

STATE OF NEW JERSEY
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE ACQUISITION OF)
CONTROL OF WELLCARE HEALTH PLANS)
OF NEW JERSEY, INC. BY CENTENE)
CORPORATION)

ORDER APPROVING
ACQUISITION SUBJECT TO
CONDITIONS

I have read the Hearing Officer's report dated November 25, 2019 regarding the above-captioned matter, and I concur with the recommendation contained therein. Accordingly, pursuant to N.J.S.A. 17:27A-2, I hereby approve the proposal of Centene Corporation ("Centene") to acquire control of WellCare Health Plans of New Jersey, Inc. ("WellCare NJ") subject to the following conditions:

1. WellCare NJ shall continue to comply with the requirements of N.J.S.A. 26:2J-1 to -47; N.J.S.A. 17:27A-1 to -14; N.J.A.C. 11:24-1.1 to -18.4 and N.J.A.C. 11:2-39A.1 to -39A.15; including submission of Quarterly and Annual Financial Statements and an annual Risk-Based Capital Report, and consents to application of proceedings pursuant to Life and Health Insurers Rehabilitation and Liquidation Act N.J.S.A. 17B:32-31 to -92 if the financial condition warrants institution of delinquency proceedings in this State.

2. **NO USE OF NEW JERSEY FUNDS FOR ACQUISITION.** Upon consummation of the transaction, Centene shall: (a) *Assets*: not dispose of or otherwise use assets of WellCare NJ and/or any other subsidiaries of Centene, if any, that are licensed, authorized or certified by the New Jersey Department of Banking and Insurance ("Department") to transact business in New Jersey (collectively, the "Centene Insurers in NJ") for the purpose of repaying

any debt incurred, to finance the transaction, use no part of the assets of WellCare NJ or Centene Insurers in NJ, if any, to pay, reimburse, or otherwise fund both the cash financing portion of the transaction and the debt related to the financing of the transaction except, with respect to this clause (a) as approved or otherwise permitted by the relevant agency with regulatory authority; (b) **Costs:** not pass onto WellCare NJ, Centene Insurers in NJ, if any, or New Jersey insureds any acquisition costs or other consideration, including without limitation executive compensation paid to or accrued for the benefit of any executive officers of Centene in connection with, or triggered by, the transaction; (c) **Rates:** not seek premium rate increases applicable to New Jersey insureds that are intended to be used, or are used, to pay for the cost of the transaction. Centene shall take steps to ensure that premiums and cost-sharing obligations payable (including copayments and deductibles) by New Jersey insureds for products offered by WellCare NJ shall not increase as a result of costs incurred in financing, analyzing and/or consummating the Proposed Acquisition of Control ("Acquisition Costs"). (Such Acquisition Costs include, but are not limited to, attorneys' and investment bankers' fees, loan expenses, travel expenses, due diligence expenses, execution compensation expenses, of any form, and expenses related to current or future acquisitions by Centene/WellCare NJ); (d) **No Dividends:** refrain from declaring and/or paying any dividends (ordinary or extraordinary), without the express prior approval of the Commissioner for a period of three (3) years from the consummation of the transaction. Centene shall not make WellCare NJ declare or pay dividends, make other distributions of cash or property or in any other way upstream any funds or property to their shareholders or any shareholders of Centene Insurers in NJ, if any, without the express prior approval of the Commissioner of Banking and Insurance ("Commissioner") for a period of three (3) years.

3. **MAINTAIN RBC.** For a period of five (5) years from the consummation of

the transaction, Centene shall cause WellCare NJ to maintain a minimum Authorized Control Level Risk Based Capital (RBC) level of 300% at all times.

4. **MAINTAIN PRODUCTS, SERVICES AREA, NETWORKS.** Centene agrees that, for a period of three (3) years from consummation of the transaction: (a) WellCare NJ shall continue to offer their current Medicare Part D prescription drug plans and comprehensive health products, if any, and the Centene Insurers in NJ, if any, shall maintain substantially the same offering of comprehensive health products, if any, in each case, throughout their current service area in New Jersey, except to the extent that changes to such products or service areas are otherwise approved by the Department, the New Jersey Department of Human Services or required by the Centers for Medicare and Medicaid Services; and (b) WellCare NJ and Centene Insurers in NJ, if any, shall use reasonable efforts to maintain their current networks of providers, including pharmacies, without material changes, except to the extent such changes are otherwise approved by the Department, the New Jersey Department of Human Services or required by the Centers for Medicare and Medicaid Services. Nothing herein shall preclude WellCare NJ or Centene Insurers in NJ, if any, from offering new products with different networks or from entering new markets in New Jersey, such as the individual and small employer markets.

5. **NEW JERSEY BUSINESS.** Centene shall be committed to seeking opportunities to write new business in New Jersey. During the three (3) year period from the consummation of the transaction, Centene will make reasonable efforts to enter into New Jersey's individual health coverage market, including the issuance of business through any established exchange, and will report to the Department annually regarding such efforts.

6. **NO MATERIAL CHANGE TO BUSINESS.** (a) Upon the consummation

of the transaction, Centene shall refrain from the following actions: (i) liquidating WellCare NJ; (ii) selling any material portion of the assets of WellCare NJ; (iii) merging WellCare NJ with any other person or persons; or (iv) making any other material change with regard to business, corporate structure, management or general plan of operations of WellCare NJ, all without the express prior approval of the Commissioner. (b) Except to the extent authorized or required by a regulatory authority with applicable jurisdiction, upon the consummation of the transaction, Centene shall refrain from the following actions: (i) liquidating the Centene Insurers in NJ, if any; (ii) selling any material portion of the assets of the Centene Insurers in NJ, if any; (iii) merging the Centene Insurers in NJ, if any, with any other person or persons; and (iv) making any other material change specific to the New Jersey business of the Centene Insurers in NJ, if any.

7. WellCare NJ will maintain any service agreement necessary to conduct its business in New Jersey by retaining its existing management team and without any reduction of current staffing levels within the state, so as to conduct its business, for a minimum of three (3) years from the consummation of the transaction.

8. WellCare NJ shall provide reports, in a format to be supplied by the Department, of principal and interest payments on all overturned Utilization Management Appeals, overturned Independent Healthcare Appeals, overturned Provider Payment Appeals, as well as claim payments that are re-issued on improperly recouped and over-recouped, and a list of all claims recouped after eighteen (18) months with the reason for recoupment, and a list of all claims identified as improperly denied or underpaid, with principal and interest amounts paid.

9. **DOCUMENT SYNERGIES.** The Applicant has represented in the Application

that certain synergies will be achieved as a result of the Centene/WellCare NJ acquisition. As such, the Applicant shall annually provide to the Department documentation detailing the progress toward achieving such synergies specific to WellCare NJ and the Centene Insurers in NJ, if any.

10. **CYBERSECURITY.** Centene shall provide the Department with confidential access to its cybersecurity plan for review as a part of the state examination pursuant to N.J.S.A. 17:27A-5 and N.J.S.A. 17:27A-6, commencing in 2020. Centene shall provide notice to the Department when and if a cybersecurity breach takes place and shall work with the Department to protect New Jersey policyholders, if they are affected. Centene shall take no action to oppose regulation and/or legislation regarding cybersecurity, the same as or substantially similar to the Insurance Data Security Model Law adopted by the National Association of Insurance Commissioners (“NAIC”). Centene shall commit to serving as a resource to the Department and providing constructive input and expertise to the Department with respect thereto.

11. **COMPLIANCE WITH OTHER NEW JERSEY REGULATIONS.** Centene will ensure that WellCare NJ and Centene Insurers in NJ, if any, will fully comply with New Jersey formulary regulations at N.J.A.C. 11:22-5.9, which includes a prohibition on closed formularies, and the regulations governing the Individual Health Coverage Program (“IHC”) and Small Employer Health Benefits Program (“SEH”), which include a provision requiring that pharmacies dispense a minimum supply of drugs when prior authorization is required but was not obtained, and any subsequent amendments thereto.

12. **TAX SHARING AGREEMENTS TO BE FILED AS MATERIAL MODIFICATIONS.** After the closing date of the Acquisition, if any of the parties to the transaction desire to amend, change, terminate or replace its tax sharing agreements, as previously

filed with and approved by the Department, Centene\WellCare NJ, if applicable, shall file any changes to those tax sharing agreements as a Notice of Material Modification in accordance with the standards set forth at N.J.S.A. 17:27A-3, N.J.S.A. 17:27A-4, N.J.A.C. 11:1-35.3, and N.J.A.C. 11:1-35.7, N.J.A.C. 11:1-35.10.

13. Centene shall annually provide updated group and allocated Supplemental Compensation Exhibits (“SCE”) following the consummation of the transaction in order to comply with the provisions of Bulletin No. 18-03, and any subsequent amendments thereto.

14. NO PUSH-DOWN OF GOODWILL FROM CENTENE AND WELLCARE. Centene and WellCare NJ shall not use any form of push-down accounting methods that result in the transfer or allocation of any of Centene’s or WellCare NJ’s goodwill, including goodwill related to this Acquisition.

15. Centene shall provide the Department with written confirmation of the consummation of the acquisition of control by the end of the month in which the acquisition takes place.

16. Centene shall provide the Department with written details of the final purchase price after all adjustments used to complete the acquisition.

17. Centene shall provide the Department with the names and titles of those individuals who will be responsible for filing an amended Insurance Holding Company System Annual Registration Statement pursuant to N.J.S.A. 17:27A-1 to -14 and N.J.A.C. 11:1-35.1 to 35.14.

18. WellCare NJ shall continue to maintain their books and records in their current approved locations and shall make all such items available for inspection by the

Commissioner at any time.

19. Centene shall assume WellCare NJ's debt and it shall not be the responsibility of Centene Insurers in NJ, if any, to service such debt.

20. If the proposed acquisition is not consummated within ninety (90) days of the date of this Order and Centene intends to consummate the proposed acquisition, Centene shall submit to the Commissioner a statement requesting an extension and shall include (i) the reason for Centene's inability to consummate the proposed acquisition; (ii) any material changes in the information contained in the application; and (iii) the current financial statements of Centene and WellCare NJ. Any and all extensions shall be with the written approval of the Commissioner.

11/25/19
Date

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Marlene Caride
Commissioner

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