



State of Wisconsin / OFFICE OF THE COMMISSIONER OF INSURANCE

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DATE: November 15, 2019

TO: Amy J. Malm, Hearing Examiner
Richard A. Hinkel, Insurance Financial Examiner – Chief

FROM: Michael A. Mancusi-Ungaro Insurance Financial Examiner – Advanced (Licensing)
Steven J. Junior, Insurance Program Manager

SUBJECT: 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. (Case No. 19-C43349).

DESCRIPTION OF THE TRANSACTION

Overview

On November 1, 2019, My Choice Family Care, Inc. (hereinafter also, “My Choice”), a Wisconsin-domiciled care management organization, filed a Form A pursuant to s. 611.72, Wis. Stat., and s. Ins 57.10, Wis. Adm. Code, whereby it is proposed that Care Wisconsin First, Inc. (hereinafter also, “Care Wisconsin”), a Wisconsin-domiciled care management organization, will merge with and into My Choice Family Care, Inc. Immediately thereafter, it is proposed that Trilogy Health Insurance, Inc., a My Choice subsidiary and Wisconsin-domiciled health maintenance organization, will merge with and into, Care Wisconsin Health Plan, Inc., a Care Wisconsin subsidiary and Wisconsin-domiciled health maintenance organization.

Care Wisconsin First, Inc. and Care Wisconsin Health Plan, Inc. are both financially distressed, and the proposed mergers are an alternative to imminent bankruptcy for Care Wisconsin First, Inc. and imminent rehabilitation for Care Wisconsin Health Plan, Inc. Accordingly, the My Choice management and board of directors will take the principal role in coordinating the integration and future direction of operations.

The Wisconsin Office of the Commissioner of Insurance, in consultation with the Department of Health Services, reviewed the mergers that are the subject of this transaction.

Application Contacts

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Scope of Wisconsin's Regulatory Concern

Section 611.72, Wis. Stat., requires the Office of the Commissioner of Insurance to approve a plan for a merger or acquisition of control if it finds, after a hearing, that the plan would not violate the law or be contrary to the interests of the insureds of any domestic corporation or of the Wisconsin insureds of any participating nondomestic corporation. Section Ins 57.10, Wis. Adm. Code, requires the approval of the Office of the Commissioner of Insurance prior to any merger or acquisition of control among different care management organizations.

The holding company system led by My Choice Family Care, Inc. (hereinafter also, "My Choice Group") consists solely of My Choice Family Care, Inc. and its wholly owned stock insurance subsidiary Trilogy Health Insurance, Inc. Both corporations are domiciled in Wisconsin. My Choice Family Care, Inc. has 501(c)(3) tax-exempt status under the U.S. Internal Revenue Code, while Trilogy Health Insurance, Inc. is a for-profit stock corporation. A brief description of the history and operations of each of these My Choice Group entities is as follows:

My Choice Family Care, Inc.

My Choice Family Care, Inc., 10201 West Innovation Drive, Suite 100, Wauwatosa, Wisconsin 53226, is a non-stock non-profit corporation organized under Chapter 181 of the Wisconsin Statutes on March 1, 2016 and commenced operations on September 1, 2016. It holds a permit as a care management organization, also known as a managed care organization ("CMO"). Its funding and operations were transferred under a spin-off transaction with Milwaukee County.

Milwaukee County, through its Department of Aging, began providing Family Care services within the geographical boundaries of Milwaukee County to the frail elderly (age 60 and over) population that met the financial and functional requirements of the program as one of the pilot organizations in 2000. In November 2009, Milwaukee County expanded its services to those individuals with physical and developmental disabilities between the ages of 18 and 59 within Milwaukee County.

In 2010, the Milwaukee County Board of Supervisors approved a resolution to separate the CMO from the Department of Aging effective July 1, 2010, by creating the Milwaukee County Department of Family Care.

On May 1, 2012, Milwaukee County Department of Family Care expanded outside of the boundaries of Milwaukee County and began offering the Family Care benefit package to qualifying individuals in Kenosha and Racine counties. It expanded further on June 1, 2013, to the counties of Ozaukee, Sheboygan, Walworth, Washington, and Waukesha.

In 2016, pursuant to s. 46.2894(4)(q), Wis. Stat., the Milwaukee County Board of Supervisors voted to transfer program operations and programmatic Medicaid funds accumulated from 2001 to August 31, 2016 to My Choice Family Care, Inc. under an asset transfer agreement. While certain assets and liabilities were transferred to My Choice at fair market value, the transfer of accumulated programmatic Medicaid funds represented an inherent contribution of \$30,104,329.

Trilogy Health Insurance, Inc.

Trilogy Health Insurance, Inc. (Trilogy), 18000 West Sarah Lane, Suite 310, Brookfield, Wisconsin 53045-5842, was incorporated on July 27, 2006 and commenced business on January 2, 2007, as a health insurer under s. Ins 6.75 (1) (c), Wis. Adm. Code. Trilogy was initially owned by Trilogy Health Holdings, LLC (THH). THH is a Wisconsin limited liability company that was organized on June 16, 2006, for the purpose of acquiring and holding 100% of the outstanding stock of the company. THH was founded by five Wisconsin insurance executives with almost 100 years of combined experience at that time.

The original purpose of the company was to serve small businesses (2-50 employees) and the medium-size employer market (51-400 employees) in 24 counties of eastern Wisconsin. The company would not solicit to employers with more than 400 employees. The company offered a variety of benefit plan options, with a wide range of deductibles, coinsurance, copays, and out-of-pocket maximums. The products included traditional PPO plans and High Deductible Health Plans (HDHP) that qualify for Health Savings Accounts (HSAs), Pharmacy, and Tri-Healthy Wellness Program.

Effective January 1, 2013, US Health and Life Insurance Co. (USHL), a Michigan insurance company, assumed all of Trilogy's in-force group health policies. However, the company retained all responsibility for the runoff of group health policies prior to January 1, 2013. During 2013, the company continued to maintain its provider network and make it available on a fee-for-service basis to insurers, self-funded employer groups and third-party administrators.

On January 16, 2014, the company received an amended Certificate of Authority pursuant to a change of business plan approved by OCI. After that change of business plan, Trilogy became a for-profit health maintenance organization specializing in providing health services under Medicaid to BadgerCare Plus eligible members and Medicaid Supplemental Security Income (SSI) eligible members under a contract with the Wisconsin Department of Health Services. In connection with the change in business plan, the company transferred its network business to Trilogy Health Solutions, then an affiliate, including cash of \$550,000 and non-insurance contract rights, in exchange for the assumption of the company's surplus notes of \$2,000,000.

After seeking approval from the Wisconsin Department of Health Services and OCI, Trilogy ceased writing SSI business effective August 1, 2017. The SSI business represented about 330 members on August 1, 2017, which was approximately 3.5% of Trilogy's total membership at the time.

Trilogy's service area is comprised of the following Wisconsin counties: Brown, Dodge, Green Lake, Kenosha, Marinette, Marquette, Milwaukee, Oconto, Outagamie, Ozaukee, Racine, Shawano, Sheboygan, Washington, Waukesha, Waupaca, Waushara, and Winnebago.

The holding company system led by Care Wisconsin First, Inc. (hereinafter also, "Care Wisconsin Group") consists solely of Care Wisconsin First, Inc. and Care Wisconsin Health Plan, Inc. Care Wisconsin First, Inc. exercises control of Care Wisconsin Health Plan, Inc. as its sole member. Both corporations are domiciled in Wisconsin and have 501(c)(3) tax-exempt status under the U.S. Internal Revenue Code. A brief description of the history and operations of each of these Care Wisconsin Group entities is as follows:

Care Wisconsin First, Inc.

Care Wisconsin First, Inc., 1617 Sherman Avenue, Madison, Wisconsin 53704, was incorporated as a nonprofit corporation on January 1, 1976, as Adult Day Center, Inc., for the purpose of providing adult day services in Dane County, Wisconsin. During the 1980s and early 1990s Care Wisconsin created other day centers and began serving older adults with developmental disabilities. In addition, Care Wisconsin contracted with Dane County to provide personal care to enabled frail elderly and adults with physical disabilities in their homes. In 1995, Care Wisconsin was selected to offer the Wisconsin Partnership Program, now known as Family Care Partnership, which is an integrated Medicare/Medicaid product for dual-eligible enrollees. As the company's business evolved there were several name changes, as follows:

- April 16, 1981—Adult Day Center, Inc. – Circle of Friends
- October 31, 1984—Madison Area Adult Day Centers, Inc.
- January 23, 1999—Elder Care of Dane County, Inc.
- October 16, 2003—Elder Care of Wisconsin, Inc.
- September 20, 2007—Care Wisconsin First, Inc.

In 2003, the company created a subsidiary, Care Wisconsin Health Plan, Inc. ("CWHP") that commenced business on January 1, 2005. CWHP was organized to obtain a health maintenance organization license from the Wisconsin Office of the Commissioner of Insurance in order to continue operating the Family Care Partnership program. On January 1, 2005, the Family Care Partnership began operating under CWHP.

Since 2005, CWHP operates as a fully integrated dual-eligible special needs plan that provides a comprehensive program of services for frail elders and adults with disabilities. The program integrates health and long-term support services, and includes home and community-based services, physician services, and all medical care. Services are delivered in the member's home or a setting of his or her choice. Member choice is a cornerstone of the Family Care Partnership program. Program agencies make every effort to honor member preferences of how, when, and where services are delivered. A key component of Family Care Partnership is team-based care management. Under this arrangement, the member, his or her physician, and a team of nurses and social workers work together to develop a care plan. The team coordinates all service delivery. Members often keep their own physician who, in most cases, is added to the Family Care Partnership provider network.

In 2007, Care Wisconsin received certification from the Wisconsin Department of Health Services as a care management organization, also known as a managed care organization, to begin operating the Wisconsin Family Care Program. Care Wisconsin is organized under ch. 181, Wis. Stat., and is permitted under ch. 648, Wis. Stat.

In 2008, Care Wisconsin began offering Family Care services in eight Wisconsin counties: Columbia, Dodge, Green, Jefferson, Marquette, Washington, Waukesha and Waushara counties. At the present time, it provides such services in 40 of Wisconsin's 72 counties.

Care Wisconsin Health Plan, Inc.

Care Wisconsin Health Plan, Inc., 1617 Sherman Avenue, Madison, Wisconsin 53704, was incorporated on May 23, 2003, under the name Elder Care Health Plan, Inc., was granted its certificate of authority on December 23, 2004, and commenced business on January 1, 2005. The plan was originally capitalized through the transfer of \$4 million (\$2 million surplus contribution/\$2 million surplus note) from its sole member, Elder Care of Wisconsin, Inc. The company changed its name to Care Wisconsin Health Plan, Inc., effective August 1, 2007, concurrent with the name change of Elder Care of Wisconsin, Inc., to Care Wisconsin First, Inc. The plan repaid the remaining balance on the surplus note on December 19, 2007.

Since inception, Care Wisconsin and CWHP have worked cooperatively to provide services under the following programs:

- Wisconsin Family Care Program (Care Wisconsin): A Medicaid program administered by the Wisconsin Department of Health Services ("DHS") designed to provide services for frail elderly, developmentally disabled, and physically disabled populations.
- Family Care Partnership Program (CWHP): This is an integrated Medicare/Medicaid program for dual-eligible enrollees that was originally operated under demonstration authority but has since been transitioned by the Centers for Medicare & Medicaid Services ("CMS") to a Medicare Advantage Special Needs Plan and by DHS to the Family Care Program. The Family Care Partnership Program's (a/k/a Partnership program) benefits include all Wisconsin Medicaid-covered benefits, all Medicare Advantage benefits, all Medicare Part D benefits, and "necessary long-term care services and supports," including services to assist plan enrollees with daily living activities.
- Federal Supplemental Security Income (SSI) (CWHP): A Medicaid program administered by the Wisconsin Department of Health Services for individuals with a disability who qualify for SSI.

- **Medicare Dual-Eligible Advantage (CWHP):** CWHP began offering the Medicare Dual-Eligible Advantage program, a Medicare Advantage Special Need Plan through the Centers for Medicare & Medicaid Services for dual-eligible members, on January 1, 2017. The Medicare Dual-Eligible Advantage plan is for individuals that are eligible for both Medicaid and Medicare services, and covers Medicare-covered benefits.

CWHP's Partnership services include a care management component, consisting of an interdisciplinary team comprised of: the enrollee, a Care Wisconsin-employed nurse practitioner, a Care Wisconsin-employed registered nurse, a Care Wisconsin-employed social worker, and a Care Wisconsin-employed care coordinator or a Care Wisconsin-employed administrative assistant. The teams use a Resource Allocation Decision-Making process approved by Wisconsin to pre-authorize long-term care services.

CWHP's SSI and Medicare Dual-Eligible Advantage services include a care management component, consisting of a team of: the enrollee, a Care Wisconsin-employed care coordinator and a Care Wisconsin-employed nurse care manager.

For acute and primary care administered by CWHP, enrollees may choose any primary care physician who has agreed to work collaboratively with Care Wisconsin nurse practitioners. The primary care physician does not act as a gatekeeper, and specialty care does not require prior authorization or referral.

THE KEY CONTRACTS

My Choice Family Care, Inc. has filed certain contracts and revised corporate governance documents that are anticipated as necessary to close the proposed transaction and integrate the operations of the My Choice Group and the Care Wisconsin Group.

Approval is sought for the following types of contracts and corporate governance documents, as part of, or contemporaneous with, the Form A review process:

1. Merger Agreement by and between My Choice Family Care, Inc. and Care Wisconsin First, Inc. dated October 31, 2019 (hereinafter also the "Merger Agreement")
2. Amended and Restated Articles of Incorporation of My Choice Family Care, Inc. to become effective following the proposed merger with Care Wisconsin First, Inc. (hereinafter also the "Restated My Choice Articles")
3. Second Amended and Restated Bylaws of My Choice Family Care, Inc. to become effective following the proposed merger with Care Wisconsin First, Inc. (hereinafter also the "Restated My Choice Bylaws")
4. Proposed Employment Commitments by and between each of the individuals listed in Confidential Exhibit 9 to Merger Agreement and Exhibits E18, E19, and E20 and My Choice Family Care, Inc. (hereinafter also the "Proposed Employment Commitments")
5. External Service Agreements
6. Management Services Agreement by and between My Choice Family Care, Inc. and Care Wisconsin Health Plan, Inc. (hereinafter also the "Management Services Agreement")

Each of these agreements are briefly summarized as follows:

Merger Agreement – Exhibit A to the Form A:

The Merger Agreement between My Choice Family Care, Inc. Trilogy Health Insurance, Inc., Care Wisconsin First, Inc., and Care Wisconsin Health Plan, Inc. was signed on October 31, 2019 and attached at Exhibit A to the Form A filed on October 31, 2019.

The Merger Agreement organizes the consolidation of both organizations and their insurance subsidiaries via two sequential mergers. The first merger occurs on December 31, 2019 at 11:58 pm when Care Wisconsin First, Inc. is merged into My Choice Family Care, Inc. with My Choice Family Care, Inc.

remaining as the sole surviving entity. Immediately after this first merger, on December 31, 2019 at 11:59 pm, Trilogy Health Insurance, Inc. will be merged into Care Wisconsin Health Plan, Inc. with Care Wisconsin Health Plan remaining as the sole surviving corporation.

The effect of the mergers is such that at the time of merger, My Choice Family Care, Inc. shall succeed to all the assets, rights, privileges and powers and be subject to all of the liabilities, restrictions, disabilities, and duties of Care Wisconsin First, Inc. Additionally, Care Wisconsin Health Plan shall succeed to all the assets, rights, privileges and powers and be subject to all of the liabilities, restrictions, disabilities, and duties of Trilogy Health Insurance, Inc.

One issue with the merger agreement is that the parties have not yet finalized what brand name they will use post-closing and simply provided articles and bylaws using "My Choice Family Care Wisconsin, Inc." This name will change in the future once appropriate marketing studies are concluded.

The remainder of the merger agreement contains standard conditions

Restated My Choice Articles – Exhibit B 13:

The Amended and Restated articles of incorporation for My Choice Family Care, Inc. contain largely the same provisions with the exception that My Choice Family Care, Inc. will now be called "My Choice Family Care Wisconsin, Inc."

Restated My Choice Bylaws – Exhibit B14:

The Bylaws for My Choice Family Care, Inc. filed with the Form A reflect the anticipated name change to My Choice Family Care Wisconsin, Inc. The remainder of the document is standard and consistent with previous versions approved by the OCI in the normal course of our supervision.

Employment Commitments and Agreements– Exhibit 9 of the Form A:

The Applicant included certain employment commitments at Exhibit 9 to the Merger Agreement that are by their nature are confidential. These commitments, in general, relate to members of the executive team, and senior leaders of Care Wisconsin, First, Inc. Care Wisconsin First, Inc. requested these commitments to provide financial security to its key executives and leaders so they would be available to participate and contribute expertise during and after the integration of the merging entities.

Additionally, agreements with Kevin Park and Gary Priem were included. A review of these agreements did not raise any objectionable terms or conditions.

External Service Agreements

The Applicant filed several agreements with its Form A application that are service agreements with unaffiliated third parties. Generally, these are often confidential agreements with service providers, accountants, or consultancies specializing in healthcare program management. These consultation agreements are confidential because disclosure of certain key terms would reveal trade secrets or disadvantage the Applicant in negotiations for essential services it secures from independent third parties if they were disclosed publicly. The following external service agreements were filed and reviewed:

- Master Services Agreement between Care Wisconsin and Trizetto Corporation dated September 30, 2019. Trizetto Corporation provides certain software services to Care Wisconsin.
- Agreement for Services between Care Wisconsin First, Inc. and Dental Professionals of Wisconsin-Management Services, LLC dated November 1, 2016. Dental Professionals of Wisconsin-Management Services, LLC providers render services to Care Wisconsin Frist's health plan members.

- Pharmacy Benefit Management Services Agreement between Envision Pharmaceutical Services, LLC and Care Wisconsin First, Inc. dated January 1, 2017. Envision Pharmaceutical Services provides pharmacy benefit management services to Care Wisconsin First members covering outpatient prescription solutions.
- Ancillary Provider Agreement between Care Wisconsin Health Plan, Inc. and March Vision Care Group, Inc. dated February 1, 2019. March Vision Care Group provides certain vision related services to Care Wisconsin Health Plan Inc. members.
- Credentialing Delegation Agreement between Dean Health Plan and Care Wisconsin First, Inc. dated July 1, 2009. This is an agreement providing Dean Health Plan practitioners and organizational providers that service Care Wisconsin First, Inc. members credentialing and recredentialing services.
- Credentialing Services Agreement between Rural Wisconsin Health Cooperative and Care Wisconsin First, Inc. dated July 1, 2016. This is an agreement providing Rural Wisconsin Health Cooperative practitioners and organizational providers that service Care Wisconsin First, Inc. members credentialing and recredentialing services.
- Master Service Agreement between Convey Health Solutions, Inc. and Care Wisconsin Health Plan, Inc. dated October 5, 2018. Convey Health Solutions provides specialized technology and business processing outsourcing solutions to Care Wisconsin Health Plan, Inc.
- SironaHealth, Inc. Service Agreement dated January 17, 2014. SironaHealth provides Care Wisconsin with medical call center services.
- Master License and Services Agreement between Casenet, LLC and Care Wisconsin First, Inc. dated December 17, 2013. Casenet, LLC provides certain software services to Care Wisconsin First, Inc.
- Services and Software Licensing Agreement between TierMed Systems, LLC (Cotiviti) and Care Wisconsin First, Inc. TierMed Systems LLC provides business information services to Care Wisconsin First, Inc.
- Master Services Agreement between Advent Advisory Group, LLC and Care Wisconsin First, Inc. dated October 11, 2013. Advent Advisory Group, LLC provides certain consulting, technical assistance and auditing services
- Letter Agreement: 2019 Medicare CAPS Survey for CMS contract H5209 by and between DataStat and Care Wisconsin dated January 3, 2019. DataStat provides Care Wisconsin certain customer assessment studies for Care Wisconsin.
- Letter Agreement: 2019 Health Outcomes Survey for CMS contract H5209 by and between DataStat and Care Wisconsin dated January 3, 2019. DataStat provides certain customer outcomes survey data to Care Wisconsin.
- Letter Agreement between Strohm Ballweg, LLP and Care Wisconsin Health Plan, Inc. dated September 9, 2019, whereby Strohm Ballweg, LLP provides accounting support services to Care Wisconsin Health Plan, Inc.
- Engagement Letter between Cirdan Health Systems and Consulting and Care Wisconsin Health Plan, Inc. dated October 28, 2019. Cirdan Health Systems and Consulting will provide actuarial

services related to the NAIC Annual Statement, Medicare Advantage bid development, and Medicare minimum Loss Ratio Reporting.

Management Services Agreements

The Applicant filed two agreements with its Form A application that are existing service agreements among affiliates.

- Administrative Service Agreement between Care Wisconsin Health Plan, Inc. and Care Wisconsin First, Inc. dated June 1, 2005. This year-to-year automatically renewing contract sets out the terms and conditions for Care Wisconsin First, Inc. to provide certain administrative functions to its subsidiary, Care Wisconsin Health Plan, Inc. The services provided include marketing, IT services, financial services, general and administrative services, tax and audit services, and certain other critical services needed to operate the health plan.
- Health Care Services Agreement between Care Wisconsin Health Plan, Inc. and Care Wisconsin First, Inc. dated January 1, 2005. This is an agreement between the health plan and the Care Wisconsin First, Inc. where Care Wisconsin First, Inc. will provide services to members of the health plan subject to certain terms and conditions outlined in the agreement. The agreement is structured as a year-to-year contract that automatically renews unless cancelled. The scope of the services provided includes care coordination and case management, health education, provider contracting and credentialing, management of the Medicare Part D benefit, development and utilization of long-term care protocols or medical guidelines, medical director services, and community relationship building. The agreement was originally signed in 2005 and has been renewed or revised continuously each year up to and including 2019.

OBSERVATIONS BASED ON REVIEW OF DOCUMENTS AND ON INQUIRIES

Format and Informational Sufficiency of the Form A

The Form A filing was prepared in a format that complies with s. Ins 40.02, Wis. Adm. Code. The information contained in the filing and in the supplementary information obtained by OCI in connection with review of this filing is sufficient for OCI to make a decision concerning the proposed plan.

Legality and Fairness of the Proposed Plan

Review of the Form A included a review of certain contracts and corporate governance documents. My review of these contracts and governance documents is evidenced by the summaries presented in the section of this memorandum captioned, "The Key Contracts". Review of the business plan is evidenced by the narrative in the section of this memorandum captioned, "Future Plans after the Change in Control".

Review of the Form A and the component agreements of the proposed plan, with due consideration to supplementary information filed in response to examiner inquiries, discloses no basis for denial of the application on a point of law.

I can find no basis on which the proposed acquisition, as disclosed in the Form A and its supplementary filings, should not be regarded as reasonable and fair to each participating insurer and to each participating insurer's policyholders, within the scope of Wisconsin's regulatory concern.

Satisfaction of Licensing Requirements Maintained

Execution of the transactions disclosed in the Form A according to the plan indicated would have no effect on the ability of My Choice Family Care, Inc. or Care Wisconsin Health Plan, Inc. to maintain their existing licenses to write the lines of insurance for which they are presently licensed.

Effect on Competition within the Wisconsin Insurance Marketplace

An analysis of a Form E, 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 a Domestic Insurer, is not necessary as the proposed mergers involve operations that are relatively small and do not have a large membership concentration in any specific geographic market. As such, the risk that this transaction would eliminate competition for health insurance products in any Wisconsin county is minimal. Care Wisconsin First, Inc. and Care Wisconsin Health Plan, Inc. are financially troubled and absent the proposed mergers would fail, as described in various sections of this memorandum. Given the likelihood of a bankruptcy filing and the attendant rehabilitation of the insurer, there are no other viable alternatives available to Care Wisconsin First, Inc. and its subsidiary Care Wisconsin Health Plan, Inc. than this proposed merger. Furthermore, OCI's preliminary examination of the potential competitive effects concluded that approving the acquisition would not violate the competitive standards set forth in s. Ins 40.025 (4), Wis. Adm. Code. Accordingly, this transaction will not create a monopoly or substantially lessen competition in any type or line of business in Wisconsin.

Future Plans under the Mergers

Following the proposed mergers, there will be a substantial amount of effort to fully integrate the personnel, operations, and offices of the My Choice Group and the Care Wisconsin Group.

The Wisconsin Office of the Commissioner of Insurance reviewed the business plan of My Choice Family Care, Inc. and Care Wisconsin Health Plan, Inc. in consultation with the Wisconsin Department of Health and Family Services.

Following 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., the boards of directors of My Choice Family Care, Inc. and Care Wisconsin Health Plan, Inc. are anticipated to consist of the following persons:

Name and Residence	Principal Occupation
Thomas R. Bergerud West Bend, Wisconsin	Retired Executive Director The Threshold, Incorporated.
Kathryn Brietzman Madison, Wisconsin	Community Outreach and Support Specialist New Bridge
Dr. Kenneth J. Byom, D.O. Wauwatosa, Wisconsin	Physician Concentra Urgent Care
Arlyn J. Doehler Greendale, Wisconsin	Retiree
John M. Hintze Oregon, Wisconsin	Vice President US Bank
Glenn J. Johnston Waunakee, Wisconsin	Chief Financial Officer H Cite Enterprises, LLC
Lynda Krellwitz Waukesha, Wisconsin	Retired Senior Consultant Goodwill Talent Bridge

Michael Mayo, Sr. Milwaukee, Wisconsin	Retired County Board Supervisor, 7th District Milwaukee County
Thomas N. Orendorff Wisconsin Dells, Wisconsin	Partner Andrea & Orendorff LLP
Maria I. Rodriguez Milwaukee, Wisconsin	Resident Services Manager Housing Authority of the City of Milwaukee
Lee M. Seese Pewaukee, Wisconsin	Partner Michael Best & Friedrich LLP

The only difference between the composition of the boards of directors of My Choice Family Care, Inc. and Care Wisconsin Health Plan, Inc. is that Maria E. Ledger, as Chief Executive Officer of Care Wisconsin Health Plan, Inc., will serve as an ex-officio director of Care Wisconsin Health Plan, Inc., but will not serve as a director for My Choice Family Care, Inc.

Following 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., it is anticipated that the officers of My Choice Family Care, Inc. and Care Wisconsin Health Plan, Inc. will include the following persons:

Name	Office
Thomas N. Orendorff	President and Chairman of the Board
Michael Mayo, Sr.	Vice Chairman of the Board
Maria E. Ledger	Chief Executive Officer
Betsy J. Van Heesch	Chief Operations Officer
James E. Hodson	Chief Financial Officer
Kevin J. Collins	General Counsel and Chief Compliance Officer
Kevin C. Park, M.D.	Chief Medical Officer
Kenneth J. Byom, D.O.	Secretary
Maria I. Rodriguez	Treasurer

The employees of Care Wisconsin First, Inc. that are retained following the merger with and into My Choice Family Care, Inc. would become employees of My Choice Family Care, Inc. Care Wisconsin Health Plan, Inc. would continue to have no employees of its own, but rather would depend upon employees of its new sole member, My Choice Family Care, Inc., for all its day-to-day operations. No material changes are contemplated with respect to the programs administered by any of the parties following the mergers or the combined territory of operations. The plan does not contemplate the liquidation of any party or the sale of any party's assets.

The plan for the merger of Care Wisconsin First, Inc. with and into My Choice Family Care, Inc. and the immediately subsequent merger of Trilogy Health Insurance, Inc. with and into Care Wisconsin Health Plan, Inc., and the acquisition of control of Care Wisconsin First, Inc. and Care Wisconsin Health Plan, Inc. that these mergers effectively entail, does not appear to be adverse to the members served by My Choice Family Care, Inc., Care Wisconsin First, Inc., Trilogy Health Insurance, Inc., or Care Wisconsin Health Plan, Inc., or to conflict with the public interest.

Financial Soundness of Prospective Affiliates

A summary of recent periods' financial results for each of the entities to participate in the proposed mergers is as follows. The financial data for My Choice Family Care, Inc. and Care Wisconsin First, Inc. are presented in accordance with generally accepted accounting principles. The financial data for Trilogy

Health Insurance, Inc. and Care Wisconsin Health Plan, Inc. are presented in accordance with statutory accounting principles.

My Choice Group

My Choice Family Care, Inc. (No NAIC Number)

	06/30/2019	12/31/2018	12/31/2017	12/31/2016
Assets	\$84,841,998	\$81,396,376	\$73,013,397	\$58,759,686
Liabilities	<u>34,387,830</u>	<u>31,814,182</u>	<u>29,206,575</u>	<u>26,097,160</u>
Net assets	<u>\$50,454,168</u>	<u>\$49,582,194</u>	<u>\$43,806,822</u>	<u>\$32,662,526</u>
Total revenue	\$170,380,475	\$334,663,299	\$317,589,701	\$104,886,936
Member service costs	146,379,685	284,003,875	262,773,552	89,094,061
Care management expenses	17,733,036	31,135,430	31,44,694	9,603,584
Claim adjustment expenses	978,438	1,935,662	1,770,405	552,083
General and admin expenses	<u>6,252,513</u>	<u>13,308,748</u>	<u>10,718,513</u>	<u>3,393,547</u>
Operating income	(963,197)	4,279,584	10,922,537	2,243,391
Nonoperating Income (expense)	<u>1,835,170</u>	<u>1,071,607</u>	<u>221,759</u>	<u>(312)</u>
Change in net assets	<u>\$ 871,973</u>	<u>\$ 5,775,372</u>	<u>\$ 11,144,296</u>	<u>\$ 32,662,526</u>
Enrollment	8,767	8,652	8,397	8,494
Change in enrollment	1.3%	3.0%	-1.1%	
Working capital excess	\$31,682,092	\$30,643,353	\$25,489,176	\$17,795,594
Restricted reserve excess	224,566	(189,549)	300,202	114,982
Solvency fund excess	117,897	(117,897)	65,960	315,118

Trilogy Health Insurance, Inc. (NAIC #12834)

	06/30/2019	12/31/2018	12/31/2017	12/31/2016
Assets	\$7,481,575	\$10,461,881	\$6,193,968	\$7,291,092
Liabilities	<u>3,316,391</u>	<u>6,680,129</u>	<u>2,946,476</u>	<u>3,506,893</u>
Capital and Surplus	<u>\$4,165,184</u>	<u>\$ 3,781,682</u>	<u>\$3,247,492</u>	<u>\$3,784,199</u>
Premium earned	\$15,095,085	\$28,259,523	\$22,050,742	\$20,398,672
Medical expenses incurred	12,646,377	23,858,838	19,112,604	17,419,695
Claims adjustment expenses	832,223	1,477,519	1,257,808	1,018,465
General administrative expenses	<u>1,253,831</u>	<u>2,460,750</u>	<u>2,275,558</u>	<u>1,876,109</u>
Net underwriting gain (loss)	362,654	462,416	(595,228)	84,403
Investment income	35,632	42,427	18,358	(4,809)
Federal income tax expense (benefit)	<u>(19,612)</u>	<u>(39,224)</u>		
Net income (loss)	<u>\$ 417,898</u>	<u>\$ 544,067</u>	<u>\$ (576,870)</u>	<u>\$ 79,594</u>
Change in policyholders' surplus	\$383,502	\$534,190	\$(536,707)	\$(872,478)
Medical expense ratio	84.9%	84.4%	86.7%	85.4%
Administrative expense ratio	12.7	14.0	16.0	14.2
Profit margin	2.4	1.6	-2.7	0.4
Enrollment	12,477	11,479	9,653	8,649
Change in enrollment	8.7%	18.9%	11.6%	19.8%

Trilogy Health Insurance, Inc. (NAIC #12834)

	06/30/2019	12/31/2018	12/31/2017	12/31/2016
Compulsory surplus excess	\$3,276,404	\$2,933,897	2,497,492	\$3,034,199
Security surplus excess	2,920,892	2,594,783	2,197,492	2,734,199
RBC ratio	NA	253.4%	266.4%	340.1%

Care Wisconsin Group

Care Wisconsin First, Inc. – Consolidated Financials

	08/31/2019	12/31/2018	12/31/2017	12/31/2016
Assets	\$117,322,598	\$113,961,846	\$118,004,638	\$98,526,325
Liabilities	<u>78,594,436</u>	<u>84,373,917</u>	<u>51,082,572</u>	<u>46,636,325</u>
Net assets	<u>\$ 38,728,163</u>	<u>\$ 29,587,929</u>	<u>\$ 66,922,066</u>	<u>\$51,889,987</u>
Total revenue	\$390,299,216	\$516,485,406	\$437,039,958	\$396,400,783
Member service costs	331,982,223	467,415,789	362,650,702	334,613,086
Care management expenses	31,519,275	47,507,416	40,081,424	36,507,671
Administrative expenses	17,657,482	22,765,881	19,646,804	18,053,239
Premium deficiency reserve	<u>(14,071,775)</u>	<u>20,931,091</u>	<u>546,520</u>	
Change in net assets	<u>\$ 9,140,234</u>	<u>\$ (37,334,137)</u>	<u>\$ 15,032,079</u>	<u>\$ 6,565,216</u>
Enrollment	14,074	13,324	10,643	9,861
Change in enrollment	5.6%	25.2%	7.9%	

Care Wisconsin First, Inc. – Stand Alone Basis (No NAIC Number)

	08/31/2018	12/31/2018	12/31/2017	12/31/2016
Assets	\$52,157,628	\$58,550,101	\$65,757,489	\$55,078,177
Liabilities	<u>48,390,201</u>	<u>63,863,663</u>	<u>34,635,398</u>	<u>31,923,121</u>
Net assets	<u>\$ 3,767,428</u>	<u>\$ (5,313,562)</u>	<u>\$31,122,091</u>	<u>\$23,155,056</u>
Total revenue	\$293,923,688	\$382,963,295	\$322,657,976	\$286,611,139
Member service costs	237,834,262	334,504,601	257,273,443	233,816,904
Care management expenses	33,577,727	47,507,417	40,081,424	36,507,671
Administrative expenses	13,889,138	20,527,865	17,855,703	16,282,196
Change in premium deficiency reserve	<u>(11,689,967)</u>	<u>17,548,951</u>		
Change in net assets	<u>\$ 9,080,990</u>	<u>\$ (36,435,865)</u>	<u>\$ 7,967,035</u>	<u>\$ 4,368</u>
Enrollment	8,680	8,595	7,318	6,524
Change in enrollment	1.0%	17.5%	12.2%	
Working capital excess (deficiency)	\$(14,999,886)	\$(22,916,352)	\$15,051,366	\$8,582,677
Restricted reserve excess	56,919	14,427	3,676	242,380
Solvency fund excess			6,730	193,442

Care Wisconsin Health Plan, Inc. (NAIC #12248)

	06/30/2019	12/31/2018	12/31/2017	12/31/2016
Assets	\$58,925,789	\$59,037,344	\$51,812,281	\$43,227,782
Liabilities	<u>25,881,398</u>	<u>22,114,212</u>	<u>16,846,362</u>	<u>14,792,013</u>
Capital and Surplus	<u>\$33,044,391</u>	<u>\$36,923,132</u>	<u>\$34,965,919</u>	<u>\$28,435,769</u>
Premium earned	\$82,189,276	\$150,295,895	\$129,323,603	\$124,727,167
Medical expenses incurred	72,855,606	128,992,293	102,502,338	101,545,816
Claims adjustment expenses	7,538,136	14,882,867	12,608,111	10,584,173
General administrative expenses	3,671,221	8,087,718	7,753,033	6,659,339
Change in premium deficiency reserve	<u>(1,964,330)</u>	<u>603,137</u>	<u>546,520</u>	
Net underwriting gain (loss)	88,643	(2,270,120)	6,213,551	5,937,839
Investment income	680,977	823,566	1,031,726	470,789
Other income or expenses		<u>4,073,129</u>	<u>(106,853)</u>	<u>(62,689)</u>
Net income (loss)	<u>\$ 753,903</u>	<u>\$ 2,417,857</u>	<u>\$ 7,138,424</u>	<u>\$ 6,345,939</u>
Distribution to sole member	\$2,000,000	\$	\$	\$
Change in policyholders' surplus	(3,878,741)	1,957,213	6,530,150	6,625,617
Medical expense ratio	86.3%	85.8%	79.3%	81.4%
Administrative expense ratio	13.9	15.7	15.9	13.8
Profit margin	0.9	-1.5	4.8	4.8
Enrollment	4,750	4,729	3,325	3,337
Change in enrollment	0.4%	42.2%	-0.3%	2.9%
Compulsory surplus excess	\$28,238,275	\$32,414,466	\$31,086,301	\$24,695,014
Security surplus excess	26,508,074	30,7791,347	29,650,843	23,309,565
RBC ratio	NA	628.5%	756.2%	622.3%

Care Wisconsin First, Inc. is financially distressed. In 2018, its net assets declined by \$36.4 million and it reported a deficiency in its working capital requirement of \$22.9 million as of December 31, 2018 and \$15.0 million as of August 31, 2019. The improvement in financial position between December 31, 2018 and August 31, 2019 is due to approximately \$11.0 million increase in capitation rates from DHS on an annualized basis and a \$2.0 million distribution from its affiliate Care Wisconsin Health Plan, Inc. This financial distress is being exacerbated by operational distress. Following abrupt departures by both its Chief Executive Officer and Chief Financial Officer, Care Wisconsin had been managed for a time by its Chief Medical Officer, who was doubling as its Interim President and Chief Executive Officer, and by another individual acting as an Interim Treasurer and Chief Financial Officer. Recently, this Chief Medical Officer was replaced in his interim Chief Executive Officer role by another Interim President and Chief Executive Officer and is solely acting as the Chief Medical Officer. Furthermore, since Care Wisconsin Health Plan, Inc. has no employees of its own, but depends upon its sole member, Care Wisconsin First, Inc., for personnel necessary for all day-to-day activities, it is under an unacceptable operational hazard due to the distressed financial and operational condition of Care Wisconsin First, Inc. This financial distress and operational hazard pose an unacceptable risk to the continuity of services upon which thousands of frail elders and disabled adults in Wisconsin depend on.

The proposed mergers are an alternative to imminent bankruptcy for Care Wisconsin First, Inc. and rehabilitation for Care Wisconsin Health Plan, Inc. Through the proposed mergers, the financial condition and corporate governance framework of My Choice Family Care, Inc. and Trilogy Health Insurance, Inc. can reasonably be expected to stabilize the respective financial and operational positions of Care Wisconsin First, Inc. and Care Wisconsin Health Plan, Inc. The financial condition of My Choice Family Care, Inc. and Trilogy Health Insurance, Inc. are unlikely to jeopardize the financial stability of Care

Wisconsin First, Inc. and Care Wisconsin Health Plan, Inc., or to prejudice the interests of their respective enrollees.

On June 10, 2019 the OCI approved My Choice's acquisition of control of Trilogy Health Insurance, Inc. from Trilogy Health Holding, LLC. As a condition of the June 2019 acquisition of control, OCI determined it to be in the best interest of Wisconsin's insureds to require both My Choice and Trilogy to agree to the Stipulation and Order for Case No. 19-C43062 requiring Trilogy to maintain a RBC score of at least 350%. After getting assurances from key executives during an April 19, 2019 conference call, Trilogy and My Choice both agreed to sign this Stipulation and Order. A new Stipulation and Order that would apply the terms and conditions of the Stipulation and Order for Case No. 19-C43062 to Care Wisconsin Health Plan, Inc. following the merger with Trilogy is recommended.

Change in Control

The mergers contemplated by the Agreement and Plan of Merger among My Choice Family Care, Inc.; Care Wisconsin First, Inc.; Care Wisconsin Health Plan, Inc.; and Trilogy Health Insurance, Inc., dated as of October 31, 2019, would result in a change in the ultimate controlling person for Care Wisconsin First, Inc. and Care Wisconsin Health Plan, Inc. Care Wisconsin First, Inc. is merging with and into My Choice Family Care, Inc. and will thus no longer continue its independent existence. As a result of the merger of Care Wisconsin First, Inc. with and into My Choice Family Care, Inc., My Choice Family Care, Inc. will become the ultimate controlling person of Care Wisconsin Health Plan, Inc., resulting in a change of control for Care Wisconsin Health Plan, Inc.

Competence and Integrity of Prospective Management

My Choice Family Care, Inc. provided biographical affidavits for its proposed post-merger directors and officers, as well as the proposed post-merger directors and officers of Care Wisconsin Health Plan, Inc. There is no evidence of any criminal record, personal financial adversity, or responsibility in connection with the failure of any insurer, involving the persons described in these biographical affidavits. Review of the composition of the board and management of My Choice Family Care, Inc. and Care Wisconsin Health Plan, Inc. discloses no basis for disapproval of the Form A.

Summary of Observations

1. The Form A filing was prepared in a format that complies with ss. Ins 40.02 and 57.10, Wis. Adm. Code. The information contained in the Form A filing, together with supplementary information obtained by OCI, is sufficient to the transaction.
2. The plan would not violate the law or be contrary to the interests of My Choice Family Care, Inc.; Care Wisconsin First, Inc.; Care Wisconsin Health Plan, Inc.; Trilogy Health Insurance, Inc.; or their respective enrollees.
3. After the proposed mergers, neither My Choice Family Care, Inc. nor Care Wisconsin Health Plan, Inc. will experience a change that would cause them to become unable to satisfy the requirements for the issuance of a permit or license to act as a care management organization or write the lines of insurance they currently have, respectively for which they are presently permitted and licensed.
4. This transaction will not create a monopoly or substantially lessen competition in any type or line of insurance in Wisconsin.
5. The financial condition of My Choice Family Care, Inc. and Trilogy Health Insurance, Inc. are unlikely to jeopardize the financial stability of any participating domestic care management organization or health maintenance organization, or to prejudice the interests of their respective enrollees. In fact, in the absence of the proposed mergers, Care Wisconsin First, Inc. is at imminent risk of bankruptcy and

Care Wisconsin Health Plan, Inc. is in risk of rehabilitation. The financial condition of My Choice Family Care, Inc. and Trilogy Health Insurance, Inc. are expected to maintain and improve the quality and continuity of services and care to all the enrollees of My Choice Family Care, Inc.; Care Wisconsin First, Inc.; Care Wisconsin Health Plan, Inc.; and Trilogy Health Insurance, Inc.

6. The plan results in a change in control for Care Wisconsin First, Inc. and Care Wisconsin Health Plan, Inc. The plan is not adverse to the members served by Care Wisconsin First, Inc. and Care Wisconsin Health Plan, Inc. and does not conflict with the public interest.
7. The competence and integrity of the persons who would control the operation of My Choice Family Care, Inc. and Care Wisconsin Health Plan, Inc. following the proposed mergers are such that it is in the best interest of the members served by these entities and of the public to permit the proposed plan.

RECOMMENDATION

I recommend that 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. be approved, pursuant 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 mergers.
- (b) 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 proposed mergers.
- (c) Within ten (10) calendar days of the consummation of the proposed mergers, My Choice Family Care, Inc. shall file Articles of Merger, a Plan of Merger, and 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 mergers.
- (d) Within ten (10) calendar days of the consummation of the proposed mergers, My Choice Family Care, Inc. file Second Amended and Restated Bylaws in the form provided as Exhibit 28 in the record of this proceeding. The effective date of these Second 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 mergers.
- (e) Within ten (10) calendar days of the consummation of the proposed mergers, Care Wisconsin Health Plan, Inc. shall file Articles of Merger, a Plan of Merger, and

Second Amended and Restated Articles of Incorporation in the form provided as Exhibit 29 in the record of this proceeding. The effective date of these Second 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 mergers.

- (f) Within ten (10) calendar days of the consummation of the proposed mergers, Care Wisconsin Health Plan, Inc. shall file Third Amended and Restated Bylaws in the form provided as Exhibit 30 in the record of this proceeding. The effective date of these Third 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 mergers.