

BEFORE THE STATE OF WASHINGTON
OFFICE OF INSURANCE COMMISSIONER

FILED

2016 FEB 26 A 11:20

HEARINGS UNIT
OFFICE OF
INSURANCE COMMISSIONER

In the Matter of:

The Form A Application for the Proposed
Acquisition of Control of:

**ARCADIAN HEATH PLAN, INC. a
subsidiary of HUMANA INC.,**

and

The Form E Application for the proposed
Acquisition of Control of:

HUMANA INC. a Non-Domiciliary Insurer,

By

AETNA INC., a Pennsylvania corporation.

Docket No. 16-0027

NOTICE OF HEARING

TO: Tim Farber
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AND TO: Mike Kreidler, Insurance Commissioner
James T. Odiorne, J.D., CPA, Chief Deputy Insurance Commissioner
AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division
Charles Brown, Senior Staff Attorney, Legal Affairs Division
Doug Hartz, Deputy Commissioner, Company Supervision
Ronald Pastuch, Holding Company Manager, Company Supervision
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

This Notice is provided pursuant to RCW 48.04.010, RCW 48.31B.015, RCW 48.31B.020, and RCW 34.05.434.

1. On July 31, 2015, the Office of the Washington State Insurance Commissioner ("OIC") received a Statement regarding the Acquisition of Control of a Domestic Insurer ("Form A") of Arcadian Health Plan, Inc. ("Arcadian") by Aetna Inc. ("Aetna"), requesting the OIC's approval of the proposed acquisition of control.
2. On October 6, 2015, the OIC received a Pre-Acquisition Notification Form Regarding the Potential Competitive Impact of a Proposed Merger or Acquisition by a Non-Domiciliary Insurer doing Business in this State or by an Involved Insurer ("Form E") from Aetna regarding its proposed acquisition of Humana Inc. ("Humana").
3. Both the OIC and Aetna have sent, received, and produced working papers, documents, materials, or information during the course of the OIC's consideration of both the Form A and Form E.
4. On February 25, 2016, a telephonic prehearing conference was held with the representatives and counsel listed above for Aetna, Humana, and Arcadian, and Charles Brown and Ronald Pastuch of the OIC, in attendance.
5. By Friday, March 11, 2016, the duly authorized representatives of OIC, Aetna, Humana, and Arcadian, shall file with the OIC's Hearings Unit their legal position with respect to what working papers, documents, materials, or information involved with both Form A and Form E above they deem to be confidential under RCW 48.31B.038(1), RCW 48.02.065(6), RCW 48.31B.020(3), and if not confidential, should be sealed or redacted pursuant to Washington General Rules 15(c) and 31(e), and the *Ishikawa* factors outlined in *State v. Waldon*, 148 Wn. App. 952, 958, 202 P.3d 325 (2009). Following the parties' submission(s), without oral argument, I will issue a written ruling on what documents will be deemed confidential, or redacted or sealed. Any documents not deemed confidential or sealed (in either redacted or un-redacted form) will be posted on the OIC Hearings Unit's website at <http://www.insurance.wa.gov/laws-rules/administrative-hearings/judicial-proceedings/a-b/> prior to the scheduled hearing date listed below on the Form A and Form E above.
6. **A hearing on both the Form A and Form E is scheduled for Wednesday, March 23, 2016, beginning at 9:00 a.m., Pacific Time, at the OIC, 5000 Capital Blvd., Tumwater, Washington.**

The purpose of the hearing is to consider Aetna's request for approval of its proposed acquisition of Arcadian (Form A) under RCW 48.31B.015, and its proposed acquisition of Humana under RCW 48.31B.020 (Form E). The hearing will be held pursuant to Title 48 RCW, specifically RCW Chapters 48.04 and 48.31B, Title 34 RCW, and applicable regulations, which may include the Model Rules of Procedure, Chapter 10-08 WAC.

7. By Friday, March 18, 2016, the duly authorized representatives of OIC, Aetna, Humana, and Arcadian, shall file any documents for consideration at the hearing. Assuming not confidential, or subject to being sealed or redacted (burden is on party submitting document(s) to identify as such), such documents will be published on OIC's website at the address above.

8. As to the Form A, at least one authorized representative of Aetna (officers, directors, or in-house counsel are acceptable) and the OIC shall testify as to the criteria set forth in 48.31B.015(4)(a), which provides that the OIC shall approve a merger or acquisition of control, unless after a public hearing thereon, the OIC finds that:

(i) After the change of control, the domestic insurer referred to in subsection (1) of this section would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this state or tend to create a monopoly therein. In applying the competitive standard in this subsection (4)(a)(ii):

(A) The informational requirements of RCW 48.31B.020(3)(a) and the standards of RCW 48.31B.020(4)(b) apply;

(B) The merger or other acquisition may not be disapproved if the commissioner finds that any of the situations meeting the criteria provided by RCW 48.31B.020(4)(c) exist; and

(C) The commissioner may condition the approval of the merger or other acquisition on the removal of the basis of disapproval within a specified period of time;

(iii) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(iv) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets, consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(v) The competence, experience, and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(vi) The acquisition is likely to be hazardous or prejudicial to the insurance-buying public.

9. As to the Form E, at least one authorized representative of both Aetna (officers, directors, or in-house counsel are acceptable) and the OIC shall testify as to the criteria set forth in 48.31B.020(4)(a), which provides that the OIC shall approve an acquisition if there not substantial evidence that the effect of the acquisition may substantially lessen competition in a line of insurance in this state or tend to create a monopoly therein, and the insurer does not fail to file adequate information under

RCW 48.31B.020(3). In determining whether the proposed acquisition violates this competitive standard, the OIC shall consider the criteria in RCW 48.31B.020(4)(b). RCW 48.31B.020(4)(c) states requires that the OIC not deny such an acquisition if (i) the acquisition will yield substantial economies of scale or economies in resource that cannot be feasibly achieved in any other way, and the public benefits that would arise from the economies exceed the public benefits that would arise from not lessening competition; or (2) the acquisition will substantially increase the availability of insurance, and the public benefits of the increase exceed the public benefits that would arise from not lessening competition.

10. Authorized representatives of Aetna, Humana, and the OIC shall also testify as to whether Aetna, Humana, or Arcadian, or any employees, officers or directors, or other affiliates, have received comments, complaints or concerns concerning the proposed acquisitions at issue in the Form A and Form E, and the nature and source.

11. The parties may examine witnesses and fully respond and present evidence and argument on all issues.

12. A party failing to attend or participate in any stage of the proceeding may be held in default. RCW 34.05.434(2)(i).

13. Pursuant to WAC 284-02-070(1)(c), accommodation will be made for persons needing assistance due to difficulty with language or disability. Further, pursuant to WAC 10-08-040(2) and in accordance with RCW Chapter 2.42, 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 RCW Chapter 2.42. A Request for Accommodation form, with instructions, is attached to the original of this Notice.

14. All case related documents and correspondence shall be directed to the Hearings Unit, Office of the 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, Dorothy Seabourne-Taylor, at the same address. Ms. Seabourne-Taylor's telephone number is (360) 725-7002.

15. This is a public proceeding. Interested persons may attend the hearing without prior approval or may listen to the hearing by telephone by dialing 1-877-668-4493, followed by access code 253 130 49. Interested persons may submit comments on, or objections to, this proposed acquisition of control to the undersigned, which will be included in the hearing record and will be considered prior to the final decision in this matter. Such comments and/or objections must be submitted by 5:00 p.m. Pacific Time, Monday March 21, 2016, by fax, U.S. Mail, personal delivery, or email. The fax number is (360) 664-2782; U.S. Mail address is PO Box 40255, Olympia, WA 98504-0255; personal delivery address is 5000 Capitol Boulevard, Tumwater, Washington 98501; and email address is that of Hearings Unit Paralegal, Dorothy Seabourne-Taylor, which is DorothyS@oic.wa.gov.

NOW, THEREFORE, IT IS HEREBY ORDERED: The adjudicative proceeding in this matter will begin on **Wednesday, March 23, 2016 at 9:00 A.M.**, Pacific Time, in the Office of the Insurance Commissioner, 5000 Capitol Boulevard, Tumwater, Washington 98501.

Dated: February 26, 2016



William G. Pardee
Presiding Officer

CERTIFICATE OF SERVICE

The undersigned certifies under the penalty of perjury under the laws of the state of Washington that I am now and at all times herein mentioned, a citizen of the United States, a resident of the state of Washington, over the age of eighteen years, not a party to or interested in the above-entitled action, and competent to be a witness herein.

On the date given below I caused to be filed and served the foregoing Notice of Hearing on the following people at their addresses listed below:

Tim Farber
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111 South Wacher Drive
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Linda S. Cooper
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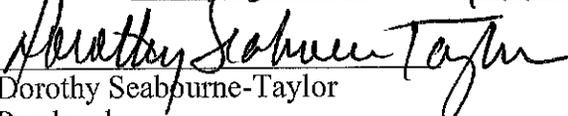
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James T. Odiorne, J.D., CPA, Chief Deputy Insurance Commissioner
Doug Hartz, Deputy Commissioner, Company Supervision Division
Ron Pastuch, Holding Company Manager, Company Supervision Division
AnnaLisa Gellermann, Deputy Commissioner, Legal Affairs Division
Charles Brown, Senior Staff Attorney, Legal Affairs Division
Office of the Insurance Commissioner
PO Box 40255
Olympia, WA 98504-0255

Dated this 26th day of February, 2016, in Tumwater, Washington.


Dorothy Seaburne-Taylor
Paralegal
Hearings Unit

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 ACCOMMODATION FOR LANGUAGE OR DISABILITY

I am a party in Matter No. 16-0027 before the Insurance Commissioner.

I request accommodation for the following disability (insert your disability):

I request an interpreter for myself or a witness who will be testifying at the evidentiary hearing.

Please check the statements that apply:

I am a non-English-speaking person and 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 accommodation for your disability, an interpreter or in providing appropriate mechanical or electronic amplification, viewing, or communication equipment.]

Date: _____ Signed: _____

Please print or type your name: _____

Address: _____

Telephone: _____