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Commissioner of Securities & Insurance
Montana State Auditor
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**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
 OFFICE OF THE STATE AUDITOR
 STATE OF MONTANA**

)	
)	CASE NO. INS-2011-317
IN THE MATTER OF THE)	
BULK REINSURANCE OF NEW WEST)	FINDINGS OF FACT,
HEALTH SERVICES, a domestic health)	CONCLUSIONS OF LAW,
services corporation, by PACIFICSOURCE)	AND ORDER
HEALTH PLANS, a health service corporation.)	
)	
)	

In the matter of the bulk reinsurance of New West Health Services (New West), a domestic health services corporation, by PacificSource Health Plans (PacificSource), a health services corporation, the Commissioner of Securities and Insurance, Montana State Auditor (Commissioner), enters the following:

FINDINGS OF FACT

1. On December 21, pursuant to Mont. Code Ann. § 33-2-1212, New West submitted to the office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), for approval an Asset Purchase Agreement and Related Documents (Agreement) between New West and PacificSource (Exhibit A).

2. Pursuant to Mont. Code Ann. § 33-2-1212(1), on January 12, 2012, the CSI issued a Notice of Hearing for this matter to be heard. On January 17, 2012, the CSI issued an Amended Notice of Hearing.

3. On February 7, 2012, a hearing was held at the offices of the CSI and testimony was provided.

4. I. David Kibbe, President and CEO of New West, testified that New West was seeking to transfer its remaining non-Medicare Advantage insurance business to PacificSource.

5. Mr. Kibbe also testified as follows:

- a. New West is licensed and in good standing with the CSI.
- b. The approximate size of business that New West seeks to transfer amounts to about \$25 million in premium and about 8,600 lives.
- c. The Agreement is fair and reasonable to each insurer because it was an arms-length transaction and each insurer conducted thorough due diligence.
- d. The Agreement will not substantially reduce the protection or service to policyholders because the policyholders will have their full benefits under their current contracts until such contracts expire and they will have the freedom to stay with PacificSource or choose a different insurer upon renewal.
- e. New West's members unanimously approved the transaction.

6. Kenneth P. Provencher, President and CEO of PacificSource, testified that PacificSource was seeking to purchase New West's remaining non-Medicare Advantage business.

7. Mr. Provencher also testified as follows:

- a. PacificSource is licensed and in good standing with the CSI.
- b. PacificSource currently provides insurance coverage for approximately 1,600 Montanans.
- c. PacificSource has the financial strength and sufficient capitalization to acquire the additional business from New West.
- d. The Agreement is fair and reasonable to each insurer because it was an arms-length transaction and each insurer conducted thorough due diligence.
- e. The Agreement will not substantially reduce the protection or service to policyholders because the policyholders will have their full benefits under their current contracts until such contracts expire and they will have the freedom to stay with PacificSource or choose a different insurer upon renewal.
- f. PacificSource may seek to provide additional benefits to its insureds upon renewals.
- g. PacificSource provided notice by certified mail to all health insurance companies with current Montana certificates of authority.

record a letter from Leslie Staltz, P.O. Box 160477, Big Sky, MT 59716, who urged the CSI to ensure that the Agreement is fair for those who currently hold New West policies.

From the foregoing Findings of Fact, the Commissioner issues the following Conclusions of Law:

CONCLUSIONS OF LAW

1. The State Auditor is the Commissioner of Securities and Insurance pursuant to Mont. Code Ann. § 2-15-1903.
2. The CSI is under the control and supervision of the Commissioner pursuant to Mont. Code Ann. §§ 2-15-1902 and 33-1-301.
3. The Commissioner shall administer the CSI to protect insurance consumers. Mont. Code Ann. § 33-1-311(3).
4. The Commissioner and the CSI have jurisdiction over this matter. Mont. Code Ann. § 33-1-311.
5. A domestic mutual insurer may reinsure all or substantially all of its business in force, or all or substantially all of a major class of its business, with another insurer, stock or mutual, by an Agreement of bulk reinsurance. Mont. Code Ann. § 33-2-1212(1).
6. The Agreement may not become effective unless filed with the Commissioner and approved by the Commissioner in writing after a hearing on the Agreement. Id.
7. The Commissioner shall approve the Agreement within a reasonable time after filing if the Commissioner finds it to be fair and equitable to each domestic insurer

involved and that the reinsurance if effectuated would not substantially reduce the protection or service to its policyholders. Mont. Code Ann. § 33-2-1212(2).

8. The plan and Agreement for reinsurance must be approved by vote of not less than two-thirds of each domestic mutual insurer's members voting on the plan and agreement at meetings of members called for the purpose, pursuant to reasonable notice and procedure that the Commissioner may approve. Mont. Code Ann. § 33-2-1212(3).

9. On December 21, 2011, New West submitted the Agreement to the CSI for approval.

10. The CSI issued a Notice of Hearing and Amended Notice of Hearing setting the date and time for the hearing for February 7, 2012, at 9:00 AM.

11. The testimony at the hearing was undisputed regarding the following:

- a. The Agreement is fair and equitable to each domestic insurer involved.
- b. The Agreement, if effectuated, would not substantially reduce the protection or service to New West's policyholders because the policyholders will retain full benefits under their current contracts until such contracts expire.
- c. The Agreement should be approved.

12. The members of New West unanimously approved the Agreement.

13. The Board of Directors of PacificSource unanimously approved the Agreement.

14. The Commissioner shall approve the Agreement if the Commissioner finds that it meets the provisions of Mont. Code Ann. § 33-2-1212.

ORDER

THEREFORE, IT IS HEREBY ORDERED that based on the foregoing Findings of Fact and Conclusions of Law, the Agreement between New West and PacificSource is **APPROVED**.

IT IS FURTHER ORDERED that the fully-executed Related Documents must be filed with the CSI on or before March 9, 2012.

IT IS FURTHER ORDERED that the effective date of this Approval is February 29, 2012.

DATED this 21st day of February, 2012.



MONICA J. LINDEEN
Commissioner of Securities & Insurance
Montana State Auditor

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 21st day of February, 2012, a true and correct copy of the foregoing *Findings of Fact, Conclusions of Law, and Order* was served upon the following by U.S. mail, postage prepaid:

New West Health Services
ATTN: Mr. I. David Kibbe
130 Neill Avenue
Helena, MT 59601

PacificSource Health Plans
ATTN: Mr. Ken Provencher
110 International Way
Springfield, OR 97477

Browning, Kalecyzc, Berry & Hoven
ATTN: Ms. Kimberly Beatty, Esq.
825 Great Northern Blvd., Suite 105
P.O. Box 1697
Helena, MT 59624

Via Hand-delivery:

Office of the CSI
Jesse Laslovich

