

BEFORE THE INSURANCE COMMISSIONER  
OF THE  
COMMONWEALTH OF PENNSYLVANIA

In Re:	:	Pursuant to Sections 1401, 1402,
	:	and 1403 of the Insurance
Application of Express Scripts Insurance	:	Holding Companies Act, Article
Company and Medco Containment Life	:	XIV of the Insurance Company
Insurance Company Requesting	:	Law of 1921, Act of May 17, 1921,
Exemption from the Requirements of 40	:	P.L. 682, <u>as amended</u> , 40 P.S.
P.S. §991.1402 for the Merger of Express	:	§§991.1401, 991.1402, and
Scripts Insurance Company with and into	:	991.1403
Medco Containment Life Insurance	:	
Company	:	Order No. ID-RC-15-19

DECISION AND ORDER

AND NOW, on this 6<sup>th</sup> day of November, 2015, Stephen J. Johnson, Deputy Insurance Commissioner of the Commonwealth of Pennsylvania (“Deputy Commissioner”), hereby makes the following Decision and Order:

Pursuant to the Insurance Holding Companies Act and in consideration of the documents, presentations and reports received, as well as other inquiries and studies as permitted by law, the Deputy Commissioner hereby makes the following findings of fact:

FINDINGS OF FACT

Identity of Entities

1. Medco Containment Life Insurance Company (“MCLIC”) is a domestic stock life insurance company organized under the laws of the Commonwealth of Pennsylvania with its principal place of business in Harrisburg, Pennsylvania.
2. Express Scripts Insurance Company (“ESIC”) is a foreign stock life insurance company organized under the laws of the State of Arizona with its principal place of business in Tempe, Arizona.
3. Express Scripts Holding Company, Inc. (“ESHC”) is a business corporation organized under the laws of the State of Delaware with its principal place of business located in St. Louis, Missouri. MCLIC and ESIC are indirect wholly-

owned subsidiaries of ESHC.

4. ESHC is the ultimate controlling person of MCLIC and ESIC.

#### Filing of the Application

5. On July 17, 2015, the Insurance Department of the Commonwealth of Pennsylvania (“Department”) received an initial request (which together with all material received subsequently is collectively referenced as “Application”) from ESIC and MCLIC (collective “Applicants”) for approval to merge ESIC with and into MCLIC with MCLIC being the survivor (the “Merger”).
6. The Insurance Holding Companies Act, Article XIV of the Insurance Company Law of 1921, Act of May 17, 1921, P.L. 682, as amended, 40 P.S. §§991.1401 et seq. (“Insurance Holding Companies Act”), provides that all mergers or other acquisitions of control of domestic insurers must be filed with the Department for approval or disapproval.
7. The Application was filed pursuant to Section 1402 of the Insurance Holding Companies Act.
8. Section 1402(g) of the Insurance Holding Companies Act provides for the exemption from the requirements of Section 1402(b) if the transaction does not:
  - a) have the effect of changing or influencing the control of a domestic insurer, or
  - b) is otherwise not comprehended within the purposes of the section.

#### Notice and Filing of Comments

9. On August 1, 2015, the Department published notice in the *Pennsylvania Bulletin* that the Application had been submitted by ESIC and MCLIC and such notice invited interested persons to submit comments to the Department regarding the Application for a 15-day period, ending August 16, 2015.
10. The Department received no comments regarding the proposed merger.

#### The Transaction

11. As described in the Application, an Agreement and Plan of Merger (“Merger Agreement”) was adopted by the sole shareholder of ESIC and by the board of directors of ESIC on July 9, 2015.

12. As described in the Application, the Merger Agreement was adopted by the sole shareholder of MCLIC and by the board of directors of MCLIC on July 9, 2015.
13. The Merger Agreement provides for ESIC to merge with and into MCLIC, with MCLIC being the surviving corporation.
14. Applicants executed the Merger Agreement on November 3, 2015.
15. As described in the Application, upon the effective date of the merger, MCLIC shall acquire all of the assets of ESIC and assume all of the debts and other liabilities of ESIC.
16. As described in the Application, the articles of incorporation and by-laws of MCLIC in effect immediately prior to the merger shall be the articles of incorporation and by-laws of MCLIC upon the effective date of the merger.
17. As described in the Application, the members of the board of directors and the officers of MCLIC prior to the merger shall be the members of the board of directors and the officers of MCLIC after the merger.
18. As described in the Application, each share of ESIC common stock issued and outstanding or owned by ESIC (as treasury stock or otherwise) immediately prior to the effective date of the merger shall be cancelled and retired without consideration.
19. As described in the Application, each share of MCLIC common stock issued and outstanding immediately prior to the effective date shall remain issued and outstanding and be unaffected by the merger.
20. As described in the Application, ESHC will remain the sole ultimate controlling person of MCLIC upon the effective date of the merger.
21. The Deputy Commissioner finds that the transaction described in the Application will not result in a change of control of a Pennsylvania domiciled insurer.
22. If any of the above Findings of Fact are determined to be Conclusions of Law, they shall be incorporated in the Conclusions of Law as if fully set forth therein.

#### CONCLUSIONS OF LAW

1. Under Section 1402 of the Insurance Holding Companies Act, the Department has jurisdiction to review and approve the merger of ESIC with and into MCLIC.

2. Under Section 1402(g) of the Insurance Holding Companies Act, the Department shall exempt a merger from the requirements of Section 1402 if the merger does not have the effect of changing or influencing the control of a domestic insurer.
3. Pursuant to Section 1402(g) of the Insurance Holding Companies Act, the Deputy Commissioner concludes that the proposed merger does not change the ultimate controlling person of the parties to the merger and, therefore, is exempt from the requirements of the Insurance Holding Companies Act.
4. The Application was properly filed pursuant to and in accordance with Section 1402(g) of the Insurance Holding Companies Act.
5. The Application satisfies the requirements of the Insurance Holding Companies Act.
6. If any of the above Conclusions of Law are determined to be Findings of Fact, they shall be incorporated in the Findings of Fact as if fully set forth therein.

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Medco Containment Life Insurance	:	
Company	:	Order No. ID-RC-15-19

ORDER

Upon consideration of the foregoing, the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania, hereby makes the following Order:

An approving determination for the application of Express Scripts Insurance Company (“ESIC”) and Medco Containment Life Insurance Company (“MCLIC”) requesting exemption from the requirements of 40 P.S. §991.1402 for the merger of ESIC with and into MCLIC, is hereby granted subject to this Order and the following conditions:

1. An approving determination must be granted by the Arizona Department of Insurance, before the Statement of Merger is filed with the Pennsylvania Department of State. A certified copy of the Arizona Department of Insurance approval shall be provided to the Deputy Commissioner within three (3) business days of receipt by ESIC.
2. MCLIC shall file a copy of the Statement of Merger, as filed with and stamped as received by the Pennsylvania Department of State, with the Deputy Commissioner within ten (10) days of receipt from the Pennsylvania Department of State.
3. This transaction may be recorded as effective for accounting purpose as of the first day of the calendar quarter in which the merger is consummated.

This Order is effective immediately and valid for one (1) year from the date of signature, provided there are no significant changes from the Application.



STEPHEN J. JOHNSON  
Deputy Insurance Commissioner  
Office of Corporate and Financial Regulation

