

BEFORE JAMES A. DODRILL, INSURANCE COMMISSIONER
OF THE STATE OF WEST VIRGINIA

FILED

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In the Matter of:

Indy Health Insurance Company, Inc. (NAIC # 88820)

OFFICE WEST VIRGINIA
SECRETARY OF STATE

Administrative Proceeding No. 21-IC-02044

ORDER REFUSING LICENSE AND DENYING APPLICATION

This matter came before the Insurance Commissioner (hereinafter "Commissioner") pursuant to Indy Health Insurance Company, Inc.'s (hereinafter sometimes "IHIC") UCAA Expansion Application to become licensed in the State of West Virginia in order to offer Medicare Part D coverage. After due and proper consideration thereof, the Commissioner made the following findings of fact, conclusions of law, and order.

FINDINGS OF FACT

1. On or about October 14, 2019, Indy Health Solutions, LLC through its subsidiary, Indy Health, Inc., submitted a Form A Filing (Statement Regarding the Acquisition of Control) to the Arkansas Insurance Department proposing to acquire control American Integrity Life Insurance Company, NAIC 88820, via a stock purchase agreement. Pursuant to the Stock Purchase Agreement, Indy Health would acquire a 100% ownership interest in American Integrity Life Insurance Company.

2. On November 1, 2019, the West Virginia Insurance Commissioner received a UCAA Expansion Application from American Integrity Life Insurance Company to become licensed in the State of West Virginia in order to offer Medicare Part D coverage. The application was filed by representatives of Indy Health, Inc.

3. On December 2, 2019, the Commissioner's Company Analysis & Examination Division (hereinafter "Division") assessed the filing and application as "incomplete" for the following reasons:

- Failure to meet West Virginia's minimum capital & surplus requirements;
- No plan of operation, questionnaire, or pro forma financial projections;
- No holding company filings;
- No biographical affidavits; and
- No Uniform Consent to Service of Process.

However, the Division agreed to hold the application in a "pending status" while the applicant's Form A proceeding in the state of Arkansas was undertaken.

4. On January 31, 2020, the Arkansas Insurance Department held a hearing regarding the application for acquisition and control of American Integrity Life Insurance Company. On that same day, the Insurance Commissioner of Arkansas approved the acquisition of control and the proposed name change of American Integrity Life Insurance Company to Indy Health Insurance Company ("IHIC").

5. On February 24, 2020, the Division deemed the application of IHIC to be "substantially complete," and communicated that fact to the Centers for Medicare and Medicare Services ("CMS") which had inquired about the company's application status on February 20, 2020. CMS was specifically advised that the Division's determination as to completeness does not indicate a decision for or against licensure. Nevertheless, CMS advised the Division that it was proceeding with issuing a waiver of the state licensing requirement for IHIC on April 15, 2020 for the company to offer Medicare Part D coverage.

6. IHIC augmented its application for licensure with the Division several times throughout 2020, including but not limited to, February 12, March 30, June 9 and November 16, 2020. On January 28, 2021, the Division sent communication to the representatives of IHIC

indicating several concerns that were noted during the Division's continued review, and which did not reflect favorably on the company's chances of obtaining a license in West Virginia. The Division's concerns included:

- Lack of experience operating under current operational structure and business plan;
- Negative operating results for the current year; and
- Negative cash flow for the current year.

The Division recommended that IHIC withdraw its application for licensure in West Virginia.

7. IHIC requested a conference call with the Division, which took place on February 4, 2020. During this call, the Division became aware that even though it was not licensed in this state, IHIC had enrolled 2,236 members in Medicare Part D coverage in West Virginia pursuant to the CMS waiver.

8. On or about March 12, 2020, the Division became aware that IHIC had experienced severe financial losses in January and February 2021, that IHIC's actual losses were being reported at 200% of projections, and that IHIC had agreed to receivership with the Arkansas Insurance Department.

9. On March 19, 2021, a *Permanent Injunction and Agreed Order Appointing Receiver for Rehabilitation* was entered in the Circuit Court of Pulaski County, Arkansas. The Order was agreed to by the Arkansas Insurance Department and IHIC.

10. Thereafter, the Division formally recommended to the Commissioner that the Commissioner refuse to license IHIC in West Virginia in accordance with W.Va. Code §33-3-9.

11. On March 26, 2020, the Division confirmed with the Arkansas Department of Insurance that the CMS waiver of IHIC has been voided as the contract between IHIC and CMS was terminated, and that all policyholders with IHIC lost their coverage through IHIC on March 23, 2021. Furthermore, the Division learned that CMS had transitioned all IHIC policyholders to

another Medicare Part D plan with a retroactive effective date of March 1, 2021 to ensure uninterrupted coverage. Policyholders can choose to join a different Medicare Part D plan any time prior to July 31, 2021.

CONCLUSIONS OF LAW

1. W.Va. Code §33-3-9 provides as follows:

The commissioner may refuse to license an insurer when he determines that an insurer has not complied with the laws of this state or that it is not in the best interest of the people of this state that such insurer be licensed or that such insurer would transact business in this state in an improper, illegal or unjust manner. In such event the commissioner shall enter an order refusing such license, and the applicant therefor may demand a hearing in the manner provided in article two of this chapter.

2. The application of IHIC to become a licensed insurer in West Virginia must be denied, as the company is in receivership in its state of domicile and it would not be in the best interests of the people of West Virginia that IHIC be licensed, and if licensed, it is likely that IHIC would transact business in this state in an improper or unjust manner due to its hazardous financial condition.

3. IHIC's negative results of operations in 2020 have triggered some provisions of W.Va. Code §33-34-3a, regarding an insurer's hazardous financial condition. Specifically, W.Va. Code §33-34-3a (a)(2) provides that in making a determination as to whether an insurer's condition renders the continuance of its business hazardous to the public or to its insureds, the Commissioner may consider the National Association of Insurance Commissioners' insurance regulatory information system and its other financial analysis solvency tools and reports. Three unusual ratio results have been noted in the National Association of Insurance Commissioners' Regulatory Information System and its other financial analysis solvency tools and reports, including the

company's net change in capital and surplus, the company's gross change in capital and surplus, and the company's net income to total income.

4. Further, W.Va. Code §33-34-3a (a)(6) provides that in making a determination as to whether an insurer's condition renders the continuance of its business hazardous to the public or to its insureds, the Commissioner may consider whether the insurer's operating loss in the last twelve-month period or any shorter period of time, excluding net capital gains, is greater than twenty percent of the insurer's remaining surplus as regards policyholders in excess of the minimum required. IHIC has also failed this standard based upon a review of its 2020 Annual Statement.

5. Finally, W.Va. Code §33-3-5b(a) provides that "[n]o insurer shall hereafter be licensed to transact the business of insurance in the State of West Virginia unless it has fully paid in capital stock, if a stock insurer, or surplus, if a mutual insurer, of at least \$1 million. In addition, each such insurer shall have and maintain additional surplus funds of at least \$1 million." W.Va. Code §33-3-5b(b) provides that the Commissioner may, for the protection of policyholders and the general public, require an insurer to maintain funds in excess of the minimum amount required. For year ending December 31, 2019, IHIC reported total capital and surplus of less than the required minimum.

ORDER

It is, therefore, **ORDERED** that the application of IHIC be, and it hereby is, **DENIED**.

It is further **ORDERED** that IHIC shall immediately cease and desist doing business in the State of West Virginia inasmuch as their CMS waiver is now void and they are unlicensed in this state. IHIC shall, to the fullest extent possible, assist all former policyholders with transitioning to new Medicare Part D policies. The Commissioner shall maintain continuing jurisdiction in this matter

in order to ensure the interests of the former policyholders and the public are protected. Pursuant to W.Va. Code §33-3-9, IHIC may demand a hearing in this matter in accordance with W.Va. Code §33-2-13 to contest this Order. Such request should be made within 30 days of receipt of this Order.

ENTERED this the 19th day of April, 2021.



JAMES A. BODRILL
Insurance Commissioner