



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

Tony Evers, Governor  
Mark V. Afable, Commissioner

Wisconsin.gov

December 20, 2019

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CERTIFIED MAIL - RETURN RECEIPT REQUESTED

Lisa Gingerich, Partner  
Michael Best & Friedrich LLP  
100 East Wisconsin Avenue, Suite 3300  
Milwaukee, Wisconsin 53202

Re: Case No. 19-C43349

Dear Ms. Gingerich:

Enclosed is a copy of the Final Decision in the above-referenced matter.

Any appeal to circuit court for review of this Final Decision must be served on the Commissioner of Insurance, 125 South Webster Street, Madison, Wisconsin 53703.

Sincerely,

Amy J. Malm  
Hearing Examiner

Enclosure

cc: Kevin J. Collins (via e-mail only)

In the matter of the Plan for the Mergers of Care Wisconsin First, Inc. with and into My Choice Family Care, Inc. and of Trilogy Health Insurance, Inc. with and into Care Wisconsin Health Plan, Inc. by My Choice Family Care, Inc.,

FINAL DECISION

Case No. 19-C43349

Petitioner.

FINAL DECISION

I adopt the Hearing Examiner's Proposed Decision, including the findings of fact and conclusions of law, which is attached to this Final Decision and which was served on the Petitioner with an opportunity for submitting written objections.

Based upon these findings of fact and conclusions of law, I order that:

(16) The Petitioner's request for approval of the Plan for Mergers is approved, subject to the following conditions subsequent:

- (a) Care Wisconsin Health Plan, Inc. shall consent to a stipulation and order issued by the Office of the Commissioner of Insurance under s. 601.41, Wis. Stat., which shall be in a form substantially similar to that provided in Exhibit 104 in the record of this proceeding, within ten (10) calendar days of the consummation of the proposed change in control.
- (b) My Choice Family Care, Inc. shall consent to a stipulation and order issued by the Office of the Commissioner of Insurance under s. 601.41, Wis. Stat. within ten (10) calendar days of the consummation of the proposed change in control.
- (c) My Choice Family Care, Inc. shall file the consent to jurisdiction required by s. 648.45 (3), Wis. Stat., and s. 57.25, Wis. Adm. Code, within ten (10) calendar days following consummation of the mergers.
- (d) Within ten (10) calendar days of the consummation of the proposed change in control, My Choice Family Care, Inc. shall file Amended and Restated Articles of Incorporation in the form provided as Exhibit 27 in the record of this proceeding. The effective date of these Amended and Restated Articles of Incorporation shall be deemed as the date of the consummation of the merger of Care Wisconsin First, Inc. with and into My Choice Family Care, Inc. and the date-stamp affixed to them by the Office of the Commissioner of Insurance shall reflect the date of the consummation of the proposed change in control.
- (e) Within ten (10) calendar days of the consummation of the proposed change in control, My Choice Family Care, Inc. file Amended and Restated Bylaws in the form provided as Exhibit 28 in the record of this proceeding. The effective date of these Amended and Restated Bylaws shall be deemed as the date of the consummation of the merger of Care Wisconsin First, Inc. with and into My Choice Family Care, Inc. and the date-stamp affixed to them by the Office of the Commissioner of Insurance shall reflect the date of the consummation of the proposed change in control.
- (f) Within ten (10) calendar days of the consummation of the proposed change in control, Care Wisconsin Health Plan, Inc. shall file Amended and Restated Articles of Incorporation in the form provided as Exhibit 29 in the record of this proceeding. The effective date of these Amended and Restated Articles of Incorporation shall be deemed as the date of the consummation of the merger of Trilogy Health Insurance, Inc. with and into Care Wisconsin Health Plan, Inc. and the date of their execution by

the corporation's President and the date-stamp affixed to them by the Office of the Commissioner of Insurance shall reflect the date of the consummation of the proposed change in control.

- (g) Within ten (10) calendar days of the consummation of the proposed change in control, Care Wisconsin Health Plan, Inc. shall file Amended and Restated Bylaws in the form provided as Exhibit 30 in the record of this proceeding. The effective date of these Amended and Restated Bylaws shall be deemed as the date of the consummation of the merger of Trilogy Health Insurance, Inc. with and into Care Wisconsin Health Plan, Inc. and the date-stamp affixed to them by the Office of the Commissioner of Insurance shall reflect the date of the consummation of the proposed change in control.

#### NOTICE OF APPEAL INFORMATION

(Notice of rights for rehearing and judicial review,  
the times allowed for each, and the identification  
of the party to be named as respondent)

The following notice is served on you as part of the Final Decision:

1. Rehearing.

Any person aggrieved by this Final Decision may petition for a rehearing within 20 days after the service of this Final Decision, as provided in s. 227.49, Wis. Stat. A petition for rehearing is not a prerequisite for appeal directly to circuit court through a petition for judicial review.

A petition for rehearing must be filed with the Commissioner at the address below.

2. Judicial Review.

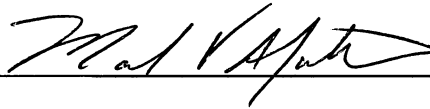
Any person aggrieved by this Final Decision has a right to petition for judicial review of this Final Decision as provided in s. 227.53, Wis. Stat. The petition must be filed in circuit court within 30 days after service of this Final Decision if there has been no petition for rehearing, or within 30 days after service of the order finally disposing of the petition for rehearing, or within 30 days after the final disposition by operation of law of any petition for rehearing.

A petition for judicial review must be served on, and name as the Respondent:

Commissioner of Insurance, Respondent  
Office of the Commissioner of Insurance  
P. O. Box 7873  
Madison, Wisconsin 53707-7873

A copy of the relevant statutory provisions is attached.

Dated at Madison, Wisconsin, this 20<sup>th</sup> day of December, 2019.



Mark V. Afable  
Commissioner of Insurance

WISCONSIN STATUTES

At all times material, the relevant parts of s. 227.49, Wis. Stat., read as follows:

227.49 PETITIONS FOR REHEARING IN CONTESTED CASES. (1) A petition for rehearing shall not be a prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. . . .

(2) The filing of a petition for rehearing shall not suspend or delay the effective date of the order, and the order shall take effect on the date fixed by the agency and shall continue in effect unless the petition is granted or until the order is superseded, modified, or set aside as provided by law.

(3) Rehearing will be granted only on the basis of:

(a) Some material error of law.

(b) Some material error of fact.

(c) The discovery of new evidence sufficiently strong to reverse or modify the order, and which could not have been previously discovered by due diligence.

(4) Copies of petitions for rehearing shall be served on all parties of record. Parties may file replies to the petition.

(5) The agency may order a rehearing or enter an order with reference to the petition without a hearing, and shall dispose of the petition within 30 days after it is filed. If the agency does not enter an order disposing of the petition within the 30-day period, the petition shall be deemed to have been denied as of the expiration of the 30-day period.

(6) Upon granting a rehearing, the agency shall set the matter for further proceedings as soon as practicable. . . .

At all times material, the relevant part of s. 227.52, Wis. Stat., read as follows:

227.52 JUDICIAL REVIEW; DECISIONS REVIEWABLE. Administrative decisions which adversely affect the substantial interests of any person, whether by action or inaction, whether affirmative or negative in form, are subject to review as provided in this chapter. . . .

At all times material, the relevant parts of s. 227.53, Wis. Stat., read as follows:

227.53 PARTIES AND PROCEEDINGS FOR REVIEW. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision

specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) 1. Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. . . .

2. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency.

. . .

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified. . . .

(c) A copy of the petition shall be served personally or by certified mail or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon each party who appeared before the agency in the proceeding in which the decision sought to be reviewed was made or upon the party's attorney of record. . . .

(d) The agency . . . and all parties to the proceeding before it, shall have the right to participate in the proceedings for review. . . .