

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

FILED

2015 OCT -7 P 2:09

In the Matter of)
)
KAISER FOUNDATION HEALTH)
PLAN OF THE NORTHWEST,)
)
Authorized Health Care Service Contractor.)
_____)

Docket No. 15-0205

NOTICE OF HEARING

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

TO: Robin L. Larmer, Attorney at Law
Karin D. Jones, Attorney at Law
Stoel Rives LLP
600 University Street, Suite 3600
Seattle, WA 98101

COPY TO: Mike Kreidler, Insurance Commissioner
James T. Odiorne, J.D., CPA, Chief Deputy Insurance Commissioner
AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division
Mandy Weeks, Insurance Enforcement Specialist, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

This Notice is provided pursuant to RCW 48.04.010 and RCW 34.05.434.

On September 2, 2015, the Office of Insurance Commissioner (“OIC”) issued an Order To Cease and Desist, No. 15-0205 (“Order”), to Kaiser Foundation Health Plan of the Northwest (“Kaiser”), ordering Kaiser to immediately cease and desist from:

- Offering, selling, or renewing any plans to any consumer that neither lives nor works in Kaiser’s service area of Clark and Cowlitz counties;
- By December 31, 2015, providing coverage to current enrollees that neither live nor work in Clark and Cowlitz Counties.

The Order also mandated that before September 16, 2015 Kaiser report to the OIC the following information concerning plans offered or sold to consumers who neither live nor work in Clark and Cowlitz counties: The number of plans offered or sold, number of enrollees in such plans, the premiums charged enrollees; and an estimate of all current out-of-pocket expenses incurred by such enrollees to date. The Order also required that Kaiser draft a lawful discontinuation notice of such plans, and submit such draft to the OIC for approval, informing such enrollees that on December 31, 2015 their coverage would cease. Following OIC approval, Kaiser would timely issue such notice to enrollees.

On September 25, 2015, Kaiser submitted a Demand for Hearing challenging the Order. Kaiser argues that the Order is disruptive and harmful to members in its health plans, since many of them are enrolled in plans that run through June 2016. Kaiser notes that since the Order requires them to discontinue by December 31, 2015 plans for members who neither live nor work in Clark or Cowlitz, this would cause significant disruption and hardship to such members and their employers, who may not have an alternative health plan. Kaiser also argues that the Order is overbroad in that it requires Kaiser to send discontinuation notices directly to 590 members because they have an address outside Kaiser's service area, even though several of those members may still be eligible for coverage because they work inside the service area. Kaiser also asserts that the OIC did not object to its large group filings (and the service areas with partial counties) until seven months after it filed them with the OIC. Kaiser also argues that, aside from the definition of "service area" in WAC 284-43-130(29), which it reasons the OIC erroneously applies to large group plans such as theirs, its plans afford members access to adequate health care. Finally, Kaiser argues that contrary to what is stated in the Order, its plans comply with the general network access regulation (WAC 284-43-200), and the statutory requirement that its members have access to appropriate health care services (RCW 48.43.515).

Along with its Demand, Kaiser filed "KFHPNW's Motion for Stay of the [Order]" ("Stay Motion"). A briefing schedule for the Stay Motion has been set and I plan to rule on said motion after all briefs are filed and without oral argument.

On October 6, 2015, the undersigned held a first prehearing conference. The OIC was represented by Mandy Weeks, Insurance Enforcement Specialist, of the OIC's Legal Affairs Division. Robin L. Larmer and Karin D. Jones of Stoel Rives, LLP, represented Kaiser. Also in attendance were Maryann Schwab and Kirk Dobbins of Kaiser.

After considering the views of the Parties, I enter the following Order:

By October 30, 2015, the parties shall serve and file dispositive Motions. By November 13, 2015, the parties shall serve and file Responses to such Motions. By November 20, 2015, the parties shall serve and file Replies to such Responses. I expect to rule without oral argument as soon as possible after briefing is complete.

Assuming this matter is not resolved based upon the dispositive Motions, a hearing will be held at the Office of the Insurance Commissioner, 5000 Capitol Blvd., Tumwater, WA, beginning on December 16, 2015, at 9:00 AM, Pacific Standard Time. The hearing is expected to require less than one day, but will continue until completed. The purpose of the hearing is to consider whether the Order (of Cease and Desist discussed above) should be upheld, modified or vacated.

The hearing will be governed by the Administrative Procedure Act, Chapter 34.05 RCW, and the model rules of procedure contained in Chapter 10-08 WAC. All parties may be represented and may examine witnesses, respond, and present evidence and argument on all relevant issues.

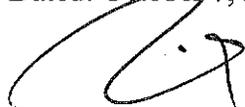
A party who fails to attend or participate in the hearing or another stage of this proceeding may be held in default in accordance with Chapter 34.05 RCW. See, RCW 34.05.434(2)(i).

William Pardee, Presiding Officer, has been designated by the Insurance Commissioner to hear and determine this matter. The hearing will be held under the authority granted by the Insurance Commissioner under Chapter 48.04 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, with instructions, is attached to the original of this Notice.

All case related documents and correspondence shall be directed to the Hearings Unit, Office of Insurance Commissioner, P.O. Box 40255, Olympia, Washington 98504-0255. All interested individuals and entities who have questions or concerns concerning this proceeding should direct them to the Hearings Unit paralegal, Kelly Cairns, at the same address. Ms. Cairns' telephone number is (360) 725-7002.

Dated: October 7, 2015



WILLIAM PARDEE
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: Robin L. Larmer, Karin D. Jones, Mike Kreidler, James T. Odiorne, J.D., CPA, AnnaLisa Gellermann and Mandy Weeks.

DATED this 7th day of October, 2015.



KELLY A. CAIRNS

OFFICE OF INSURANCE COMMISSIONER
HEARINGS UNIT
Fax: (360) 664-2782

To request an interpreter, complete and mail this form to:

Presiding Officer
Hearings Unit
Office of Insurance Commissioner
P.O. Box 40255
Olympia, WA 98504-0255

REQUEST FOR INTERPRETER

I am a party or witness in Matter No. 15-0205 before the Insurance Commissioner. I NEED AN INTERPRETER and request that one be furnished.

Please check the statements that apply to you:

I am a non-English-speaking person. I cannot readily speak or understand the English language. My primary language is _____ (insert your primary language). I need an interpreter who can translate to and from the primary language and English.

I am unable to readily understand or communicate the spoken English language because:

- I am deaf.
- I have an impairment of hearing.
- I have an impairment of speech.

[Please state below or on the reverse side any details which would assist the Commissioner or Presiding Officer in arranging for a suitable interpreter or in providing appropriate mechanical or electronic amplification, viewing, or communication equipment.]

Date: _____ Signed: _____

Please print or type your name: _____

Address: _____

Telephone: _____