

STATE OF ALASKA

DEPARTMENT OF COMMERCE, COMMUNITY, AND ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

In the Matter of the Proposed )  
 Merger of: )  
 )  
 ALASKA VISION SERVICES, INC., )  
 An Alaska Domiciled Non-Profit Medical )  
 Service Corporation )  
 )  
 With and Into )  
 )  
 VSP VISION CARE, INC., )  
 A Virginia Domiciled Non-Profit )  
 Health Insurer. )  
 )  
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Case No. H 15-06

**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND FINAL ORDER**

**BACKGROUND**

On or about May 15, 2015, VSP Vision Care, Inc. (VSP-VA), a Virginia domestic corporation, submitted to the State of Alaska Division of Insurance a Statement Regarding the Acquisition of Control of a Domestic Medical Service Corporation with the State of Alaska, Division of Insurance ("DOI" or "Division"), requesting approval of a proposed merger between VSP-VA and Alaska Vision Services, Inc.

Alaska Vision Services, Inc. (AVS) is an Alaska domiciled medical service corporation organized pursuant to Title 21, Chapter 87 (Hospital and Medical Service Corporations), of the

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Alaska Statutes. AVS was organized as a not-for-profit corporation on April 27, 1965, per its Articles of Incorporation, “exclusively for the promotion of social welfare within the meaning of Section 501(c)(4) of the Internal Revenue Service.” AVS received a Certificate of Authority from the State of Alaska, Division of Insurance, effective June 3, 1982, (D 1411) authorizing the Company to transact the business of a medical service corporation, (ophthalmology and optometry).

Prior to 1988, AVS operated jointly with Western Vision Services (Washington) and Idaho Vision Service Fund. In 1988, AVS contracted with California Vision Service Plan of Sacramento, California (VSP) for plan administration and VSP became the sole voting and controlling member of AVS. VSP is a non-stock, not-for-profit corporation operating in the State of California which controls several vision service plans in the United States, including VSP Vision Care, Inc. (VSP-VA).

VSP-VA is a Virginia domiciled not-for-profit optometric services corporation that is also a licensed health care service contractor. VSP-VA was originally incorporated as Mid-Atlantic Service Plan, Inc. (Mid-Atlantic), in 1960 in the state of Maryland writing vision care policies for the states of Maryland and Virginia. In 2002, Mid-Atlantic Service Plan, Inc., redomesticated from Maryland to Virginia.

In 2014, VSP developed a group consolidation plan that established Mid-Atlantic as the subsidiary to consolidate the group’s non-for-profit entities. In October, 2014, two affiliates were merged into Mid-Atlantic bringing the total states in which the company was authorized to write in up to four – Maryland, Virginia, Washington, and Idaho. In November, 2014, Mid-Atlantic received approval from Virginia to change its name to VSP Vision Care, Inc. (VSP-

VA). In anticipation of acquiring AVS, VSP-VA applied for and received an Alaska Certificate of Authority to transact health insurance in the state on May 26, 2015.

AVS and VSP-VA propose to merge AVS into VSP-VA with VSP-VA being the surviving entity. On May 15, 2015, VSP-VA filed a Form A Statement Regarding the Acquisition of Control of a Domestic Medical Service Corporation with the State of Alaska, Division of Insurance ("DOI" or "Division") requesting approval of the proposed merger. The Division performed a statutory review of the Form A filing and determined that the filing contained all information and documentation required to be included therein but that the filing fee had not been paid. The filing fee was subsequently received by the Division on August 26, 2015.

Under the authority of AS 21.06.180, AS 21.22.030, and AS 21.69.600(d) (as provided for under AS 21.87.340) , a Notice of Hearing, H 15-06, dated September 4, 2015 was published for the purpose of receiving public comments on the proposed merger of AVS.

A hearing on the proposed merger was held on September 25, 2015 at the Division offices in Anchorage, Alaska. Maxine Froemling, Chief Financial Examiner with the Division, conducted the hearing on behalf of the director of the division. At the hearing, testimony was provided by Barbara Simpson Kraft, Outside Counsel for VSP; Stuart Thompson, Vice President and Deputy General Counsel for VSP; and Laura Olson, Vice President of Finance for VSP. Richard Foster, Insurance Financial Examiner II for the Division, appeared at the hearing as Financial Examination Section representative and provided a summary of the Division's statutory review of the Form A Statement Regarding the Acquisition of Control of a Domestic Medical Service Corporation filed by VSP-VA. Erin Egan, Assistant Attorney General and assigned counsel to the Division, also attended the hearing.

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There were no individuals appearing at the hearing in opposition to the proposed merger of AVS and VSP-VA.

#### FINDINGS OF FACT

1. Alaska Vision Services, Inc. (AVS) is an Alaska domiciled medical service corporation organized pursuant to Title 21, Chapter 87 (Hospital and Medical Service Corporations), of the Alaska Statutes. AVS was organized as a not-for-profit corporation on April 27, 1965, per its Articles of Incorporation, “exclusively for the promotion of social welfare within the meaning of Section 501(c)(4) of the Internal Revenue Service.” AVS received a Certificate of Authority from the State of Alaska, Division of Insurance, effective June 3, 1982, (D 1411) authorizing the Company to transact the business of a medical service corporation, (ophthalmology and optometry). The sole administrative member of AVS is Vision Service Plan (VSP), which is based in Rancho Cordova, California.
2. VSP Vision Care, Inc. (VSP-VA) is a Virginia domiciled not-for-profit corporation. On May 26, 2015, VSP-VA received a Certificate of Authority to transact health insurance in Alaska, which was a prerequisite to the merger. The sole administrative member of VSP-VA is VSP.
3. AVS and VSP-VA propose to merge AVS with and into VSP-VA with VSP-VA being the surviving entity. The proposed merger is between two affiliates of VSP and would involve no financial consideration. The proposed merger is part of a continuing plan by VSP to simplify its structure and manage fewer entities.

4. On May 15, 2015, VSP-VA filed a Form A Statement Regarding the Acquisition of Control of a Domestic Medical Service Corporation with the State of Alaska, Division of Insurance ("DOI" or "Division") requesting approval of the proposed merger. The Division performed a statutory review of the Form A filing. An initial review of the Form A filing determined that the filing contained most information and documentation required to be included therein, but that the filing fee had not been paid and additional discussion was needed with regard to the handling of surplus funds accumulated by AVS over its time doing business in Alaska. The filing fee was subsequently received by the Division on August 26, 2015 and additional language was added to the merger agreement to address the AVS surplus funds. The Form A filing was deemed complete by the Division on August 28, 2015.
5. The merger plan calls for AVS to be merged into VSP-VA, with VSP-VA becoming the surviving corporation, governed by the laws of the State of Virginia. The corporate identity, existence, purposes, powers, objects, franchises, rights, and immunities of AVS will be wholly merged in VSP-VA and the separate existence of AVS will cease. All assets and liabilities of AVS will be transferred to VSP-VA. However, the \$8.8 million surplus funds accumulated by AVS over its time doing business in Alaska, calculated as of December 31, 2014, will be designated as being preserved for the benefit of Alaskans to be distributed to an Alaska charitable, education, research, scientific, or health institution, organization, or association to be used for the advancement of optometry if VSP-VA is dissolved or ceases to write business in Alaska. The surplus funds will be maintained partially in a separate deposit account under a deposit agreement titled "VSP Alaska Charitable Optometric Deposit Fund

Agreement." The initial deposit of \$8.2 million will be designated for the charitable purposes as described above and deposited pursuant to this Order approving the plan of merger. The initial deposit of \$8.2 million will be completed on or before the effective date of the merger. The account will be a separate interest-bearing account and will at all times contain an amount at least equal to the initial deposit of \$8.2 million. Any interest accrued by the account will remain in the account until disbursed in accordance with the deposit agreement. Any disbursements from this account will require the express written consent of the Director of the Alaska Division of Insurance.

6. As the surviving entity, VSP-VA will take on the additional business, duties, and obligations of AVS, and all the current contracts and members of AVS will become contracts and members of VSP-VA. No change in operations, management, or administration is expected to occur as a result of the merger.
7. A special meeting of VSP, as the sole voting member of both AVS and VSP-VA, was called by VSP Global President and CEO James Robinson Lynch and was held on September 8, 2015 to approve the merger of AVS into VSP-VA. The merger was approved, subject to the prior written approval or non-disapproval of the Alaska Division of Insurance and Virginia Bureau of Insurance.
8. Under the authority of AS 21.06.180, AS 21.22.030, and AS 21.69.600(d) (as provided for under AS 21.87.340) , a Notice of Hearing, H 15-06, dated September 4, 2015 was published for the purpose of receiving public comments on the proposed merger of AVS into VSP-VA.
9. A hearing on the proposed merger was held on September 25, 2015 at the Division offices in Anchorage, Alaska. Maxine Froemling, Chief Financial Examiner with the

Division, conducted the hearing on behalf of the director of the division. At the hearing, testimony in favor of the proposed merger was provided by Barbara Simpson Kraft, Outside Counsel for VSP; Stuart Thompson, Vice President and Deputy General Counsel for VSP; and Laura Olson, Vice President of Finance for VSP. Richard Foster, Insurance Financial Examiner II for the Division, appeared at the hearing as Financial Examination Section representative and provided a summary of the Division's statutory review of the Form A Statement Regarding the Acquisition of Control of a Domestic Medical Service Corporation filed by VSP-VA. Erin Egan, Assistant Attorney General and assigned counsel to the Division, also attended the hearing. There were no individuals appearing at the hearing in opposition to the proposed merger of AVS with and into VSP-VA.

10. The Division has reviewed the Form A Statement Regarding the Acquisition of Control of a Domestic Medical Service Corporation and has found after reviewing the information and documentation provided in support of the proposed transaction, that
  - (a) after the merger, the surviving entity (VSP-VA) will continue to satisfy the requirements for a certificate of authority to write the line or lines of authority for which they are presently authorized;
  - (b) the merger will not substantially lessen competition in insurance in Alaska or tend to create a monopoly in the state;
  - (c) the financial condition of the surviving entity will not jeopardize the financial stability of the health carrier or prejudice the interest of its policyholders;
  - (d) the surviving entity's plans or proposals are fair and reasonable to the policyholders and are in the public interest;

(e) there is no evidence that competence, experience, and integrity of the persons who will control the operation of the health carrier are such that it would be against the interests of policyholders of the health carrier and the public to allow the merger; and

(f) there is no evidence the merger would be hazardous or prejudicial to the insurance-buying public.

#### CONCLUSIONS OF LAW

1. VSP, controlling entity of both AVS and VSP-VA, filed the statement required by AS 21.22.020 and 21.69.600(c) with the Alaska Division of Insurance. The statement filed under oath by VSP contained all information for proper determination of approval required of AS 21.69.600(c) and AS 21.69.600(d), as well as the provisions of 21.22.030. As AVS is licensed under AS 21.87 as a Medical Service Corporation, its merger is governed by AS 21.69.600 as specifically provided for under AS 21.87.340.
2. In compliance with AS 21.69.600(c), a plan of agreement for merger was submitted to VSP, as the sole administrative member of AVS and VSP-VA, by proper and reasonable notice in a duly called meeting, that was approved by at least two-thirds of the members of each mutual insurer involved and voting in person or by proxy at the meeting.
3. Pursuant to AS 21.69.600(d)(1), the merger does not appear to be inequitable to the policyholders of AVS. The policyholders will retain their policies and it is anticipated that policyholders will see increased efficiencies as a result of the streamlining of the VSP group of businesses. The surviving entity of the merger, VSP-VA, will continue



to conduct the same type of charitable activities in Alaska that have been conducted pre-merger, including, but not limited to, the continuance of charitable eye care activities, optometric education, and community-based eye care benefitting students and others who lack vision insurance. In addition, VSP-VA has agreed to designate the first \$8.8 million of surplus accumulated by AVS over its time as a not-for-profit corporation doing business in Alaska, calculated as of December 31, 2014, as being for an Alaska charitable, educational, research, scientific, or health institution, organization, or association, to be expended in the advancement of optometry upon dissolution of VSP-VA or upon cessation of its writing business in Alaska. The surplus funds will partially be maintained in a separate deposit account to be preserved for the benefit of Alaskans for the charitable purposes noted above in the event that VSP-VA is dissolved or ceases to write business in Alaska. The initial deposit of surplus funds into the separate account, in the amount of \$8.2 million, will be completed on or before the effective date of the merger. The account will be a separate interest-bearing account and will at all times contain an amount at least equal to the initial deposit of \$8.2 million. Any interest accrued by the account will remain in the account until disbursed in accordance with the deposit agreement. Any disbursements from this account will require the express written consent of the Director of the Alaska Division of Insurance. The fact that the minimum dollar amount of the initial deposit requirement is less than the \$8.8 million distribution requirement in no way diminishes, nor shall it be construed in any way to diminish, the distribution requirement in the stated higher amount.

VSP is currently the sole administrative member of both AVS and VSP-VA. VSP will remain the sole administrative member of VSP-VA, the surviving entity of this merger. In that regard, there will be no change in the sole administrative member.

4. Pursuant to AS 21.69.600(d)(2), it does not appear that the merger would substantially reduce the security of and service to be rendered to policyholders of AVS. Services to policyholders and members, and access to those services, will be delivered in the same way that they were prior to the merger. The merger is intended to reduce administrative costs and strengthen the financial position of the merged company.
5. In reviewing the Form A Statement Regarding the Acquisition of Control of a Domestic Medical Service Corporation and supporting documentation, the Division has found no basis to disapprove the proposed transaction under AS 21.22.030(a).

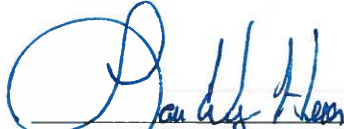
#### ORDER

IT IS HEREBY ORDERED, pursuant to the provisions of AS 21.69.600(d), that the plan for merger of Alaska Vision Services, Inc., an Alaska domiciled non-profit medical service corporation with VSP Vision Care, Inc., a Virginia domiciled non-profit health insurer, is APPROVED as filed, and that the Agreement and Plan for Merger be effectuated.

IT IS FURTHER ORDERED, that Alaska Vision Services, Inc. and VSP Vision Care, Inc. shall file with the State of Alaska Division of Insurance a copy of all final documents pertaining to the Agreement and Plan of Merger and any board resolutions or additional approvals regarding the Agreement and Plan of Merger which are necessary to effectuate the merger.

This Order is effective November 1, 2015.

DATED this 13<sup>th</sup> day of Oct, 2015 at Anchorage, Alaska.

  
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Lori Wing-Heier  
Director