

# STATE OF ILLINOIS

## DEPARTMENT OF INSURANCE



IN RE THE PROPOSED  
ACQUISITION OF CONTROL OF:

HUMANA BENEFIT PLAN OF ILLINOIS, INC.,  
COMPBENEFITS DENTAL, INC., AND  
HUMANA DENTAL CONCERN, LTD.

BY

AETNA INC.

### ORDER

**WHEREAS**, Anne Melissa Dowling, Acting Director (the "Director") of the Illinois Department of Insurance (the "Department") is a duly authorized and appointed official of the State of Illinois, having authority and responsibility for the enforcement of the insurance laws of this State; and

**WHEREAS**, Humana Benefit Plan of Illinois, Inc., is an Illinois domestic insurance company and wholly owned subsidiary of Humana, Inc.; and

**WHEREAS**, CompBenefits Dental, Inc., is an Illinois domestic limited health service organization and indirectly owned subsidiary of Humana, Inc.; and

**WHEREAS**, Humana Dental Concern, Ltd., is an Illinois domestic limited health service organization and indirectly owned subsidiary of Humana, Inc.; and

**WHEREAS**, the proposed indirect acquisition of control of Humana Benefit Plan of Illinois, Inc., CompBenefits Dental, Inc., and Humana Dental Concern, Ltd. (collectively, the "Illinois Domestic Companies") by Aetna Inc. (the "Acquiring Party" or "Aetna") was filed in the form required pursuant to Section 131.5 of the Illinois Insurance Code (the "Form A")(215 ILCS 5/131.5) with the Department for its approval by the Director (the "Proposed Acquisition"); and

**WHEREAS**, Medicare is a federal program, and Congress, in the Medicare Prescription Drug, Improvement, and Modernization Act ("MMA"), has provided that the standards established for Medicare Advantage ("MA") organizations pursuant to the MMA "shall

supersede any State law or regulation (other than State licensing law or State laws relating to solvency) with respect to MA plans that are offered by MA organizations.” MMA Sec. 232, codified at 42 U.S.C. 1395w-26(b)(3); and

**WHEREAS**, based on a review of publicly available published electronically by the Centers for Medicare and Medicaid Services of the Department of Health and Human Services (“CMS”) data, consummation of the Proposed Acquisition may lessen competition with respect to a niche of the Medicare Advantage market in Illinois specific to individual non-special needs Medicare Advantage offerings in a few downstate counties, particularly when such data is viewed on a county by county basis. However, the Proposed Acquisition, if effectuated, will not reduce the number of insurance companies offering such non-special needs Medicare Advantage plans to individuals in any Illinois counties, as there is no merger at the insurance company stratum. Additionally, Medicare Advantage insureds are not confined to remain in a Medicare Advantage plan, and may choose to return to Traditional Medicare if they were to become dissatisfied with their Medicare Advantage plan in the future; and

**WHEREAS**, a Hart-Scott-Rodino (“HSR”) Filing has been submitted to the United States Department of Justice (the “DOJ”) and the Federal Trade Commission (the “FTC”) and, as part of that review process, the DOJ has the authority to determine, and is currently undertaking a comprehensive review of, the competitive issues related to the Medicare Advantage market; and

**WHEREAS**, the standards used by the Director in reviewing the proposed change of control of the Illinois Domestic Companies are materially different from those used by the U.S. Department of Justice and the Office of the Illinois Attorney General in reviewing the Proposed Acquisition, including the application and use of the DOJ – FTC Merger Guidelines. The information available to the Department in conducting its review may also be materially different than that available to the U.S. Department of Justice and the Office of the Illinois Attorney General; and

**WHEREAS**, based upon currently available market share data reviewed by the Department, the Proposed Acquisition, if effectuated, does not appear to lessen or diminish competition in other lines of health insurance business transacted in our State; and

**WHEREAS**, the Director has jurisdiction of the subject matter pursuant to Sections 131.1 through 131.30 of the Illinois Insurance Code (215 ILCS 5/131.1 - 5/131.30), and

**WHEREAS**, the information filed in the Form A statement adequately demonstrates that the statutory conditions of Section 5/131.8 of the Illinois Insurance Code (215 ILCS 5/131.8) have either been met or will not be violated.

*<<Remainder of Page Intentionally Blank>>*

**IT IS THEREFORE ORDERED**, pursuant to Sections 131.8 and 401 of the Illinois Insurance Code, as follows:

The Proposed Acquisition, as described by the terms and conditions of the Form A filing are hereby approved, subject to the following conditions:

1. Since the U.S Department of Justice continues to examine the Proposed Acquisition the approval granted by this Order is conditional and shall not become effective or be acted upon by the parties to the Proposed Acquisition unless and until the applicable waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, expire or are terminated and all applicable approvals from the States and the federal government are otherwise received.
2. Prior to the closing of the Proposed Acquisition contemplated by this Form A statement, any material changes to any transaction documents or business plans represented and submitted as part of this matter shall require the prior approval of the Director.
3. The Director shall receive prior written notice of any changes that will materially alter the market share percentages of the Illinois Medicare Advantage market that are required by any federal or state agency in order to approve the Proposed Acquisition.
4. The Director shall receive written notice of the closing of the Proposed Acquisition within five (5) business days after the closing date.

Nothing in this Order shall be construed nor does it in any manner whatsoever constrain, limit, prevent or supersede any federal or state agency, including the U.S. Department of Justice and the Office of the Illinois Attorney General, in any investigation of findings involving matters within the scope of review for such agency, or any action or investigation taken as a result of any such investigation or findings, with respect to the transactions contemplated by the Proposed Acquisition.

DEPARTMENT OF INSURANCE  
of the State of Illinois;

DATE: June 23, 2016

  
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Anne Melissa Dowling  
Acting Director

