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Department of Insurance
State of Idaho

**BEFORE THE DIRECTOR OF THE DEPARTMENT OF INSURANCE
OF THE STATE OF IDAHO**

In the Matter of:

GOVERNMENT EMPLOYEES MEDICAL
PLAN

Idaho Registration No. 3823

Docket No. 18-3150-16

**ORDER ADOPTING REPORT
OF EXAMINATION AS OF
DECEMBER 31, 2013**

The Idaho Department of Insurance (Department), having conducted an examination of the books, records, accounts, and affairs of Government Employees Medical Plan (GemPlan), pursuant to Idaho Code §§ 41-4113 and 41-219(1), hereby alleges the following facts that constitute a basis for issuance of an order, pursuant to Idaho Code §§ 41-4113(3) and 41-227(5)(a), adopting the Report of Examination of Government Employees Medical Plan as of December 31, 2013 (Report), as filed.

FINDINGS OF FACT

1. GemPlan is an Idaho-domiciled joint public agency self-funded health care plan,

which was duly registered with the Department on September 25, 2007, under Registration No. 3823.

2. The Department completed an examination of GemPlan, pursuant to Idaho Code §§ 41-4113 and 41-219(1), on or about February 1, 2016. The Department's findings are set forth in the Report, which covers the time period from January 1, 2009, through December 31, 2013.

3. Pursuant to Idaho Code § 41-227(4), a copy of the Report, verified under oath by the Department's examiner-in-charge, was submitted to the Director of the Department (Director), and a copy of such verified Report was transmitted to GemPlan on February 1, 2016. A copy of the verified Report is attached hereto as Exhibit A.

4. Pursuant to Idaho Code § 41-227(4), GemPlan had thirty (30) days from February 1, 2016, to make a written submission or rebuttal with respect to any matters contained in the Report. GemPlan submitted a response to the Department on March 1, 2016, taking exception with certain comments and recommendations of the examiner and requesting that they be rejected or modified. A copy of GemPlan's March 1, 2016, response is attached hereto as Exhibit B.

5. In GemPlan's submission by and through its attorney, GemPlan and Mutual Insurance Associates, Inc. (MIA) disagree with the Comments and Recommendations in Item No. 3 of the Report, which states that GemPlan should ensure that it contracts with a manager that is licensed as a third party administrator (TPA) as provided under chapter 9, title 41, Idaho Code.

CONCLUSIONS OF LAW

6. Idaho Code § 41-227(5)(a) provides that "[w]ithin thirty (30) days of the end of the period allowed for the receipt of written submissions or rebuttals, the director shall fully

consider and review the report, together with any written submissions or rebuttals and relevant portions of the examiner's work papers" and shall enter an order adopting the report of examination as filed or with modifications or corrections;

7. Having fully considered the Report and GemPlan's written submission, the Director concludes that the comments and recommendations contained in the Report are appropriate except as provided herein;

8. With regard to GemPlan's disagreement with Item No. 3 of the Report as noted in paragraph no. 5 above, the Director concludes that if an administrator functions strictly as an administrator as defined in section 41-4102(2), Idaho Code, the administrator need not be licensed as a TPA in accordance with chapter 9, title 41, Idaho Code; however,

9. The Director further concludes that if an administrator of a joint public agency self-funded health care plan with self-funded coverage, in addition to its function as an administrator as defined in section 41-4102(2), Idaho Code, directly or indirectly underwrites, collects charges or premiums from or adjusts or settles claims on residents in this state, the administrator is required to be licensed as a TPA in accordance with chapter 9, title 41, Idaho Code.

ORDER

NOW, THEREFORE, based on the foregoing, IT IS HEREBY ORDERED that the Report of Examination of Government Employees Medical Plan as of December 31, 2013, is hereby ADOPTED as filed, pursuant to Idaho Code § 41-227(5)(a).

IT IS FURTHER ORDERED, pursuant to Idaho Code §§ 41-4113(3) and 41-227(8), that the adopted Report is a public record and shall not be subject to the exemptions from disclosure provided in title 74, chapter 1, Idaho Code.

IT IS FURTHER ORDERED, pursuant to Idaho Code § 41-227(6)(a), that, within thirty (30) days of the issuance of the adopted Report, GemPlan shall file with the Department's Deputy Chief Examiner affidavits executed by each of its directors stating under oath that they have received a copy of the adopted Report and related orders.

IT IS SO ORDERED.

DATED this 31 day of March, 2016.

STATE OF IDAHO
DEPARTMENT OF INSURANCE


DEAN L. CAMERON
Director

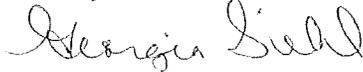
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on this 31st day of March, 2016, I caused a true and correct copy of the foregoing ORDER ADOPTING REPORT OF EXAMINATION AS OF DECEMBER 31, 2013 to be served upon the following by the designated means:

Todd Lakey, Esq.
Borton-Lakey Law and Policy
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- first class mail
- certified mail
- hand delivery
- email

Counsel for Government Employees Medical Plan



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- certified mail
- hand delivery
- email

DEPARTMENT OF INSURANCE

STATE OF IDAHO



REPORT OF EXAMINATION

Of

GOVERNMENT EMPLOYEES MEDICAL PLAN

(a joint public agency self-funded healthcare plan)

as of

December 31, 2013



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Boise, ID
December 31, 2015

The Honorable Dean L. Cameron
Director of Insurance
State of Idaho
700 West State Street
P.O. Box 83720
Boise, Idaho 83720-0043

Dear Director Cameron:

Pursuant to your instructions, in compliance with Idaho Code § 41-219 (1), and in accordance with the practices and procedures promulgated by the National Association of Insurance Commissioners (NAIC), we have conducted an examination as of December 31, 2013, of the financial condition and corporate affairs of:

Government Employees Medical Plan
1575 Baldy Avenue
Pocatello, Idaho 83201

Hereinafter referred to as the "GemPlan" or "Plan", at its offices in Pocatello, ID. The following report of examination is respectfully submitted.

SCOPE OF EXAMINATION

Period Covered

We have performed our single state examination of Government Employees Medical Plan. This examination covers the period from January 1, 2009 to December 31, 2013.

Examination Procedures Employed

Our examination was conducted in accordance with Sections 41-219(1) and 41-4113(1), Idaho Code. Due to the nature of the Plan, the examination was not conducted as a risk-focused examination; however, key exhibits from the NAIC *Financial Condition Examiners Handbook* were utilized and customized as appropriate for this examination.

The GemPlan retained the services of a certified public accounting firm, Rudd & Company to audit its financial records for the years under examination. The firm has provided audit services to the GemPlan since its inception in September 2007. The examiner was provided with access to requested work papers prepared in connection with its audits. The external audit work was relied upon where deemed appropriate.

All accounts and activities of the Plan were considered during the examination process. The initial phase of the examination focused on evaluating the GemPlan's corporate governance and control environment, as well as business approach, in order to develop an examination plan tailored to the Plan's individual operating profile.

Interviews were held with the Chair of the Board of Trustees and key management personnel of the general manager, Mutual Insurance Associates, Inc. (MIA), to gain an understanding of the entity's operating profile and control environment.

The examination relied on the findings of the actuarial firm Taylor-Walker & Associates, Inc. contracted by the Department to verify rate calculation and reserves.

Status of Prior Examination Findings

Our examination included a review to determine the current status of the thirteen (13) conditions commented upon in the preceding Report of Examination, dated May 19, 2009 which covered the period from September 25, 2007 to December 31, 2008. We determined that the Company had not satisfactorily addressed eleven (11) of those exception conditions.

SUMMARY OF SIGNIFICANT FINDINGS

Our examination did not disclose any material adverse findings or any adjustments that impacted the Company's reported surplus.

SUBSEQUENT EVENTS

Following is a summary of significant events that occurred subsequent to December 31, 2013 and prior to the report date:

A Memorandum of Understanding (MOU) and a Joint Powers Agreement (JPA) were entered into on July 25, 2014, effective October 1, 2014, between Canyon County and the GemPlan. According to the MOU, Canyon County will not contribute funds or participate in the GemPlan Trust Fund, but will maintain its own trust fund and retain its own surpluses and losses. See *Summary of Recommendations, Item #1* for recommendations regarding Canyon County.

PLAN HISTORY

The Plan was registered as a joint public agency self-funded health care plan under Title 41, Chapter 41, Idaho Code, effective September 25, 2007. The Plan was formed during 2002, prior to statutory guidance being in place for self-funded counties, by county commissioners approving and signing joint powers agreements (JPAs) in accordance with Title 67, Chapter 23, Idaho Code. Self-funded medical, dental, and vision benefits are provided to eligible employees of participating Idaho counties and their eligible dependents. GemPlan benefits are funded by contributions from the participating counties and, if so provided, eligible employees.

The GemPlan started operation in 2004 with five subscriber counties and approximately 400 members. As of December 31, 2013, twenty subscriber counties have signed JPAs and there are approximately 4,000 beneficiaries. This status has remained relatively unchanged since the prior exam. GemPlan designates counties as either large or small counties. Small counties pool their resources and share in claims whereas large counties pay only their own claims as incurred. As of December 31, 2013, there was one large county participating in the Plan, Bannock County, with the remaining nineteen counties classified as small counties.

PLAN RECORDS

The Plan is operated in accordance with the terms of the JPA's and Trust Agreement's in place with the participating counties. Management of the Plan is delegated to a board of trustees made up of up to thirteen elected public officials of participating counties, no more than seven (7) of whom shall be county commissioners and no more than six (6) of whom shall hold elective office in other political subdivisions. There are currently seven (7) trustees on the board, six (6) which

are county commissioners and one (1) county clerk. The meetings of the Board of Trustees (Trustees) were conducted on a quarterly basis for all the years under examination. Terms are for two (2) years and there is no limit to terms a Trustee may serve. The Chair is appointed by the Trustees. Minutes of the meetings were detailed and included discussion and approval of investments, financial statements and legal matters regarding the Trust.

MANAGEMENT AND CORPORATE GOVERNANCE

Trustees

The Bylaws authorize up to thirteen (13) Trustees. There were seven (7) trustees serving as of December 31, 2013. Biographical affidavits have not been completed or submitted to the Department for new trustees since inception. See *Summary of Recommendations, Item #2*.

The following persons served as trustees as of December 31, 2013.

Name / County/District

Bill Brown, Chair
Adams County Commission Chairman
District 3

Seth Beal
Butte County Commission Chairman
District 6

Vaughn Rasmussen
Bear Lake County Commission Chairman
District 5

Robert Moore
Minidoka County Commission Chairman
District 4

A. Ladd Carter
Bingham County Commission Chairman
Member At Large

Don Ebert
District 2
Clearwater County Commission Chairman

Glenda Poston
Boundary County Clerk
District 1

Conflict of Interest

The trustees did not have procedures in place which required persons having responsibility for the management of the Trust to disclose conflicts of interest.

Bylaws

Review of the GemPlan's bylaws noted they do not mention the appointment and the role of its general manager that runs its operations. In addition, it was noted that frequency of Board Meetings is not addressed and that there is a maximum number of Trustees indicated (13), but not a minimum. See *Summary of Recommendations, Item #2*.

Contracts and Agreements

The GemPlan had the following agreements in effect at December 31, 2013:

General Manager Agreement

Effective October 1, 2003, the GemPlan entered into a general manager agreement with Mutual Insurance Associates, Inc. (MIA). Under this agreement, MIA agrees, under the direction of the board of trustees, to manage the day-to-day business functions of the GemPlan. Ms. Barbara Steele is the owner of MIA who is responsible to manage the affairs of the GemPlan. See *Summary of Recommendations, Item #3*, for recommendations made regarding this agreement.

Administrative Services Agreement

The GemPlan entered into an administrative services agreement with Blue Cross of Idaho Health Service, Inc. (BCI) effective October 1, 2006, which renews annually. In this agreement, BCI agrees to provide general claims administrative services and benefit payment services to the GemPlan. In return, the GemPlan agrees to pay BCI a monthly administrative fee based on per enrollee, per month. Administrative fees are outlined in Appendix A of the agreement. Additional administrative fees are charged for behavioral health management services, dental care benefit plan and vision care benefit plan per enrollee, per month. Bannock County pays additional administrative fee for Nurseline per enrollee per month. There are additional fees for run-out of claims services and reports. See *Stop Loss Coverage* section for discussion of specific and aggregate excess loss coverage.

Joint Powers Agreements

Each participating county executed a joint powers agreement (JPA) with the GemPlan pursuant to the provisions of Sections 67-2326 through 67-2333, Idaho Code relating to the joint exercise of powers among political subdivisions of the State of Idaho for the purpose of operating a separate legal entity to be known as the Government Employees Medical Plan (GemPlan). The original JPA was approved by the Board of Trustees and, subsequently, by the Department through the registration process effective September 25, 2007. Subsequent revisions were made and approved

by the Board of Trustees, but not by the Department. See *Summary of Recommendations, Item #1* for further discussion and recommendations regarding the JPAs.

Other Agreements and Contracts

The General Manager (MIA) was not able to provide agreements or engagement letters for IT services, legal services and underwriting services, which are provided to the Plan and included within the monthly administrative fees. Details of service fees and other financial transactions paid by MIA is not reflected in the books and records of GemPlan. The minutes of the Board of Trustees do not clearly indicate the annual review and approval of service providers and related agreements for services indirectly provided to the Plan as part of the administrative fee and paid for by the General Manager.

Signed agreements could not be produced timely as several agreements had not been properly executed, including the BCI Administrative Services Agreement, Rocky Mountain EAP Agreement and the Consulting Actuary Agreement. In addition, the Agent Service Agreement for Boundary Co. with Pace/Kerby could not be located.

See *Summary of Recommendations, Item #4* for further discussion and recommendations regarding Other Agreements and Contracts.

FIDELITY BONDS AND OTHER INSURANCE

Insurance coverage for the protection of the GemPlan was maintained through the period under examination. Coverages in effect as of December 31, 2013 included property, general liability and employee dishonesty. The coverage provided met the requirements specified in Section 41-4114, Idaho Code. The insurance company providing coverage to the Plan was licensed or otherwise authorized in the State of Idaho.

The general manager also maintained a fidelity coverage bond, professional liability and crime coverage during the exam period.

TERRITORY AND PLAN OF OPERATION

The GemPlan was registered with the Idaho Department of Insurance as a joint public agency self-funded health care plan on September 25, 2007 and Certificate of Registration Number 3823 was granted to the GemPlan to transact business in the State of Idaho. Operations of the GemPlan are performed at the general manager's office in Pocatello, Idaho.

During the period under examination, the following counties participated in the GemPlan: Adams, Bannock, Bear Lake, Bingham, Boise, Boundary, Butte, Caribou, Clark, Clearwater, Custer, Gem, Lemhi, Lincoln, Minidoka, Owyhee, Payette, Power, Valley, and Washington.

Bannock County and Canyon County (see *Subsequent Events*) are classified as large counties but self-fund only their own benefits. See *Summary of Recommendations, Item #1* for recommendations regarding these two large, self-insured counties.

GROWTH OF THE PLAN

The growth of the Plan since inception, as taken from the audited financial statements is shown in the following table:

	2013*	2012	2011	2010	2009	2008*
Assets	\$10,658,813	8,484,206	7,383,263	5,378,592	4,309,449	3,346,383
Liabilities	\$ 2,680,984	2,643,468	2,105,486	1,711,916	2,840,832	5,192,813
Net Assets/Surplus	\$ 7,977,829	5,840,738	5,277,777	3,666,676	1,468,617	(1,846,430)
Change in Net Assets/Surplus	\$ 2,137,091	562,961	1,611,101	2,198,059	3,315,047	(364,293)

* As determined by Examination

STOP LOSS COVERAGE

The Administrative Services Agreement with Blue Cross of Idaho Health Service, Inc. (BCI) provides for stop loss coverage. In the agreement, BCI agrees to provide specific excess loss coverage for each agreement period for claims exceeding \$125,000 for a monthly fee per beneficiary. In addition, aggregate excess loss coverage is provided for a fee per beneficiary per month for covered services that exceed the aggregate excess loss amount. The aggregate excess loss amount equals the sum of the aggregate loss factor times the number of beneficiaries for each month of the agreement period (1 year).

ACCOUNTS AND RECORDS

General Accounting

The GemPlan's accounting records and financial reports are produced and maintained by its general manager's accounting and information systems. Review of the accounting records

indicated that the prior examination adjustments were not made to the Plan's financial statements. See *Summary of Recommendations, Item #2*.

As of December 31, 2013 and subsequent, the GemPlan does not have an annual budget that includes projected and actual benefits paid and detailed expenses affecting contribution rates. It was also noted that the Plan does not have a written investment policy and procedures or guidelines. See *Summary of Recommendations, Item #2*.

Independent Accountants

The annual independent audits of the Plan for all years under examination were performed by Rudd & Company, CPA's, Rexburg, Idaho. The financial statements for each year were on the GAAP basis. There was some reliance placed on the 2013 audit work papers.

Actuarial Certification

Actuarial certifications were prepared for each year under examination by Carlton Harker, FSA, MAAA, of Actuarial Work-Products, Inc., Winston-Salem, North Carolina.

The Incurred but not Reported (IBNR) liability indicated by Mr. Harker's actuarial certification as of December 31, 2013 was \$2,037,052. This amount agreed with the IBNR liability presented in the December 31, 2013 audited financial statements.

The examining actuary determined that the Actuarial Certification submitted with GemPlan's December 31, 2013 Financial Statements meets regulatory requirements.

FINANCIAL STATEMENTS

The financial section of this report contains the following statements:

Balance Sheet as of December 31, 2013

Statement of Revenues and Expenses for the year ending December 31, 2013

Reconciliation of Examination Changes as of December 31, 2013

Reconciliation of Net Assets for the exam period

Balance Sheet
As of December 31, 2013

	<u>Per Trust</u>	<u>Examination Adjustments</u>	<u>Per Examination</u>
<i><u>Assets</u></i>			
Cash and cash equivalents	\$ 8,999,197		\$ 8,999,197
Bannock County receivable	1,010,979		1,010,979
Receivable from other counties	261,729		261,729
Prepaid Expenses	266,908		266,908
Rebate Receivable	120,000		120,000
	\$		
Total Assets	<u>10,658,813</u>	<u>\$ -</u>	<u>\$ 10,658,813</u>
 <i><u>Liabilities & Net Assets/Surplus</u></i>			
<i><u>Liabilities</u></i>			
IBNR Liability (Note 1)	\$ 2,037,052		\$ 2,037,052
Claims Payable	238,760		238,760
Unearned County Payments	330,441		330,441
Administration Payable	74,731		74,731
Total Liabilities	2,680,984	-	2,680,984
<i>Trust Fund Surplus (Note 2)</i>	7,977,829		6,675,748
<i>Surplus Note</i>			1,302,081
Total Trust Fund Surplus	7,977,829		7,977,829
Total Liabilities & Net Assets/Surplus	<u>\$ 10,658,813</u>	<u>\$ -</u>	<u>\$ 10,658,813</u>

Statement of Revenues and Expenses
For the Year Ending December 31, 2013

	<u>Per Plan</u>	<u>Examination</u> <u>Adjustments</u>	<u>Per</u> <u>Examination</u>
<i>Operating Revenues</i>			
Payments from counties	\$ 20,406,487		\$ 20,406,487
Formulary Rebates	126,449		126,449
	<hr/>		
Total Revenues	\$ 20,532,936	\$ -	\$ 20,532,936
 <i>Operating Expenses</i>			
Claims Expense	\$ 12,453,478		\$ 12,453,478
Service fees/Stop loss	3,026,776		3,026,776
IBNR Liability Expense	2,037,052		2,037,052
General Overhead	844,370		844,370
EAP expenses	32,311		32,311
ACA costs	1,858		1,858
	<hr/>		
Total Expenses	\$ 18,395,845	\$ -	\$ 18,395,845
	<hr/>		
<i>Net Income</i>	\$ 2,137,091	\$ -	\$ 2,137,091

Reconciliation of Examination Changes
To the Balance Sheet
As of December 31, 2013

As indicated below, there were no changes to surplus as a result of this examination.

Net Assets/Trust Fund Surplus per Plan, December 31, 2013	\$ 7,977,829
Net increase/(decrease) in Surplus	<u>0</u>
Net Assets/Trust Fund Surplus per Examination December 31, 2013	<u>\$ 7,977,829</u>

Reconciliation of Net Assets/Surplus
December 31, 2008 through December 31, 2013

	<u>2009</u>	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013*</u>
Net Assets/Surplus, End of Previous Year	\$(1,846,430)	\$1,468,617	\$3,666,676	\$5,277,777	\$5,840,738
Prior exam adjustments not booked (Note 3)	1,024,766				
Net Income (Loss)	<u>\$ 2,290,281</u>	<u>\$2,198,059</u>	<u>\$1,611,101</u>	<u>\$ 562,961</u>	<u>\$2,137,091</u>
Net Assets/Surplus, End of Year	<u>\$ 1,468,617</u>	<u>\$3,666,676</u>	<u>\$5,277,777</u>	<u>\$5,840,738</u>	<u>\$7,977,829</u>

* Per Examination

NOTES TO FINANCIAL STATEMENTS

Note 1 – IBNR Liability \$ 2,037,052

The captioned liability as of December 31, 2013 was examined by Taylor-Walker & Associates, Inc., examining actuary for the Idaho Department of Insurance. The result of the actuarial review and analysis indicates that the Trust's IBNP claims liability as of December 31, 2013 is reasonable.

Note 2 – Net Assets/Trust Fund Surplus \$ 7,977,829

The results of this examination disclosed that as of December 31, 2013, the Plan had assets of \$10,658,813, liabilities of \$2,680,984, and a surplus note of \$1,302,081. Net assets/trust fund surplus were \$7,977,829.

The principal amount of the surplus note has 0% interest rate per annum and is subject to and subordinate to policyholders, to claimant and beneficiary claims and to all other classes of creditors other than surplus note holders of GemPlan. No part of the principal will be paid or is payable on demand and no installment of principal shall come due and payable without the approval of the Director. Payments or any portions thereof shall only be paid out of the Plan's surplus in excess of the unpaid principal balance of the note and accrued interest as calculated on the basis of a 365-day year and applied to the actual number of days elapsed.

Note 3 – Prior examination adjustments that were not booked

As of 2008 examination IBNR was underestimated in the amount of \$448,133, the administration payable was overstated by \$616,234 total management fees and constructive loan, and Bannock County receivable was overstated by \$39,601. This has been corrected and adjusted as of 2013.

COMMENTS AND RECOMMENDATIONS

The following recommendations were made as a result of the examination:

1. Joint Powers Agreement

Our examination included a review of the JPA signed by counties participating in the Plan. We noted there were several versions of JPA. GemPlan does not have one uniform JPA.

Idaho Code §41-4105 (2) (a) requires upon registration "*...a copy of the joint powers agreement under which the joint public agency self-funded plan will exist and operate...*" Since several versions of the JPA are active with contradicting provisions, there is no one true JPA under which GemPlan will exist and operate, which is necessary for its continued registration. Additionally, GemPlan did not file the various versions of the JPA with the Department of Insurance, as required.

Idaho Code §41-4102 (7) defines joint public agency self-funded plan, or self-funded plan, or plan as "*...any public agency plan established by a joint powers agreement ...*" By this definition, each contradicting version of the JPA establishes a separate joint public agency plan. By not having one single JPA, GemPlan is not operating exclusively as a joint public agency self-funded plan but as an administrator for several separate self-funded plans.

Recommendation:

It is recommended that the Plan work with the Department as they create a joint powers agreement compliant with the code.

2. Accounts, Books and Records

Our examination noted some records were not kept or were not completely maintained as required by Idaho Code §41-4111 (1). Details are further described in the management letter.

Pursuant to Idaho Code §41-4111 (1) "*...the board of a joint public agency self-funded plan shall cause full and accurate records and accounts to be entered and maintained covering all financial transactions and affairs of the trust fund...*"

Recommendation:

It is recommend that the Plan enter and maintain complete and accurate records and accounts covering all financial transactions and affairs of the trust fund.

3. Agreement with Mutual Insurance Associates, Inc. (MIA)

We reviewed the management agreement between GemPlan and Mutual Insurance Associates, Inc. and noted the following:

- a.) The functions that MIA performs according to the agreement, specifically underwriting and collection of contributions; demonstrates the activities and responsibilities of a Third Party Administrator (TPA) as defined in Idaho Code §41-901 (1).
- b.) At least two county members of the JPA do not pool assets and risks with the rest of the members of the group and, therefore, are charged management fees by MIA differently than what was stipulated in the agreement. These charges are not included in the current MIA agreement with GemPlan.
- c.) Based upon current practices versus the agreement with MIA, it is unclear what expenses are paid for by MIA as part of the management fees.
- d.) The Plan was originally created under Idaho Code Title 41, Chapter 40. As of July 1, 2006, legislation created Title 41, Chapter 41, which applies to joint powers authority plans. The Plan became registered with the Department on September 25, 2007. The agreement did not reflect this change.

Recommendation:

We recommend that GemPlan ensure that it is contracting with a manager properly licensed to operate as a third party administrator in the State of Idaho as required by chapter 9, title 41, Idaho Code, when that manager is handling funds for GemPlan. Additionally, the contract with a manager should require the manager to keep accurate and complete records of all transactions related to GemPlan expenses. During the term of the management contract, the manager shall retain the control and custody of GemPlan records; however, per Idaho Code §41-4111 (1), all such records shall be the property of, and fully accessible to, GemPlan. The board of a joint public agency self-funded plan shall cause full and accurate records and accounts to be entered and maintained covering all financial transactions and affairs of the trust fund.

Pursuant to Idaho Code §41-4107 (3) ...the trust fund of a joint public entity self-funded plan shall have power to contract in its own name...all such contracts in writing shall be signed by the chairman of the board or his or her designee. It is, therefore, additionally recommended that the contract between GemPlan and MIA be revised and updated to ensure that management fees and its frequency and manner of collection be clearly described. Expenses included in the management fees should also be detailed.

Any new agreement or changes to existing agreements should be filed with the Department for its review prior to the effective date of the agreement, in order for the Department to determine that GemPlan is in compliance with the requirements for registration. Proper code citations should also be included in the agreements filed with the Department.

Finally, it is recommended that GemPlan ensure that its manager promptly provide to the Idaho Department of Insurance and its examiners all contracts, transactional and other information that the manager holds separately from the records of GemPlan when that information is related to the books, records, accounts, affairs, or other factors materially related to the plan's management and operation pursuant to Idaho Code §41-4113.

4. Other Agreements and Contracts

The General Manager (MIA) was not able to provide certain agreements or engagement letters for contracts involving services provided to GemPlan. Some of the agreements were not properly executed and are not approved by the Board of Trustees.

Recommendation:

In compliance with Idaho Code §§41-4107, 41-4111 (1), and 41-4113, we recommend the GemPlan contract in its own name, in writing and submit the contracts to the Department for review prior to their effective date including revisions to the Joint Powers Agreement (JPA) so the DOI can ensure that new contracts and amendments or any changes to existing contracts are in compliance with registration requirements. All contracts must be in writing and a complete and properly executed copy of all contracts must be maintained in the records of the GemPlan. We also recommend that the GemPlan engage exclusively in transactions authorized or required by Chapter 41, Title 41, Idaho Code, or reasonably incidental thereto. The full and accurate details of transactions must be reflected in the books, accounts and records of the GemPlan. A clear record of all expenses as a result of these service agreements and contracts must be reviewed and approved by the Board of Trustees and available to the Actuary for purposes of calculating rates.

Additionally, all acts, resolutions, appointments, authorizations to transact, delegation of ministerial duties or all other activities of the Trust shall be authorized only by the Board of Trustees, and complete and accurate minutes of the meetings of the Board of Trustees or actions taken outside of a meeting of the Board of Trustees, shall be maintained in the records of the board of Trustees.

Finally, all of the books, records, accounts and affairs of a joint public agency self-funded plan should be available for examination to determine financial matters and other information materially related to the plan's management and operation.

ACKNOWLEDGEMENT

Scott S. Garduno, FSA, MAAA of Taylor-Walker & Associates, Inc., performed the actuarial phases of the examination. Hermoliva B. Abejar, CFE, of the Idaho Department of Insurance supervised the examination. They join the undersigned in acknowledging the assistance and cooperation extended during the course of the examination by representatives of the Trust.

Respectfully submitted,

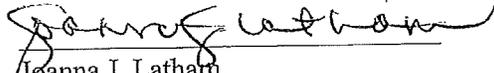


Joanna J. Latham, CFE, AFE, CPA, CISA, CRISC
Examiner-in-Charge
Representing the Idaho Department of Insurance

AFFIDAVIT OF EXAMINER

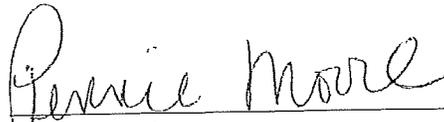
State of Georgia
County of Fayette

Joanna J. Latham, being duly sworn, deposes and says that he is a duly appointed Examiner for the Department of Insurance of the State of Idaho, that he has made an examination of the affairs and financial condition of GOVERNMENT EMPLOYEES MEDICAL PLAN for the period from January 1, 2009 through December 31, 2013, that the information contained in the report consisting of the foregoing pages is true and correct to the best of his knowledge and belief; and that any conclusions and recommendations contained in this report are based on the facts disclosed in the information.



Joanna J. Latham,
Jennan Enterprises, LLC
On behalf of Idaho Department of Insurance

Subscribe and sworn to before me the 1st day of February, 2016, at Fayetteville, Georgia.


Notary Public

My Commission Expires: Jan. 21, 2018

BORTON - LAKEY
LAW AND POLICY

141 E. CARLTON AVE., MERIDIAN, IDAHO 83642

(208) 908-4415 (OFFICE) (208) 493-4610 (FAX)

March 1, 2016

Joanna J. Latham, Financial Analyst
Department of Insurance
700 West State Street, 3rd Floor
Boise, Idaho 83720

Re: Response to Examiner's Report dated February 1, 2016.

Dear Ms. Latham,

On behalf of the GemPlan I would like to submit this response to the Examiner's report dated February 1, 2016.

The Board and staff are aware of the requirements of Idaho Code Section 41-4115 and do not have prohibited pecuniary interests. Although not required by code, it is good practice to have Board members and management staff be reminded of their obligations under the code and complete a conflict of interest form. The GemPlan provided the previously executed forms completed by the Board in 2014 to you as the Examiner.

Bylaws typically deal with the internal functions of the Board itself. The ability to hire contract staff is set forth in Article X of the JPA and the General Manager ("GM") is specifically referenced in Article VIII of the JPA. The JPA in Article IX references one meeting per year to certify election results. Although the code does not require it, the GemPlan will add a reference to the GM and the annual meeting in the Bylaws

GemPlan goes through an annual revenue and expense analysis and projection as part of its budget and rate setting process. GemPlan regularly reviews its financials. GemPlan will prepare a separate written budget report and provide a copy to the Department. GemPlan is very limited in the types of investments it can make under Idaho Code Section 41-4109 and GemPlan follows the code. GemPlan's financial condition is exemplary.

GemPlan recognizes the need to standardize and update the JPA and will do so. The few variances in the JPA's were not intended to nor does the language contained therein have the effect of creating separate entities. GemPlan was in the process of updating its agreements prior to the examination and will complete that process in the near future.

GemPlan's financial records are complete, compliant and accurate.

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STATE OF IDAHO
DEPT OF INSURANCE



GemPlan will update its written agreement with Mutual Insurance Associates ("MIA") to reflect the parties' current relationship. GemPlan contracts with Blue Cross of Idaho for its third party administrator ("TPA") services.

GemPlan consulted with legal counsel for MIA as to whether MIA was a TPA regarding its relationship with GemPlan. Gem Plan and MIA disagree with the Comments and Recommendations, Item #3 of the Examiner's report regarding the Management Agreement between the Gem Plan and MIA.

Idaho Code §41-4101 applies to the Gem Plan as a Joint Public Agency Self-Funded Health Care Plan. Idaho Code §41-4103 requires registration of the plan with the director in order to operate. Idaho Code §41-4103(3) provides as follows:

"41.4103. Registration required – Exemptions – Not subject to insurance code.

....
(3) Plans while so registered shall not be engaged in the business of insurance and shall not be subject to provisions of the Idaho insurance code except as expressly provided in this chapter."

(Emphasis supplied).

Idaho Code §41-4121 provides as follows:

"41-4121. Other provisions applicable. – Chapter 2, title 41, Idaho Code (the director of the department of insurance); chapter 13, title 41, Idaho Code (trade practices and frauds), and sections 41-2141(1) and 41-2216(1), Idaho Code (coordination of benefits, except to the extent the rules pertain to medicare coverage), to the extent applicable and not in conflict with the express provisions of this chapter, shall also apply with respect to joint public agency self-funded plans, and for the (sic) purpose such plans shall be deemed to be "insurers."

(Emphasis supplied).

Idaho Code §41-901 et. seq. (cited by the Examiner) and §41-4001 et. seq. are not included as applicable chapters. Idaho Code §41-4102(1), applicable to joint public agency self-funded plans, provides as follows:

"41-4102. Definitions. – As used in this chapter:

(1) "Administrator" means a person, other than a board member, employed by the board to administer a joint public agency self-funded plan.

(8) "Person" means any individual, corporation, association, firm, syndicate, organization or other entity."

(Emphasis supplied).

Idaho Code §41-4114(2) and (3) provide as follows:

"41-4114. Board of trustees – Administrators. –

....
(2) An individual, firm or corporation may be an administrator of a plan.

(3) The board shall cause all individuals handling receipts and disbursements for the trust fund to be covered under a dishonesty insurance policy or surety bond...".

MIA is employed by the Board pursuant to the Management Agreement and is duly covered under a dishonesty insurance policy.

In contrast, Idaho Code §41-4014(4) applicable to self-funded employer plans, added in 2013, specifically requires a TPA for such plans as follows:

"41-4014. Trustees – Administrators – Bonding.

(4) Any administrator that is retained by a self-funded plan must be licensed and bonded as an administrator pursuant to chapter 9, title 41, Idaho Code."

Idaho Code §41-4114, enacted in 2006, was not similarly amended in 2013 to require a TPA for a "Public Agency".

In addition, the Examiner incorrectly relied upon the definition of "Administrator" in Idaho Code §41-901(1) enacted in 2010, which definition is "[F]or the purposes of this chapter" i.e. Chapter 9 of Title 41. The definition of "Administrator" applicable to a "Public Agency" is Idaho Code §41-4102(1).

The rule making authority of the Director pursuant to Idaho Code §41-211(1) does not authorize the Director to "extend, modify or conflict with any law of this state or the reasonable implications thereof." See also, Idaho Code §44-4120.

The Comments and Recommendations of the Examiner regarding MIA's functions and that the "manager be properly licensed to operate as a third party administrator in the State of Idaho"... are not legally supported and contrary to the above provisions of law applicable to a "Public Agency". The management arrangement and functions of MIA pursuant to the Management Agreement were reviewed as set forth in the Report of Examination as of December 31, 2008 (Report) of the Gem Plan. Nothing has changed statutorily since the prior Report to support the Comments and Recommendations in the Examiner's report, Item #3.

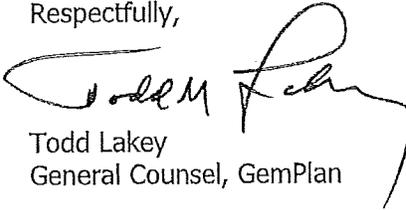
GemPlan requests that the Comments and Recommendations, Item #3 be rejected or modified pursuant to Idaho Code §41-227(5).

Idaho Code Section 41-4107 states that in addition to the inherent applicable powers of its public agency members and those of a joint powers entity, GemPlan shall have the power to contract in its own name. The power to decide when and with whom to contract resides in the GemPlan Board. The GemPlan has chosen to use a single contract with MIA for general manager services for a fee. As General Manager MIA employs, subcontracts and/or covers the

cost of other staff and consultants that provide services used by GemPlan. The GemPlan Board contracts separately with its legal counsel/executive director. GemPlan is not required to contract separately with every person or entity that may provide benefit to GemPlan. GemPlan is satisfied with the contractual approach with its General Manager and will maintain that methodology.

Thank you for the opportunity to respond and GemPlan looks forward to continuing its historic positive relationship with the Department.

Respectfully,

A handwritten signature in black ink, appearing to read "Todd Lakey". The signature is fluid and cursive, with a large loop at the end of the last name.

Todd Lakey
General Counsel, GemPlan