

STATE OF NORTH DAKOTA BEFORE THE INSURANCE COMMISSIONER

In the Matter of the Form A

Findings of Fact

**Application of Sanford Health Plan's
Proposed Merger with Sanford Heart of
America Health Plan**

Conclusions of Law and Order

FILE NO. CO-19-802

FILE NO. CO-19-802 PRELIMINARY STATEMENT

1. These Findings of Fact and Conclusions of Law are made in relation to the proposed Plan and Agreement of Merger between Sanford Health Plan and Sanford Heart of America Health Plan ("**HOA**") to be effective January 1, 2020 (the "**Merger**").

2. As a result of the Merger, HOA, a North Dakota domestic health maintenance organization ("**HMO**"), will merge with and into Sanford Health Plan with Sanford Health Plan as the surviving entity.

3. A Form A Statement requesting approval of the Merger was submitted electronically to the Commissioner by Sanford Health Plan on October 1, 2019, with a hard copy delivered via overnight mail (the "**Application**").

4. On October 31, 2019, a public hearing was held before the North Dakota Insurance Commissioner.

5. Appearing on behalf of Sanford Health Plan and HOA was Robb Schlimgen, Senior Executive Director, Legal and Annette White, General Counsel of Sanford.

6. Appearing for the Department were Helene Herauf, Legal Counsel, and Matt Fischer, Chief Examiner.

7. Notice of the hearing was provided to Sanford Health Plan on October 9, 2019 and to HOA on October 16, 2019, in accordance with law.

FINDINGS OF FACT

These Findings of Fact are based upon the review of the contents of the Plan and Agreement of Merger and the Application, including exhibits thereto, and the sworn testimony of Annette White and Matt Fischer.

The Application Process

1. HOA is a North Dakota nonprofit corporation, exempt from federal taxation under Sec. 501(c)(4) of the Internal Revenue Code, licensed as an HMO in North Dakota. HOA's sole member is Sanford Health Plan.

2. Sanford Health Plan is a South Dakota nonprofit corporation that is registered as a foreign corporation in North Dakota. Sanford Health Plan is licensed as an HMO in South Dakota, North Dakota and Iowa.

3. Sanford Health Plan and HOA are within the Sanford insurance holding company system. Sanford is the ultimate controlling person of Sanford Health Plan and HOA. Sanford Health Plan is the sole member of HOA. Sanford Health Plan and HOA have identical boards of directors and executive officers.

4. The Application was filed with the Department on October 1, 2019.

5. The Application was filed pursuant to the provisions of North Dakota Century Code ("N.D.C.C.") ch. § 26.1-10-03.

The Merger

6. On or about June 30, 2019, HOA provided notice to the Department and its enrollees of its intent to cease writing new business and to non-renew its existing HMO coverage. Effective December 31, 2019, HOA will have no enrollees and will be winding up its affairs including the payment of the runout of claims for HOA's former enrollees.

7. Effective January 1, 2020, HOA will merge with and into Sanford Health Plan with Sanford Health Plan as the surviving entity.

8. By operation of law, Sanford Health Plan will assume the assets and liabilities of HOA. Sanford Health Plan will be responsible for paying the runout of claims from HOA's former enrollees.

9. No testimony or other evidence was offered that any prejudice would result to the enrollees of HOA from the Merger.

Evaluation of the Effects of the Merger

10. No testimony or other evidence was offered that any prejudice would result to any enrollees of HOA and those consumers were being moved to comparable plans within Sanford Health Plan.

11. Ms. White testified that there is one North Dakota job that may be lost due to the merger, but that person is currently interviewing for a position within Sanford Health Plan.

Capital and Surplus

12. Ms. White testified that the Merger will not jeopardize the financial stability of Sanford Health Plan or prejudice the interests of HOA's former enrollees during the runout of HOA's claims.

13. Ms. White testified that the financial condition, including the risk-based capital, of Sanford Health Plan is not expected to change as a result of the proposed Merger. Sanford Health Plan is currently appropriately capitalized and will continue to be so.

14. Mr. Fischer testified for the North Dakota Insurance Department that Sanford Health Plan has sufficient capital and surplus to support its operations, that it will have sufficient capital and surplus following the Merger and is expected to continue to satisfy RBC requirements.

Compliance with the Insurance Holding Company Statute

15. The Form A Statement and the testimony of Ms. White establish the following with respect to the specific items for the Commissioner to consider in evaluating the propriety of an application for approval of a merger as provided in paragraph (a) of subsection 4 of N.D.C.C. ch. § 26.1-10-03:

- a. Following the Merger, Sanford Health Plan will continue to satisfy all requirements for the issuance of an HMO certificate of authority.
- b. The Merger would not have the effect of substantially lessening competition in insurance in North Dakota or tend to create a monopoly in North Dakota.
- c. The Merger will not jeopardize the financial stability of Sanford Health Plan or prejudice the interests of HOA's former enrollees during the claims runout period.
- d. The Merger is not unfair or unreasonable to HOA's former enrollees during the claims runout period and is not against the public interest.
- e. The competence, experience, and integrity of the directors and executive officers of Sanford Health Plan are such that it is in the interest of the former enrollees and of the public to permit the merger to occur.
- f. The Merger would not have any impact that could be viewed as likely to be hazardous or prejudicial to the insurance-buying public.

16. Mr. Fischer, Chief Examiner for the North Dakota Insurance Department testified in part to the following:

- a. He was one of the North Dakota Insurance Department staff members who reviewed the documentation submitted with respect to the proposed Merger.
- b. The Merger complies with the requirements of N.D.C.C. ch. § 26.1-10-03(4).

Public Comments

17. The North Dakota Insurance Department is aware of no objections to the Merger at this time which would be material to the factors found in N.D.C.C. § 26.1-10-03(4).

18. No objections to the proposed Merger were offered at the hearing. No member of the public appeared at the hearing to offer support or opposition.

CONCLUSIONS OF LAW

1. Sanford Health Plan has properly filed all the materials required by N.D.C.C. § 26.1-10-03 of the Insurance Holding Company Statute.

2. In consideration of the submissions and evidence offered by Sanford Health Plan, and in accordance with N.D.C.C. § 26.1-10-03(4), the Department concludes that:

- a. Following the Merger, Sanford Health Plan will continue to satisfy all requirements for the issuance of an HMO certificate of authority and will continue to be subject to the oversight by the Department as a foreign HMO.
- b. The Merger would not have the effect of substantially lessening competition in insurance in North Dakota or tend to create a monopoly in North Dakota.
- c. The Merger will not jeopardize the financial stability of Sanford Health Plan or prejudice the interests of HOA's former enrollees during the claim runout period.
- d. The Merger is not unfair or unreasonable to HOA's former enrollees during the claims runout period and is not against the public interest.
- e. The competence, experience, and integrity of the directors and executive officers of Sanford Health Plan are such that it is in the interest of the former enrollees and of the public to permit the merger to occur.
- f. The Merger will not have any impact that could be viewed as likely to be hazardous or prejudicial to the insurance-buying public. The Merger itself will not affect any claims that are outstanding.

ORDER

Based on the foregoing Findings of Fact and Conclusions of Law, Sanford Health Plan's Application for the Proposed Merger with HOA is hereby **APPROVED**.

DATED this 15th day of November 2019.



Jon Godfreed
North Dakota Insurance Commissioner