

**BEFORE THE COMMISSIONER OF INSURANCE
OF THE STATE OF KANSAS**

| | | |
|--|---|---------------------------|
| In the Matter of the Proposed Exemption of |) | |
| FirstGuard Health Plan Kansas, Inc. |) | Docket No. 3607-EX |
| |) | |

ORDER

Now comes on for disposition the request of FirstGuard Health Plan Kansas, Inc. (“FirstGuard”), dated December 18, 2006, for an Order, pursuant to K.S.A. 40-3305(j), exempting it from the notice and payment requirements of K.S.A. 40-3305(e), as said statute applies to the payment of dividends or other distributions to shareholders of FirstGuard.

FINDINGS OF FACT

1. The Commissioner of Insurance has jurisdiction over this matter pursuant to K.S.A. 40-103 and K.S.A. 40-3301, *et seq.*
2. FirstGuard, a Kansas health maintenance organization, was organized under the laws of Kansas on February 2, 1999 and authorized to transact business in Kansas on April 30, 1999.
3. FirstGuard, Inc., a Delaware corporation, owns 100% of the stock of FirstGuard.
4. On or before December 31, 2004 all of the issued and outstanding stock of FirstGuard, Inc. was acquired by Centene Corporation. As a result of this transaction, which was approved by KID in a Form A Order issued on December 1, 2004, Centene Corporation also became the indirect owner of 100% of the issued and outstanding stock of FirstGuard through its ownership of FirstGuard, Inc.
5. Since 1999 FirstGuard's sole business has been a statewide Medicaid (Healthwave Title XIX and Title XXI) contract awarded to FirstGuard by the Kansas Department of Social and Rehabilitation Services beginning in 1999. This Medicaid contract with the State of Kansas is set to expire on December 31, 2006 and will not be renewed at that time.
6. On December 18, 2006 FirstGuard declared a dividend of \$5,500,000. Under the provisions of K.S.A. 40-3305(e), this dividend is subject to the notice and payment requirements stated therein.

7. On December 18, 2006 FirstGuard advised the Commissioner of the declaration of the \$5,500,000 dividend but requested a waiver of the ten (10) day notice and payment requirements stated in K.S.A. 40-3305(e), and also requested approval for the dividend to be paid on or before December 29, 2006.

8. On December 18, 2006 FirstGuard also requested approval for the dividend to be paid to FirstGuard's indirect parent company, Centene Corporation, rather than its immediate parent company, FirstGuard, Inc.

9. As of September 30, 2006 FirstGuard had Surplus of \$29,169,373 and Unassigned Surplus of \$20,534,257. After payment of the proposed dividend First Guard will have Surplus of approximately \$23,669,373.

10. FirstGuard's Form A Order, dated December 1, 2004, required FirstGuard to establish and maintain capital and surplus at a minimum of \$15,000,000. However, since FirstGuard will discontinue writing business in the state of Kansas on December 31, 2006, its compliance with the capital and surplus requirements stated in the Form A Order will not be required by the Commissioner.

CONCLUSIONS OF LAW

11. K.S.A. 40-3305(e) provides, in part, as follows:

(e) . . . each registered insurer shall report all dividends and other distributions to shareholders within five business days following its declaration. Any such dividend or distribution shall not be paid for at least 10 business days from the commissioner's receipt of the notice of its declaration.

12. K.S.A. 40-3305(j) provides as follows: "The provisions of this section shall not apply to any information or transaction if and to the extent the commissioner of insurance by order shall exempt the same from the provisions of this section."

13. Based upon the information enumerated in the Findings of Fact contained in paragraphs one through ten above FirstGuard should be exempted from complying with the notice and payment requirements stated in K.S.A. 40-3305.

IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:

1. FirstGuard Health Plan Kansas, Inc shall be exempt from the notice and payment requirements stated in K.S.A. 40-3305(e), as they apply to the dividend distribution declared on December 18, 2006, and the request to pay the dividend on or before December 29, 2006 is approved.

