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HEARINGS UNIT  
OFFICE OF  
INSURANCE COMMISSIONER  
Direct (206) 386-7607  
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November 30, 2015

**VIA EMAIL AND FIRST-CLASS MAIL**

Hearings Unit  
Office of the Insurance Commissioner  
P.O. Box 40255  
Olympia, WA 98504-0255  
Email: [hearings@oic.wa.gov](mailto:hearings@oic.wa.gov)

**Re: Demand for Hearing**

To Whom It May Concern:

We represent Washington Technology Industry Association (“WTIA”). We write to request a hearing to challenge the Office of Insurance Commissioner’s (“OIC”) disapproval of WTIA’s application to operate a self-funded multiple employer welfare arrangement (“self-funded MEWA”) under RCW Chapter 48.125.

WTIA is a not-for-profit industry trade association serving the technology industry and the information and communication technology cluster in the state of Washington, as well as the business community that supports these industries. On January 1, 2000, WTIA established the Washington Technology Industry Association Employee Benefit Trust (“Trust”) to provide fully-insured health benefits to its members’ employees and dependents. In recent years, WTIA has identified a clear need among its membership for more affordable and comprehensive health care services. After careful consideration, and following a meeting with the OIC in the summer of 2014, WTIA determined that it could best accomplish this goal by operating a self-funded MEWA under RCW Chapter 48.125. WTIA filed an initial application under RCW Chapter 48.125 on March 27, 2015. After the OIC’s denial of its initial application, WTIA submitted a revised application on October 26, 2015.

On November 18, 2015, the OIC issued a denial of WTIA’s resubmitted application. In its denial, the OIC stated:

[T]he agency interprets RCW Chapter 48.125, read together with the seasoning requirements of RCW 48.125.030(8), to have provided a legal avenue for the self-funded MEWAs that were then operating in



Washington to continue to operate. We do not believe that RCW Chapter 48.125 authorizes the Commissioner to issue a certificate of authority to a MEWA such as the Washington Technology Industry Association that has no history of self-funded operation and that failed to submit a substantially complete application by the April 1, 2005 statutory cut-off date.

In addition, and notwithstanding the above, the OIC's denial stated that WTIA's resubmitted application is deficient and incomplete because the application "does not provide all of the information required in RCW 48.125.030 through RCW 48.125.070 and does not demonstrate compliance with these other statutory requirements."

WTIA challenges the OIC's decision on the following grounds:

- Neither the statutory language nor the legislative history supports the OIC's position that RCW Chapter 48.125 provides for only grandfather approval of self-funded MEWAs that were then operating, or that the statute bars the formation of new self-funded MEWAs after a certain date.
  - A plain language reading of RCW 48.125.020 reflects that the requirement to file an application for a certificate of authority by April 1, 2005 applies only to self-funded MEWAs in active operations as of December 31, 2003, providing a transitional rule that permitted these self-funded MEWAs to continue operations without violating the statute pending the approval of their applications.
  - The statute and its legislative history do not indicate that RCW Chapter 48.125 was intended to provide for only grandfather approval and regulation of then operating self-funded MEWAs or to ban the formation of self-funded MEWAs after a certain date. Instead, prior drafts of the proposed legislation, as well as recorded legislative testimony, contemplated that this statute would permit applications to form new self-funded MEWAs to be filed after April 1, 2005.
- WTIA's resubmitted application is not deficient or incomplete for the following reasons:
  - After learning from the OIC that there is no prescribed application form available, WTIA submitted an application containing each document required under RCW 48.125.050, with the exception of third-party verification reports under subsection (8), which the approved vendor submitted directly to the OIC.



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- The transmittal letter for the application requested that the OIC notify WTIA of any additional information the OIC required to complete its review, and to provide specific guidance or instruction on the steps, if any, WTIA must take to satisfy the requirement to make a \$200,000 deposit with the OIC under RCW 48.125.040(1)(b)(i) and to establish a surplus under RCW 48.125.060. The OIC has not provided any instruction or guidance in this regard.

Notably, the OIC denied WTIA's application despite WTIA's good faith efforts to work with the OIC to ensure the application was most appropriate and complete. Such efforts included an in-person meeting with OIC and WTIA representatives and numerous telephone conferences, wherein WTIA sought guidance, requested additional information, and requested that the OIC inform them if it needed additional information to process the application. WTIA's application reflected the input from the OIC and was completed pursuant to that guidance.

The OIC's decision to reject WTIA's application to operate a self-funded MEWA deprives thousands of Washington residents from the opportunity to access more affordable and comprehensive health care services for themselves and their families. This decision is contrary to the public interest, is in conflict with the legislative history of the statute, and does not advance the objectives of the OIC. For the above reasons, WTIA hereby formally demands a hearing before an administrative law judge.

Very truly yours,

Maren R. Norton

Enclosure

cc: Melanie Curtice, Stoel Rives LLP  
Kiran Griffith, Stoel Rives LLP  
Mike Monroe, WTIA  
Michael Schutzler, WTIA



OFFICE OF  
INSURANCE COMMISSIONER

November 18, 2015

Kiran Griffith  
Stoel Rives, LLP  
600 University Street, Suite 3600  
Seattle, Washington 98101

Re: Washington Technology Industry Association  
Resubmission of Self-Funded Multiple Employer Welfare Arrangement Application

Dear Ms. Griffith:

This will acknowledge receipt of the application for a certificate of authority to establish and operate a self-funded multiple employer welfare arrangement that was resubmitted by the Washington Technology Industry Association on October 29, 2015.

The agency has carefully considered your letter that accompanied the resubmitted application and your earlier letter of July 7, 2015, proposing that the April 1, 2005, cut-off date set for filing a substantially complete application for a certificate of authority set out in RCW 48.125.020(3) should be applied only to arrangements that were then operating on a self-funded basis.

However, the agency interprets RCW Chapter 48.125, read together with the seasoning requirements of RCW 48.125.030(8), to have provided a legal avenue for the self-funded MEWAs that were then operating in Washington to continue to operate. We do not believe that RCW Chapter 48.125 authorizes the Commissioner to issue a certificate of authority to a MEWA such as the Washington Technology Industry Association that has no history of self-funded operation and that failed to submit a substantially complete application by the April 1, 2005 statutory cut-off date.

In addition, like the initial application as stated in OIC Company Licensing Manager Gayle Pasero's letter of September 23, 2015, the resubmitted application does not provide all of the information required in RCW 48.125.030 through 48.125.070 and does not demonstrate compliance with these other statutory requirements. Like the original submission, the resubmitted application is also deficient and incomplete.

OFFICE OF INSURANCE COMMISSIONER

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The Washington Technology Industry Association's resubmitted application for a certificate of authority to operate as a self-funded MEWA in Washington is therefore denied. Should you have additional questions, please feel free to contact Gayle Pasero.

Sincerely,



Steven E. Drutz, CPA, CFE  
Acting Deputy Insurance Commissioner  
Company Supervision Division

cc: Mike Monroe, WTIA Chief Operating Officer  
Michael Schutzler, WTIA  
Melanie Curtice, Steel Rives, LLP