

**BEFORE THE INSURANCE COMMISSIONER
FOR THE STATE OF ARKANSAS**

**IN THE MATTER OF THE APPLICATION FOR
APPROVAL OF THE ACQUISITION OF CONTROL
OF EMPOWER HEALTHCARE SOLUTIONS, LLC**

AID NO. 2019- **67**

ORDER

A hearing was held at 2:00 p.m. on September 11, 2019, in the Hearing Room of the Arkansas Insurance Department in accordance with the provisions of Ark. Code Ann. §§ 23-69-142 and other pertinent provisions of the Arkansas Insurance Code, pursuant to a June 28, 2019, Statement Regarding the Acquisition of Control of Empower Healthcare Solutions, LLC (“Empower”) by the Applicant, Anthem, Inc. (the “Statement”), which included an Agreement and Plan of Merger. The hearing was held before General Counsel and Deputy Commissioner Suzanne Tipton (the “Hearing Officer”) pursuant to her appointment by Commissioner Allen Kerr in accordance with Ark. Code Ann. § 23-61-103. The Arkansas Insurance Department (the “Department”) was represented by Amanda Capps Rose, Associate Counsel, and Mel Anderson, Deputy Commissioner for Financial Regulation.

The Applicant’s testimony was presented by Jay Wagner, Vice President and Counsel, Anthem, Inc. The Applicant was represented by its attorneys, Derrick W. Smith and Zachary T. Steadman, of Mitchell, Williams, Selig, Gates & Woodyard, P.L.L.C. and Jared R. Danilson of Faegre Baker Daniels LLP.

FINDINGS OF FACT

From the Statement, related filings, testimony of the witnesses and other evidence introduced at the hearing, including exhibits filed in connection with the Statement, reports and statements on file with the Department, representations of counsel and other matters and things considered, the Hearing Officer finds as follows:

1. The Statement and related filings were filed herein on June 28, 2019. The parties agree that the Commissioner has jurisdiction of the parties and the subject matter under the provisions of Ark. Code Ann. § 23-69-142 and other pertinent provisions of the Arkansas Insurance Code. The Notice of Hearing was given within the time and in the manner required by law and the parties consented to the holding of this hearing at this time and on this date.

2. The Applicant will indirectly acquire a 16.67% ownership interest in Empower Healthcare Solutions, LLC pursuant to the Agreement and Plan of Merger by and among BVO Holdings, LLC, Beacon Health Options Holdco, Inc., Anthem, Inc., Buffalo Company Merger Sub, LLC, Buffalo OptionCo Merger Sub, Inc., and Beacon Equityholder Representative, LLC, as the equity holder representative, dated as of June 4, 2019.

3. Jay Wagner, on behalf of the Applicant, testified that, in his opinion:

(a) The proposed transaction is not contrary to law;

(b) The proposed transaction is not inequitable to the members of Empower as the nature and amount of consideration to be paid by the Applicant were determined through arms' length negotiations between the parties and because none of the stockholders of Empower are changing as a result of the proposed transaction;

(c) The proposed transaction will not substantially reduce the security of and service to be rendered to policyholders of Empower in Arkansas because of the Applicant's extremely strong financial position and because the Applicant will not, as a result of the transaction, have the ability and has no present plans to alter the services currently being provided by Empower, nor does the Applicant anticipate changing any of the services provided to Empower and its members;

(d) Neither the Applicant nor any of its directors or executives officers have been subject to any of the following:

(i) a felony or misdemeanor, other than a minor traffic violation in the past twenty (20) years;

(ii) a misconduct order by a regulatory agency or court of competent jurisdiction or a finding of a violation of insurance laws by any state's Commissioner;

(iii) an order by a regulatory agency or court of competent jurisdiction finding any unfair insurance trade practice or fraud; or

(iv) having an insurance producer license or its equivalent denied, suspended, or revoked in any jurisdiction;

(e) No director, officer, agent, or employee of any party to the acquisition will receive a fee, commission, compensation, or other valuable consideration for aiding, promoting, or assisting with the proposed transaction, other than as stated in the Agreement and Plan of Merger; and

(f) The Insurance Department has a sufficient record for issuance of an order approving the proposed indirect acquisition of a 16.67% ownership interest in Empower.

CONCLUSIONS OF LAW

4. All filings, hearings and other procedures required by law or otherwise deemed appropriate by the Hearing Officer have been duly completed by the Applicant and the Department.

5. None of the conditions specified in Ark. Code Ann. § 23-69-142 as preclusions for the approval of the proposed acquisition exist.

RECOMMENDATIONS OF THE HEARING OFFICER

WHEREFORE, based upon the foregoing Findings of Fact, Conclusions of Law, and other matters before her, the Hearing Officer recommends that the proposed acquisition of control of a 16.67% ownership interest in Empower Healthcare Solutions, LLC by the Applicant should be approved as provided in the Statement and related filings, and as described in this Order.

A handwritten signature in black ink, appearing to read 'Suzanne Tipton', written over a horizontal line.

SUZANNE TIPTON,
GENERAL COUNSEL,
DEPUTY COMMISSIONER
and HEARING OFFICER

CERTIFICATION

I, Allen Kerr, Insurance Commissioner for the State of Arkansas, do hereby certify that the above Findings of Fact, Conclusions of Law, and Recommendations of the Hearing Officer were made by and under my authority and supervision by Suzanne Tipton, General Counsel, Deputy Commissioner, and Hearing Officer in this proceeding. I hereby adopt the Hearing Officer's Findings of Fact, Conclusions of Law, and Recommendations in full and enter this Order.

THEREFORE, it is hereby ORDERED, based upon the above and foregoing Findings of Facts, Conclusions of Law and other matters, the Insurance Commissioner does hereby approve the proposed acquisition of control of a 16.67% ownership interest in Empower Healthcare Solutions, LLC pursuant to and subject to the terms and conditions of the Statement and related filings and submissions, the Findings of Facts and Conclusions of Law.

IT IS SO ORDERED THIS 7th DAY OF SEPTEMBER, 2019.


ALLEN KERR
INSURANCE COMMISSIONER
STATE OF ARKANSAS