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Department of Insurance
State of Idaho

BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE
STATE OF IDAHO

In the Matter of:)
) Docket No. 18-2555-09
)
PACIFICSOURCE HEALTH PLANS) **AMENDED ORDER**
Certificate of Authority No. 3699,) **APPROVING FORM A**
NAIC Co. Code No. 54976; and)
PRIMARY HEALTH NETWORK, INC.)
Certificate of Authority No. 2792,)
NAIC Co. Code No. 60007)
_____)

On July 16, 2009 PACIFICSOURCE HEALTH PLANS (PACIFICSOURCE) filed its Form A Statement Regarding the Acquisition of Control of or Merger With a Domestic Insurer (Form A Statement) and supporting documents with the Director concerning the acquisition of control of domestic insurer PRIMARY HEALTH NETWORK, INC. (PRIMARY HEALTH) pursuant to Idaho Code § 41-3802 and IDAPA 18.01.23.

Introduction and Overview

PACIFICSOURCE is an Oregon domiciled nonprofit health care service contractor holding a certificate of authority as a managed care organization in Idaho. The July 16, 2009 Form A Statement seeks approval of a proposed transaction whereby a wholly-owned subsidiary formed by PACIFICSOURCE (located at 110 International Way, Springfield, Oregon 97401),

which is PHI ACQUISITION CORP., a Delaware corporation, will merge with PRIMARY HEALTH, INC. (PHI), a Delaware corporation and parent of PRIMARY HEALTH (located at 800 Park Boulevard., Suite 760, Boise Idaho 83712). PHI will be the surviving corporation (the ACQUISITION). PACIFICSOURCE will then own 100% of the outstanding stock of PHI and therefore control PRIMARY HEALTH, which as of the closing of the ACQUISITION is to be wholly owned by PHI. The proposed ACQUISITION is detailed in the Agreement and Plan of Merger dated as of July 9, 2009 by and among PACIFICSOURCE, PHI ACQUISITION CORP., and PHI, which, in addition to related exhibits, was submitted as Exhibit 6 to the Form A Statement. Immediately after the closing of the ACQUISITION, the stock of PRIMARY HEALTH will be distributed from PHI to PACIFICSOURCE, thereby making PRIMARY HEALTH a direct, wholly-owned subsidiary of PACIFICSOURCE. The transaction is within the scope of Idaho Code § 41-3802.

Post-Closing Merger & Related Transactions

There are a number of ancillary agreements and transactions detailed within the Form A Statement that the Department of Insurance (DOI) considers as part of the Form A Statement application.

Post-Closing Merger

In addition to the ACQUISITION, the Form A seeks approval of a post-closing merger to occur on or about December 31, 2009, whereby PRIMARY HEALTH will be merged into PACIFICSOURCE, with PACIFICSOURCE as the surviving corporation (the POST-CLOSING MERGER). The DOI has determined this merger is deemed to be governed by Idaho Code §41-2856 based on the following information:

1. PACIFICSOURCE is a nonprofit, non-stock corporation similar to the health care service corporations described in chapter 34, title 41 of the Idaho Code. However, as a

foreign corporation, PACIFICSOURCE has a certificate of authority as an insurer in Idaho rather than as an Idaho health care service corporation (which under chapter 34, title 41 of the Idaho Code must be an Idaho corporation). In addition, in Oregon, PACIFICSOURCE'S state of domicile, PACIFICSOURCE is a health care service contractor under Oregon Revised Statutes ("ORS") Chapter 750, but for most purposes under the Oregon Insurance Code is treated as an insurer, including for purposes of mergers and acquisitions under ORS 732.517 to 732.546. Since PACIFICSOURCE is treated as an insurer under the Oregon Insurance Code and under the Idaho Code and its operation for purposes of the Idaho Code is more analogous to that of a stock insurer than a mutual insurer, PACIFICSOURCE'S merger with PRIMARY HEALTH, a domestic stock insurer, falls within the application of Idaho Code § 41-2856.

2. PACIFICSOURCE, as the surviving corporation, will have a current certificate of authority as a foreign insurer issued by the DOI and will have assets of a character allowed for domestic insurers pursuant to the provisions of chapter 7, title 41, Idaho Code.
3. The post-merger capital and surplus accounts of PACIFICSOURCE will satisfy the applicable requirements of Title 41 of the Idaho Code.
4. The POST-CLOSING MERGER will be implemented in accordance with the applicable Oregon and Idaho laws governing mergers of corporations. Because PACIFICSOURCE will be the sole stockholder of PRIMARY HEALTH and PACIFICSOURCE has no stockholders, no notice to stockholders will be required in connection with the POST-CLOSING MERGER. The approval of the board of

directors of PACIFICSOURCE and PRIMARY HEALTH will effect the agreement and plan of merger.

5. No director, officer, agent or employee of PACIFICSOURCE or PRIMARY HEALTH will receive any fee, commission, compensation or other valuable consideration for in any manner aiding, promoting or assisting with the POST-CLOSING MERGER, except for such person's normal compensation as a director or employee of PACIFICSOURCE.

Future Plans for the Insurer

The plans for the insurer set forth in the Form A Statement as item 5 are enumerated below:

PACIFICSOURCE intends to integrate PRIMARY HEALTH's business into PACIFICSOURCE, but to maintain local management in Idaho. To effect such integration, PACIFICSOURCE plans to:

1. Distribute the stock of PRIMARY HEALTH from PHI to PACIFICSOURCE immediately after the closing of the ACQUISITION, thereby making PRIMARY HEALTH a direct, wholly-owned subsidiary of PACIFICSOURCE, and operate PRIMARY HEALTH under the assumed business name "PacificSource Health Plans of Idaho" before the POST-CLOSING MERGER described in item 9 below occurs;
2. Prior to the conclusion of the POST-CLOSING MERGER described in item 9 below, continue to write all renewal business and some new business through PRIMARY HEALTH (other new business to be written through PACIFICSOURCE);
3. Terminate the Amended and Restated Medical Services Payment Agreement dated September 1, 2007, between PHI and PRIMARY HEALTH, with respect to insurance coverage for which premiums are paid on or after the closing date of the

ACQUISITION (all premiums paid with respect to PRIMARY HEALTH insurance business on or after the closing date of the ACQUISITION to be retained by PRIMARY HEALTH);

4. Have PRIMARY HEALTH be responsible for payment of claims with respect to insurance coverage for which premiums are paid on or after the closing date of the ACQUISITION, with the administration of the claims and the claims payments to be handled by PACIFICSOURCE pursuant to a management services agreement between PACIFICSOURCE and PRIMARY HEALTH (see item 7 below);
5. After the closing of the ACQUISITION, have PACIFICSOURCE contribute to PRIMARY HEALTH any additional capital that is necessary for PRIMARY HEALTH to satisfy reserve requirements under the Idaho Insurance Code;
6. Terminate the Tax Sharing Agreement dated September 1, 2007, between PHI and PRIMARY HEALTH, with respect to revenues received on or after the closing date of the ACQUISITION;
7. Terminate the Management and Administrative Services Agreement dated September 1, 2007, between PHI and PRIMARY HEALTH, with respect to insurance coverage for which premiums are paid on or after the closing date of the ACQUISITION, and enter into a new administrative services agreement between PACIFICSOURCE and PRIMARY HEALTH (PHI employees retained by PACIFICSOURCE to manage PACIFICSOURCE's Idaho business to become employees of PACIFICSOURCE as of the closing of the ACQUISITION);
8. Until the POST-CLOSING MERGER described in item 9 below occurs, maintain PRIMARY HEALTH's provider agreement with PHI subsidiary Idaho Physicians

Network, Inc., such agreement to be amended as needed to reflect the post-closing changes described in these plans for the insurer;

9. When PACIFICSOURCE has completed arrangements for integration of the PRIMARY HEALTH insurance business into PACIFICSOURCE (which is expected to occur by the end of calendar year 2009), cause PRIMARY HEALTH to be merged into PACIFICSOURCE, with PACIFICSOURCE as the surviving corporation (the POST-CLOSING MERGER described in Item 1 of the Form A filing), PACIFICSOURCE thereby assuming the obligations of PRIMARY HEALTH with respect to the PRIMARY HEALTH insurance business (PACIFICSOURCE to provide the holders of the PRIMARY HEALTH policies with assumption certificates approved by the Idaho Department of Insurance and to satisfy the requirements of IDAPA Sections 18.01.69.028 and 18.01.72.028 regarding small group and individual health insurance plans).

Findings

PHI is aware of PACIFICSOURCE'S filing of the Form A Statement on July 16, 2009, and the Director further finds that it supports the approval of such filing as a party to the Agreement and Plan of Merger dated July 9, 2009. Because the staff of the DOI has not scheduled and given notice of a hearing, as would be required under Idaho Code §41-3805(1) were they opposing the Form A Statement, and because none of the aforementioned persons have requested a hearing, no public hearing is required pursuant to Idaho Code § 41-3805(1) prior to the entry of this order. Likewise, no public hearing is required pursuant to Idaho Code §41-2856(3), regarding the POST-CLOSING MERGER for the benefit of stockholders, as the sole stockholder of PRIMARY HEALTH is PACIFICSOURCE and PACIFICSOURCE has no stockholders.

ACQUISITION

Idaho Code § 41-3805(1) requires the Director to “approve any purchase . . . or other acquisition of control referred to in section 41-3802, Idaho Code . . . unless after a public hearing, the director finds that:” at least one of six enumerated bases exists to disapprove the purchase. If the Director were inclined to disapprove the Form A, a notice of hearing would have been issued as provided in Idaho Code § 41-3805(1). The failure to issue a notice of hearing was not an oversight. The Director affirmatively finds that none of the express bases that may serve to disapprove a Form A application to effect the change in control of a domestic insurer provided in Idaho Code § 41-3805(1) exists in this case, to wit:

It does not appear that PACIFICSOURCE will be unable to cause PRIMARY HEALTH to satisfy the requirements for a certificate of authority after the closing. To the contrary, PACIFICSOURCE has indicated that it plans to infuse any additional capital necessary into the company and will ensure that it satisfies reserve requirements of title 41, Idaho Code. *See* Idaho Code § 41-608 and IDAPA 18.01.68.

It does not appear that closing of the ACQUISITION will have the effect of reducing competition in insurance business or create a monopoly in Idaho. *See* Idaho Code § 41-3805(1)(b).

It does not appear that the financial condition of PACIFICSOURCE will jeopardize the financial condition of PRIMARY HEALTH post closing. *See* Idaho Code § 41-3805(1)(c).

After closing, PACIFICSOURCE intends to cause PRIMARY HEALTH to continue to renew and write some new business with other new business to be written through PACIFICSOURCE; accordingly there are no planned material changes that are unfair and unreasonable to policyholders of the insurer and not in the public interest. *See* Idaho Code § 41-3805(1)(d).

PACIFICSOURCE management intends to operate PRIMARY HEALTH, accordingly, it does not appear that the competence, experience, and integrity of those persons who will control PRIMARY HEALTH following closing of the ACQUISITION, and circumstances generally, are

such as to jeopardize policyholders, stockholders, or the public. *See* Idaho Code § 41-3805(1)(e).

It does not appear that the ACQUISITION is likely to be hazardous or prejudicial to the insurance buying public. *See* Idaho Code § 41-3805(1)(f).

POST-CLOSING MERGER

Idaho Code § 41-2856(3) requires the Director to give such approval of a merger or consolidation providing a plan and agreement has been filed unless after a public hearing, the director finds that at least one of four enumerated bases exists to disapprove the plan or agreement. If the Director were inclined to disapprove the POST-CLOSING MERGER, a notice of hearing would have been issued as provided in Idaho Code § 41-2856(3). The failure to issue a notice of hearing was not an oversight. The Director affirmatively finds that none of the express bases that may serve to disapprove a merger or consolidation of PRIMARY HEALTH and PACIFCSOURCE exist in this case, to wit:

It does not appear that the POST-CLOSING MERGER is contrary to law having met the conditions of §41-2856, Idaho Code; or

The POST-CLOSING MERGER is inequitable to the stockholders as PACIFCSOURCE will be the sole stockholder of PRIMARY HEALTH and PACIFCSOURCE has no stockholders; or

The POST-CLOSING MERGER would substantially reduce the security of and service to be rendered to policyholders of PRIMARY HEALTH as PACIFCSOURCE has assets of over \$160 million and total surplus of over \$92 million as of March 31, 2009; or

The POST-CLOSING MERGER is subject to other material and reasonable objections as the Director finds it is in the best interests of policyholders and consumers to promote competition in the market.

The Director finds the requirements for the filing of the agreement and plan of merger required by Idaho Code are satisfied by the ancillary application made as part of the Form A.

such as to jeopardize policyholders, stockholders, or the public. *See* Idaho Code § 41-3805(1)(e).

It does not appear that the ACQUISITION is likely to be hazardous or prejudicial to the insurance buying public. *See* Idaho Code § 41-3805(1)(f).

POST-CLOSING MERGER

Idaho Code § 41-2856(3) requires the Director to give such approval of a merger or consolidation providing a plan and agreement has been filed unless after a public hearing, the director finds that at least one of four enumerated bases exists to disapprove the plan or agreement. If the Director were inclined to disapprove the POST-CLOSING MERGER, a notice of hearing would have been issued as provided in Idaho Code § 41-2856(3). The failure to issue a notice of hearing was not an oversight. The Director affirmatively finds that none of the express bases that may serve to disapprove a merger or consolidation of PRIMARY HEALTH and PACIFCSOURCE exist in this case, to wit:

It does not appear that the POST-CLOSING MERGER is contrary to law having met the conditions of §41-2856, Idaho Code; or

The POST-CLOSING MERGER is inequitable to the stockholders as PACIFCSOURCE will be the sole stockholder of PRIMARY HEALTH and PACIFCSOURCE has no stockholders; or

The POST-CLOSING MERGER would substantially reduce the security of and service to be rendered to policyholders of PRIMARY HEALTH as PACIFCSOURCE has assets of over \$160 million and total surplus of over \$92 million as of March 31, 2009; or

The POST-CLOSING MERGER is subject to other material and reasonable objections as the Director finds it is in the best interests of policyholders and consumers to promote competition in the market.

The Director finds the requirements for the filing of the agreement and plan of merger required by Idaho Code are satisfied by the ancillary application made as part of the Form A.

Conclusions

NOW, THEREFORE, based upon the foregoing and for good cause, IT IS HEREBY ORDERED, that the following are hereby approved:

1. PACIFICSOURCE'S Form A Statement seeking permission to merge a newly formed subsidiary, PHI Acquisition Corp., with PHI, the parent of Idaho domestic insurer PRIMARY HEALTH, with PHI the surviving corporation. As a result PACIFICSOURCE will own 100% of the outstanding stock of PHI and therefore control PRIMARY HEALTH (the ACQUISITION). Immediately after the closing of this ACQUISITION, the stock of PRIMARY HEALTH will be distributed from PHI to PACIFICSOURCE, thereby making PRIMARY HEALTH a direct, wholly-owned subsidiary of PACIFICSOURCE. The approval of the Form A Statement and the ACQUISITION and stock distribution is personal and limited to PACIFICSOURCE, and this approval does not extend to any other purchaser; and

2. The agreement and plan of merger (POST-CLOSING MERGER) whereby on or about December 31, 2009, PRIMARY HEALTH will be merged into PACIFICSOURCE with PACIFICSOURCE as the survivor.

IT IS FURTHER ORDERED that PACIFICSOURCE shall (1) notify the DOI immediately of the closing of the ACQUISITION; (2) file evidence with the DOI within 30 days of the approval by the board of directors of PACIFICSOURCE and PRIMARY HEALTH of the POST-CLOSING MERGER; and (3) comply with Idaho Code §41-3807 with respect to intercompany agreements between PACIFICSOURCE (and its subsidiaries) and PRIMARY HEALTH.

IT IS FURTHER ORDERED that the order dated July 29, 2009 approving Form A is hereby rescinded, and is hereby superseded by this amended order.

NOTIFICATION OF RIGHTS

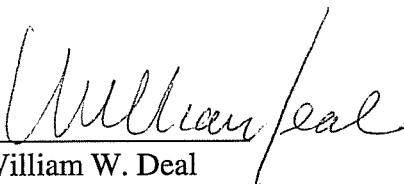
This constitutes a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. *See Idaho Code § 67-5246(4).*

Pursuant to Idaho Code §§ 67-5270 and 67-5272, any party aggrieved by this final order may appeal it by filing a petition for judicial review in the district court of the county in which: (1) the hearing was held; or (2) the final agency action was taken; or (3) the aggrieved party resides or operates its principal place of business in Idaho; or (4) the real property or personal property that was the subject of the agency decision is located.

An appeal must be filed within twenty-eight (28) days of: (a) the service date of this final order, or (b) an order denying a petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. *See Idaho Code § 67-5273.*

The filing of a petition for judicial review to the district court does not itself stay the effectiveness or enforcement of the order under appeal.

DATED and EFFECTIVE this 30th day of July 2009.


William W. Deal
Director

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have on this 30th day of July 2009, caused a true and correct copy of the foregoing document, to be served upon the following by the designated means:

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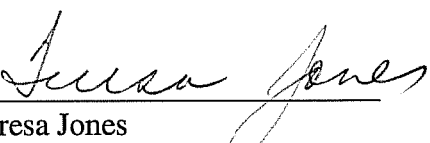
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