

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE ACQUISITION OF ) ORDER APPROVING  
CONTROL OF CARECORE NJ, LLC BY ) ACQUISITION  
MEDSOLUTIONS HOLDINGS, INC. )

I have read the Hearing Officer's report dated 11-25, 2014 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 MedSolutions Holdings, Inc. to acquire control of CareCore NJ, LLC.

11-25-14  
Date

K.E. Kobylowski  
Kenneth E. Kobylowski  
Commissioner

STATE OF NEW JERSEY  
DEPARTMENT OF BANKING AND INSURANCE

IN THE MATTER OF THE ACQUISITION OF )	
CONTROL OF CARECORE NJ, LLC BY )	HEARING OFFICER'S
MEDSOLUTIONS HOLDINGS, INC. )	REPORT

Procedural History

In accordance with N.J.S.A. 17:27A-2, by a filing dated November 3, 2014, MedSolutions, Holdings, Inc. (“MS Holdings” or “the applicant”) filed with the Department of Banking and Insurance (“the Department”) an application to acquire control (“the Form A filing”) of CareCore NJ, LLC (“CareCore ODS” or “the ODS”), a New Jersey-domiciled stock corporation licensed as an Organized Delivery System (“ODS”).<sup>1</sup> CareCore ODS is wholly-owned by CareCore National, LLC, (“CareCore National”) which in turn is wholly-owned by CareCore National Holdings, LLC, which is 43 percent owned by General Atlantic LLC (“GA”). This transaction is part of another transaction by which GA is acquiring control of Triad Healthcare New Jersey IPA, Inc. (“Triad”), a New Jersey-domiciled ODS owned by MedSolutions, Inc. (“MSI”), which is wholly-owned by MS Holdings. CareCore ODS was formed in January 2005 and commenced business on March 1, 2005.

Pursuant to N.J.S.A. 17:27A-2d, a public hearing was held on the Form A filing on November 14, 2014. Pursuant to N.J.A.C. 11:1-35.6(g), the public hearing was conducted based on the documents filed. The hearing panel and Department staff determined that the documents filed in connection with the proposed acquisition satisfied the requirements of N.J.S.A. 17:27A-2b. Public comments were allowed to be submitted through the close of business on November

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<sup>1</sup> Pursuant to N.J.S.A. 17:48H-16a, a licensed ODS organized under the laws of this State is treated as a domestic insurer for purposes of the Insurance Holding Company Systems Act, N.J.S.A. 17:27A-1 et seq.

24, 2014. No comments were received. No other documents were required and the record was closed on November 24, 2014.

#### Findings of Fact

MS Holdings is a Delaware corporation formed on October 26, 2010 to serve as a holding company for MSI, a Tennessee-domiciled corporation, incorporated on July 28, 1995, that is both a certified ODS and a licensed third-party administrator in New Jersey. MSI provides medical necessity determinations for high technology imaging on behalf of insurers and health maintenance organizations. Triad is also currently owned by MS Holdings and provides utilization management decisions for musculoskeletal and chiropractic services. Approximately 80 percent of the applicant's voting securities are currently owned by certain investment funds: (i) investment funds affiliated with TA Associates, Inc. (approximately 40.9 percent); (ii) MedCare Investment Fund II, Ltd (approximately 27.0 percent); and (iii) Ridgemont Partners Secondary Fund I LP (approximately 12.7 percent). In addition, James R. Leininger, who is a founder and partner of the MedCare Investment Funds, along with his family, collectively own approximately 9.8 percent of the applicant's voting securities independent of the approximate 27.0 percent owned by MedCare Investment Fund II, Ltd. No other person or entity owns 10 percent or more of the voting securities of MS Holdings.

After the contemplated merger and related transactions (together, "the merger"), CareCore National ultimately will be owned as follows: (i) 60 percent by CareCore National Holdings, LLC, which will remain majority-owned by entities affiliated with GA; and (ii) 40 percent by the MedSolutions Group, which collectively includes MS Holdings, MS CCN Holdings, LLC ("MS CCN"), a newly-formed holding entity, and certain current MedSolutions

stockholders and optionholders, who will cease to hold direct interests in the applicant as of the closing of the merger (“the Former Equityholders”).

CareCore National Holdings, LLC and MedSolutions Group will own their interests in CareCore National, LLC indirectly through a newly formed entity, CareCore National Group, LLC. The applicant and its 100 percent owned operating subsidiary, MSI, are being acquired by CareCore National, LLC pursuant to a transaction merger agreement dated September 13, 2014 and subject to a separate Form A filing. The applicant will become a 100 percent owned subsidiary of CareCore National, LLC. The current CareCore ownership structure was approved by the Department pursuant to Order No. A14-104, dated March 6, 2014. The control of Triad under its current ownership structure was approved by the Department pursuant to Order No. A13-112, dated November 19, 2013.

As a result of the merger, investment entities associated with TA Associates, which are Former Equityholders of the applicant, will receive between 13.9 percent and 16.4 percent indirect ownership of CareCore ODS. As a result of the merger, MedCare Investment Fund II, Ltd., another Former Equityholder of the applicant, will receive between 9.2 percent and 14.7 percent indirect ownership in CareCore ODS. No other Former Equityholder will hold a 10 percent or greater voting interest in CareCore ODS.

Subsequent to the proposed merger, the applicant will be owned by CareCore National, LLC, a subsidiary of CareCore National Group, LLC, which will be owned 40 percent by MS Holdings. MS Holdings is ultimately owned by the Former Equityholders. Subsequent to the merger, the CareCore National Group, LLC will be indirectly controlled 40 percent by the Former Equityholders of MSI through its control of MS CCN Holdings, LLC. CareCore National Group LLC will be owned 60 percent by CareCore National Holdings LLC, which is

ultimately controlled by GA. Accordingly, the Former Equityholders of MSI will retain 40 percent indirect control of Triad and will acquire indirect 40 percent control of CareCore ODS.

The applicant stated that it has no plans or proposals for CareCore ODS to declare any extraordinary dividends as part of the merger transactions although MedSolutions equity and stock option holders will receive a portion of the value in cash proceeds. The applicant also stated that it has no plans to sell the ODS's assets or to merge it with any person or persons or to make any other material change in its business operations or corporate structure or management. The applicant stated that it is a long-term investor and intends to grow the business of MSI and the CareCore National entities and to keep current management and corporate structure in place.

The total consideration allocable to CareCore ODS is \$5.6 million. The consideration will be derived from cash and units of CareCore National Group, LLC issued to TA Associates, MedCare and the other Former Equityholders in connection with the acquisition of MS Holdings and MSI by CareCore National, LLC. No debt will be incurred in paying the consideration for the acquisition.

Based on the consolidated financial statements filed by the applicant, MSI had shareholders' equity of approximately \$70.4 million in 2013; \$40.7 million in 2012; and \$39.3 million in 2011. In addition, MSI had net-before tax income of approximately \$50.8 million in 2013 and \$58.1 million in 2012.

#### Analysis

N.J.S.A. 17:27A-2d(1) provides that the Commissioner shall approve an acquisition of control of a domestic insurer unless he or she finds that one or more of the seven disqualifying factors set forth therein exist. The statute provides in pertinent part:

(1) The Commissioner shall approve any merger or other acquisition of control ... unless, after a public departmental hearing thereon, he [or she] finds that:

(i) After the change of control the domestic insurer ... would not be able to satisfy the requirements for the issuance of a license to write the line or lines of insurance for which it is presently licensed;

(ii) The effect of the merger or other acquisition of control would be substantially to lessen competition in insurance in this State or tend to create a monopoly therein ... [applying the competitive standard as set forth in the statute];

(iii) The financial condition of any acquiring party is such as might jeopardize the financial stability of the insurer, or prejudice the interest of its policyholders;

(iv) The financial condition of any acquiring party is such that (a) the acquiring party has not been financially solvent on a generally accepted accounting principles basis, or if an insurer, on a statutory accounting basis, for the most recent three fiscal years immediately prior to the date of the proposed acquisition (or for the whole of such lesser period as such acquiring party and any predecessors thereof shall have been in existence); (b) the acquiring party has not generated net before-tax profits from its normal business operations for the latest two fiscal years immediately prior to the date of acquisition (or for the whole of such lesser period as such acquiring party and any predecessors thereof shall have been in existence); or (c) the acquisition debt of the acquiring party exceeds 50 percent of the purchase price of the insurer;

(v) The plans or proposals which the acquiring party has to liquidate the insurer, sell its assets or consolidate or merge it with any person, or to make any other material change in its business or corporate structure or management, are unfair and unreasonable to policyholders of the insurer and not in the public interest;

(vi) The competence, experience and integrity of those persons who would control the operation of the insurer are such that it would not be in the interest of policyholders of the insurer and of the public to permit the merger or other acquisition of control; or

(vii) The acquisition is likely to be hazardous or prejudicial to the insurance buying public.

Upon a thorough review of the documents submitted into evidence, the hearing panel and Department staff have determined that none of the seven disqualifying factors set forth above

should result if the proposed acquisition is effectuated. Each of these conditions is discussed below.

First, after the acquisition, the ODS will continue to meet the requirements to transact the business for which it is presently licensed pursuant to Title 17 of the New Jersey Statutes. CareCore ODS was formed in January 2005, commenced business in New Jersey on March 1, 2005, and is currently licensed and in good standing. There is nothing in the record to indicate that after the proposed acquisition the ODS would not be able to continue to satisfy the requirements to transact the business for which it is presently licensed.

Second, it does not appear that the acquisition of the ODS will substantially lessen competition in the New Jersey insurance market or tend to create a monopoly therein. N.J.S.A. 17:27A-2d(1)(ii) provides that in applying this competitive standard, the standard set forth in N.J.S.A. 17:27A-4.1d shall apply. That statute utilizes a complex formula based on the market shares of the insurers involved in the transaction. In the present matter, based on the countrywide data available (for 2013) at the time of the filing, the applicant and its subsidiaries, and the ODS and its affiliates, do not compete in any lines of business in New Jersey. The relevant service provided by Triad ODS is musculoskeletal. CareCore ODS provides solely radiological services. The statute by its terms does not apply if, as an immediate result of the acquisition, there would be no increase in the overall market share of the involved insurers after the acquisition. See N.J.S.A. 17:27A-4.1b(2)(d). As the applicant and ODS do not compete in New Jersey, there would be no increase post-acquisition in the market share of the involved insurers in the New Jersey insurance market. Accordingly, the acquisition will not violate the complete standard set forth in N.J.S.A. 17:27A-4.1. Thus, it does not appear that the

acquisition of the ODS will substantially lessen competition in New Jersey or tend to create a monopoly therein.

Third, it does not appear that the financial condition of the applicant will jeopardize the financial condition of the ODS. As reported in the applicable financial statements filed by the applicant, MSI had shareholders' equity of approximately \$70.4 million in 2013; \$40.7 million in 2012; and \$39.3 million in 2011.

Fourth, it appears that the financial condition of the applicant is such that it has been solvent on a generally accepted accounting principles basis for the three-year period immediately prior to the date of the proposed acquisition. As set forth above, based upon the filing the applicant had substantial shareholders' equity for the most recent three years, indicating it has been in a sound and viable financial condition for the relevant period. Also, MSI had net before-tax income of approximately \$50.8 million in 2013 and \$58.1 million in 2012. Finally, no debt will be incurred by the applicant in connection with the proposed acquisition. Accordingly, the requirement that the acquisition debt may not exceed 50 percent of the purchase price is satisfied.

Fifth, the applicant does not propose to liquidate the ODS or sell its assets. As set forth above, the applicant intends to retain the ODS's existing staff and continue its current operations.

Sixth, there is nothing in the record from which it may be concluded that the competence, experience and integrity of the persons who will control the operations of the ODS are such that it would not be in the interest of the policyholders and of the public to permit the acquisition of control. The persons who will serve as officers and directors of the ODS are those presently in those positions with the ODS or the applicant. In addition, the persons who will control the ODS have had substantial experience in the healthcare insurance services business.




Seventh, there is nothing in the record from which it may be concluded that the acquisition is likely to be hazardous or prejudicial to the insurance buying public for the reasons set forth above.

Recommendation

Based on the foregoing analysis, the hearing panel and Department staff recommend that the proposed acquisition be approved.

Upon a thorough review of the foregoing, I concur with the findings, analysis and recommendations of the hearing panel and Department staff. I therefore recommend that the proposed acquisition be approved.

11/25/14  
Date

  
Jonathan Cuttler  
Hearing Officer

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## **EXHIBITS LIST**

In the Matter of the Acquisition of Control of CareCore NJ, LLC by MedSolutions Holdings, Inc.

### **Form A Hearing on the Papers November 24, 2014**

The following documents were submitted into the record on behalf of MedSolutions Holdings, LLC pursuant to its application to acquire control of CareCore, NJ, LLC:

- DOBI 1 - Form A filing dated November 3, 2014, together with Exhibits A(1)-(3), B(1)-(5), C, D(1)-(2), including pre and post organizational charts, NAIC Biographical Affidavits, Transaction and Merger Agreement dated September 13, 2014 by and among CareCore National Holdings, LLC, CareCore National Intermediate Holdings, LLC, CareCore National, LLC, Charlie Merger Sub, Inc., MedSolutions Holdings, Inc., TA Associates Management, L.P., General Atlantic (CC) LLC, and General Atlantic Partners 93, L.P., Financial Statements For MedSolutions, Inc. for the years ending December 31, 2009, December 31, 2010, December 31, 2011, December 31, 2012 and December 31, 2013, as well as financial statements for MedSolutions Holdings, Inc. for the years ending December 31, 2010, December 31, 2011, December 31, 2012 and December 31, 2013.
- DOBI 2 – November 12, 2014 letter from Cynthia Borrelli, Esq. of Bressler, Amery and Ross, waiving the requirement of a 20-day notice to MedSolutions, Holdings, Inc.
- DOBI 3 – November 12, 2014 letter from Joseph Kempf, Esq. of Epstein, Becker and Green waiving the requirement of a 20-day notice to CareCore NJ, LLC.
- DOBI 4 – Affidavits of publication from the Star Ledger, Asbury Park Press and Trenton Times confirming publication at least 7 days in advance of the hearing date of the hearing that is the subject of this acquisition

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