

In the Matter of the Acquisition of Control
of Gundersen Health Plan, Inc. ("GHP") and
Unity Health Plans Insurance Corporation ("Unity")

FINAL DECISION

Domestic Insurers

by

University Health Care, Inc. ("UHC") and
Gundersen Lutheran Health System, Inc. ("GHS")

Case No. 16-C41129

Petitioners.

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 Petitioners with an opportunity for submitting written objections.

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

(18) The Petitioners' request for approval of the plan for acquisition of control of the Domestic Insurers is approved. It is further ordered that:

(19) The affiliated agreements (as discussed in Section (4) of the Proposed Findings of Fact) are nondisapproved.

(20) The amended and restated Articles and Bylaws (as discussed in Section (5) of the Proposed Findings of Fact) are nondisapproved. The certified and adopted Articles and Bylaws shall be filed with OCI within 15 days of the date of adoption by the applicable board.

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.

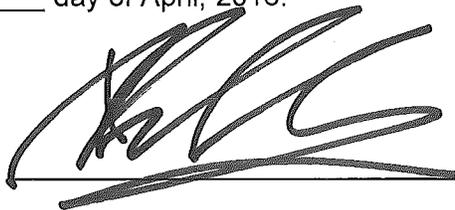
Any person aggrieved by this Final Decision has a right to petition for judicial review of this Final Decision as provided in s. 227.53, Wis. Stat. The petition must be filed in circuit court within 30 days after service of this Final Decision if there has been no petition for rehearing, or within 30 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 21st day of April, 2016.

A handwritten signature in black ink, appearing to read 'TK Nickel', is written over a horizontal line.

Theodore K. Nickel
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. . . .
. . . .

In the Matter of the Acquisition of Control
of Gundersen Health Plan, Inc. ("GHP") and
Unity Health Plans Insurance Corporation ("Unity")

PROPOSED DECISION

Domestic Insurers

by

University Health Care, Inc. ("UHC") and
Gundersen Lutheran Health System, Inc. ("GHS")

Case No. 16-C41129

Petitioners.

Rebecca L. Easland, Hearing Examiner, Presiding

APPEARANCES

For the Office of the
Commissioner of
Insurance:

Present in person

Kristin Forsberg, Company Licensing Specialist
Richard Hinkel, Supervisor, Financial Exams Bureau
125 South Webster Street, Madison, WI 53703

For UHC and Unity:

Present in person

Mike Dallman, President, UHC
University Health Care, Inc.
301 S. Westfield Road, Madison, WI 53717

Terry Bolz, President and CEO
Jim Hively, Treasurer and CFO
Christine Senty, Secretary & General Counsel
Unity Health Plans Insurance Corporation
840 Carolina Street, Sauk City, WI 53583

For GHS and GHP:

Present in person

Dr. Gary Lenth, CEO & Medical Director
Gundersen Health Plan, Inc.
1836 South Avenue, LaCrosse, WI 54601

Dara Bartels, CFO
Daniel Lilly, General Counsel
Gundersen Lutheran Health System, Inc.
1900 South Avenue, LaCrosse, WI 54601

For both GHS/GHP
and UHC/Unity:

Present in person

Noreen Parrett (External Legal Counsel)
Parrett & O'Connell, LLP
10 East Doty Street, Suite 615, Madison, WI 53703

PRELIMINARY

Pursuant to a Notice of Hearing dated March 8, 2016, a hearing was held at 10:05 a.m. on April 20, 2016, to determine whether the Petitioners' application for approval of the plan for acquisition of control of the Domestic Insurers should be granted. Based on the record, the Hearing Examiner makes the following:

PROPOSED FINDINGS OF FACT

(1) University Health Care, Inc., located at 301 S. Westfield Road, Madison, Wisconsin, and Gundersen Lutheran Health System, Inc., located at 1900 South Avenue, LaCrosse, Wisconsin, are non-profit, non-stock membership corporations (collectively, the "Petitioners").

(2) Unity Health Plans Insurance Corporation, located at 840 Carolina Street, Sauk City, Wisconsin, and Gundersen Health Plan, Inc., located at 1836 South Avenue, LaCrosse, Wisconsin are Wisconsin domestic stock and non-stock insurance companies, respectively (collectively, the "Domestic Insurers").

(3) The Petitioners filed with the Office of the Commissioner of Insurance (the "Commissioner") an application for approval of the acquisition of control of the Domestic Insurers (the "Plan").

(4) The Plan included the following draft affiliated agreements, which would become effective following the Plan's closing:

- (a) Stockholders Agreement (Unity) (Hearing Exhibits A-2-B and A-5)
- (b) Members Agreement (GHP) (Hearing Exhibits A-2-C and A-6)
- (c) Stockholders Agreement (Quartz) (Hearing Exhibit A-2-E and A-7)
- (d) Management Agreements (Hearing Exhibit A-2-F)
- (e) Employee Lease Agreements (Hearing Exhibit A-2-G)

(5) The Plan also included drafts of amendments to the following Articles and Bylaws, which would be adopted by the applicable board following the Plan's closing:

- (a) Amended and Restated Bylaws (GHP) (Hearing Exhibits A-2-H and A-8)
- (b) Second Amended and Restated Articles of Incorporation (GHP) (Hearing Exhibit A-2-I)
- (c) Amended and Restated Bylaws (Unity) (Hearing Exhibits A-2-J and A-9)
- (d) Amended and Restated Bylaws (Quartz) (Hearing Exhibits A-2-K and A-10)

(6) The Petitioners were served with a Notice of Hearing.

(7) The Petitioners fulfilled the filing requirements of s. Ins 40.02, Wis. Adm. Code.

(8) The plan will not violate the law or be contrary to the interest of the insureds of Domestic Insurers or of the Wisconsin insureds of any participating nondomestic corporation.

(9) After the acquisition of control, the Domestic Insurers will be able to satisfy the requirements for the issuance of a license to write the lines of insurance for which they are presently licensed.

(10) The effect of the acquisition of control will not be to create a monopoly or substantially to lessen competition in any type or line of insurance in Wisconsin.

(11) The financial condition of the Petitioners is not likely to jeopardize the financial stability of the Domestic Insurers or to prejudice the interests of their Wisconsin policyholders.

(12) There are no plans or proposals to make significant changes to senior management or the employees of the Domestic Insurers, or to request an extraordinary dividend, to liquidate, to sell their assets, or to consolidate or merge the Domestic Insurers with any person, or to materially change their current operations. The Petitioners' plan, after acquiring control of the Domestic Insurers, as described by the Petitioners, is fair and reasonable to the policyholders of the Domestic Insurers, and in the public interest.

(13) The competence and integrity of the persons who will control the operation of the Domestic Insurers are such that it will be in the interest of the policyholders and the public to permit the acquisition of control.

PROPOSED CONCLUSION OF LAW

(14) The proposed findings of fact set forth above establish that the requirements of s. 611.72 and chs. 227 and 617, Wis. Stat., and ch. Ins 40, Wis. Adm. Code, have been satisfied and approval of the plan should be granted.

PROPOSED ORDER

NOW, THEREFORE, based upon the findings of fact and conclusion of law, I hereby recommend that:

(15) The Petitioners' request for approval of the plan for acquisition of control of the Domestic Insurers be approved.

(16) The affiliated agreements (as discussed in Section (4) of the Proposed Findings of Fact) be nondisapproved. The executed agreements shall be filed with OCI within 15 days of the date of the Final Order regarding Case Number 16-C41129.

(17) The amended and restated Articles and Bylaws (as discussed in Section (5) of the Proposed Findings of Fact) be nondisapproved. The certified and adopted Articles and Bylaws shall be filed with OCI within 15 days of the date of adoption by the applicable board.

Dated at Madison, Wisconsin, this 20th day of April, 2016.



Rebecca L. Easland
Hearing Examiner