consumer Protection Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

On January 22, 2010, the Insurance Commissioner (Commissioner) received a letter from Michelle A. Blackwell, Esq. of Watkinson, Laird, Rubenstein, Baldwin & Burgess representing Advantage Dental Plan, Inc. (Advantage), in this matter, which letter shall be considered a



Demand for Hearing. The purpose of said Demand for Hearing is to contest the Commissioner's proposed Consent Order, No. D09-0091, dated December 9, 2010.

As stated in his aforereferenced proposed Consent Order, the Commissioner's position is that Advantage has violated Chapter 284-07 WAC by failing to timely file in proper form its Form IC-13A-IC by December 31, 2008.

On February 9, 2010, the undersigned held a first prehearing teleconference in this matter. Ms. Blackwell appeared on behalf of Advantage. The Commissioner appeared pro se, by and through Charles D. Brown, Senior Staff Attorney in the Commissioner's Legal Affairs Division.

First, during said prehearing conference, it was ordered by the undersigned that both parties shall exchange Witness and Exhibit lists on or before April, 1st 2010.

Second, the question of the appropriate burden of proof was raised by Ms. Blackwell. In response, it is the opinion of the undersigned that the appropriate burden of proof is by a preponderance of the evidence, as recent Washington case law raising the burden of proof (to the higher clear and convincing standard) in adjudicative proceedings before this state agency appears to be limited to those adjudicative proceedings wherein the Commissioner is attempting to revoke the license of an insurance agent or broker (producer). The undersigned stated, however, that should Advantage wish to present argument to the undersigned relative to the issue of the appropriate burden of proof to be applied, the issue will be reconsidered at that time.

Third, the undersigned reviewed the procedure to be expected at hearing and addressed all questions and concerns of the parties. By agreement of the parties, the hearing in this matter was scheduled to commence in person at **10 a.m., on Monday, April 12, 2010**. The parties were informed if they had any future questions or concerns, or requests for additional prehearing conferences, they should contact Josie Bayon, Legal Assistant to the undersigned, who can be reached by telephone at (360) 725-7002, e-mail at josieb@oic.wa.gov, or at the above address.

The hearing will be held under the authority of Title 48 RCW and specifically RCW 48.04, Title 34 RCW and regulations applicable thereto. Pursuant thereto, the Commissioner has delegated to the undersigned the authority to conduct all activities preliminary to the hearing, the hearing and any activities following the hearing, and to determine and enter the final decision in this matter without input or communication with the Commissioner or any member of his staff or others who have knowledge of the facts herein. Ms. Blackwell will appear on behalf of Advantage. Ms. Blackwell's address is 200 Parkview Place, 200 East Broadway, Eugene, OR 97401-3114 and her telephone number is (541) 484-2277. The Commissioner will appear pro se, by and through Charles D. Brown, Attorney. Mr. Brown's address is Office of the Insurance Commissioner, Legal Affairs Division, P.O. Box 40255, Olympia, WA 98504-0255, and his telephone number is (360) 725-7044.

As required by RCW 34.05.434(2)(I), you are advised that a party who fails to attend or participate in the hearing or other stage of the adjudicative proceeding may be held in default in accordance with ch. 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 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 the adjudicative proceeding in this matter shall commence in person on **Monday, April 12, 2009 at 10 a.m.**, Pacific Standard Time, in the Office of the Insurance Commissioner, 5000 Capitol Boulevard, Tumwater, Washington 98501.

ENTERED AT TUMWATER, WASHINGTON, this 10th day of February, 2010, pursuant to RCW 48.04, Title 34 RCW and applicable regulations.

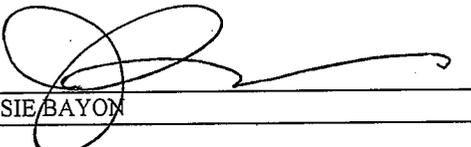


PATRICIA D. PETERSEN
Chief Hearing Officer
Presiding Officer

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: Michelle Blackwell, Attorney at Law, Mike Kreidler, Mike Watson, Carol Sureau, Charles D. Brown, and James T. Odiorne.

DATED this 10th day of February, 2010.



JOSIE BAYON