

**FINAL ORDER**

**Effective: 4-19-11**

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

In the Matter of the Merger of )  
**PREFERRED HEALTH SYSTEMS, INC.** )  
 )  
with and into )  
**COVENTRY HEALTH CARE OF KANSAS, INC.** )  
**NAIC #95489** )

Docket No. 4287-M

**ORDER OF MERGER**

NOW on this \_\_31st\_\_ day of March, 2011, the above matter comes before the Commissioner of Insurance of the State of Kansas (“Commissioner”).

Preferred Health Systems, Inc. (“PHS”), a Kansas corporation, has applied to merge with and into Coventry Health Care of Kansas, Inc. (“CHCKS”) a Kansas health maintenance organization (“Merger Application”), pursuant to K.S.A. 40-309.

PHS and CHCKS are represented by their Attorney, Michelle Carter-Gouge of CHCKS. The Kansas Insurance Department (“KID”) is represented by Zachary J.C. Anshutz, General Counsel. Also appearing for the KID are Kenneth Abitz, Director of the Financial Surveillance Division, and Mark Owens, Principal Financial Analyst.

All parties are relying on documentary and contractual representations filed with the KID.

Pursuant to the authority granted to the Commissioner pursuant to K.S.A. 40-309, 40-3301 and 40-3304(d)(1) and in accordance with the Kansas Administrative Procedures Act, K.S.A. 77-501, *et seq.*, the Commissioner hereby asserts the following findings of fact, conclusions of law, and orders, as follows:

## **FINDINGS OF PUBLIC INTEREST AND POLICY**

The purpose of filing the Merger Application was to obtain the approval of the KID for the proposed merger of PHS with and into CHCKS. The terms and conditions of the proposed merger are fully set forth in the Agreement of Merger (“Agreement”).

Significant documents in the Merger Application have been reviewed by representatives of the Financial Surveillance Division and the Legal Division of the KID, and the Commissioner of Insurance has had the benefit of their technical expertise and advice.

Contained in the Merger Application were various exhibits, including, but not limited to a draft Agreement of Merger of PHS with and into CHCKS, minutes of special meetings of the board of directors and shareholders of PHS and CHCKS approving the proposed merger, actuarial opinions, and financial projections of the merged companies.

The staff of the KID has inspected and reviewed the contents of the Agreement and related documents, to the extent necessary, and found that the filing of the Agreement and related documents are in accordance with K.S.A. 40-309 and that the Agreement and related documents have provided all of the information required under Kansas law to enable the Commissioner to render a decision on the proposed Agreement.

## **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

1. PHS is a stock insurance holding company and has been operating in the State of Kansas, with its registered office located in Topeka, Kansas. PHS has been a Kansas corporation since October 1, 1995.
2. CHCKS is a health maintenance organization formed under the laws of Kansas on January 2, 1976, with its statutory home office located in Wichita, Kansas. CHCKS has been authorized to transact business in Kansas since August 31, 1981.

3. The Agreement and related documents establish that CHCKS is exempt from filing a Form A, as required under K.S.A. 40-3304, because the merger of PHS with and into CHCKS does not have the purpose, or effect, of changing or influencing control of CHCKS inasmuch as both PHS and CHCKS are wholly owned by Coventry Health Care, Inc., which will continue after the merger to own 100% of the issued and outstanding stock of CHCKS, the surviving company.
4. Pursuant to K.S.A. 40-309, an insurance company of this state may merge with any other company of any other state engaged in like business and having similar corporate powers. The merger application material provides evidence that PHS and CHCKS are engaged in like business and have similar corporate powers.
5. Pursuant to K.S.A. 40-309, on March 17, 2011, a resolution was adopted by the Board of Directors of CHCKS to effect the merger of PHS and CHCKS. On March 17, 2011, the shareholder of CHCKS approved a resolution of the proposed merger.
6. PHS and CHCKS filed an executed copy of the Agreement of Merger with the KID, dated March 17, 2011.
7. The Agreement is in compliance with the provisions of K.S.A. 40-309.
8. Contained in the Merger Application were all the necessary submitted materials to the KID in connection with the proposed merger.
9. On the effective date of the merger, CHCKS will assume and be responsible for all debts, obligations, claims and liabilities for which PHS is legally responsible and all assets of PHS will be transferred to CHCKS.
10. No evidence has been introduced to establish that the proposed merger of PHS with and into CHCKS would be injurious to or prejudice the interests of the policyholders and creditors.

11. No evidence has been introduced to establish that the proposed merger of PHS with and into CHCKS will be hazardous or prejudicial to the insurance-buying public.

**IT IS THEREFORE ORDERED BY THE COMMISSIONER OF INSURANCE THAT:**

1. The merger between PHS with and into CHCKS is hereby approved pursuant to K.S.A. 40-309 provided that within sixty days of the date of this Order, the merger is effected and all appropriate closing documents are executed and filed with the KID.
2. CHCKS shall be exempt from the application of the formal filing and approval requirements of K.S.A. 40-3304 as it may be deemed to apply to the merger of PHS with and into CHCKS.
3. In conjunction with this Order, the Kansas Certificate of Authority of CHCKS shall remain unchanged subsequent to the merger.
4. Any applicable regulatory requirements to properly record the of PHS as a corporation in the State of Kansas should be executed.
5. The Commissioner of Insurance retains jurisdiction over the subject matter of this proceeding and over the parties for the purpose of entering such Orders as may be deemed necessary and appropriate.

**NOTICE OF RIGHTS**

CHCKS is entitled to a hearing pursuant to K.S.A. 77-537, the Kansas Administrative Procedure Act. If CHCKS desires a hearing, the Company must file a written request for a hearing with:

Zachary J.C. Anshutz, General Counsel  
Kansas Insurance Department  
420 S.W. 9<sup>th</sup> Street  
Topeka, Kansas



**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that above and foregoing Order of Merger was served via the United States Postal Service, first-class postage prepaid, and facsimile, on this 31st day of March, 2011, addressed to the following:

Ms. Michelle Carter-Gouge  
Attorney  
Coventry Health Care of Kansas, Inc.  
8320 Ward Parkway  
Kansas City, Missouri 64114

/s/ Zachary J.C. Anshutz  
Zachary J.C. Anshutz  
General Counsel