

ANTHEM INC
Form 8-K
November 24, 2004

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

FORM 8-K

CURRENT REPORT

Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): November 24, 2004 (November 19, 2004)

ANTHEM, INC.

(Exact name of registrant as specified in its charter)

Indiana
(State or other jurisdiction
of incorporation)

001-16751
(Commission File Number)

35-2145715
(IRS Employer
Identification No.)

120 Monument Circle

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Indianapolis, IN 46204

(Address of principal executive offices) (Zip Code)

Registrant's telephone number, including area code: (317) 488-6000

N/A

(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01. Entry into a Material Agreement.

On November 19, 2004, Anthem, Inc. (the Company or Anthem) entered into (i) a 364-Day Credit Agreement, dated as of November 19, 2004, among the Company, the financial institutions from time to time party thereto, Bank of America, N.A., as Administrative Agent, JPMorgan Chase Bank, as Syndication Agent, UBS Loan Finance LLC and Goldman Sachs Credit Partners L.P., as Co-Documentation Agents and Banc of America Securities LLC and J.P.Morgan Securities Inc., as Joint Lead Arrangers and Joint Book Managers, under which Anthem can borrow up to \$1.0 billion (the 364-Day Credit Agreement) and (ii) a 5-Year Credit Agreement, dated as of November 19, 2004, among the Company, the financial institutions from time to time party thereto, Bank of America, N.A., as Administrative Agent, JPMorgan Chase Bank, as Syndication Agent, UBS Loan Finance LLC and Goldman Sachs Credit Partners L.P., as Co-Documentation Agents and Banc of America Securities LLC and J.P.Morgan Securities Inc., as Joint Lead Arrangers and Joint Book Managers, under which Anthem can borrow up to \$1.5 billion (the 5-Year Credit Agreement) and, together with the 364-Day Credit Agreement, the Permanent Credit Facilities). The Company entered into the Permanent Credit Facilities (i) in connection with the pending merger (the Merger) between WellPoint Health Networks Inc., a Delaware corporation (WellPoint) and the Anthem Holding Corp., an Indiana corporation and a wholly-owned subsidiary of the Company (Anthem Holding), pursuant to the Amended and Restated Agreement and Plan of Merger, effective as of October 26, 2003 (the Merger Agreement), among WellPoint, the Company and Anthem Holding, (ii) to replace Anthem's existing 364-day credit facility and existing 5-year credit facility and (iii) for general corporate purposes. Although the Permanent Credit Facilities are dated as of November 19, 2004, the closing (and initial funding thereunder) is expected to occur no more than two days prior to the date of the consummation of the Merger. All of the obligations of the Company under each of the Permanent Credit Facilities will be guaranteed by Anthem Holding, which will be the surviving entity in the Merger.

Anthem will have cash requirements of approximately \$4.0 billion for the Merger, including both the cash portion of the purchase price and transaction costs. As of October 31, 2004, Anthem had \$1.2 billion of cash, cash equivalents and investments. As previously disclosed in the Form 8-K filed with the Securities and Exchange Commission (SEC) by Anthem on November 19, 2004, Anthem entered into a Loan Agreement (the Loan Agreement) initially in the principal amount of \$3 billion, which has been reduced to \$1.5 billion upon effectiveness of the Permanent Credit Facilities. Anthem intends to obtain permanent or long-term financing for part of the cash portion of the merger consideration through a combination of (1) issuance of commercial paper and/or borrowings of up to \$2.5 billion under the Permanent Credit Facilities; and (2) the issuance of up to \$2.0 billion of long-term debt securities. The ultimate mix of commercial paper, bank debt and long-term debt securities will be determined based on market conditions and other financial factors.

The Permanent Credit Facilities contain certain conditions to the Company's ability to incur loans thereunder, including conditions related to (1) the absence of any change, occurrence or development since December 31, 2003 that could reasonably be expected to have a material adverse effect; (2) the receipt of all government, shareholder and third party consents and approvals necessary in connection with the transaction; (3) the absence of any action, suit, investigation or proceeding pending or, to the knowledge of the Company or Anthem Holding,

threatened in any court or before any arbitrator or governmental authority that could reasonably be expected to have a material adverse effect or that involve either Permanent Credit Facility; (4) the Company's long-term unsecured non-credit enhanced debt not being rated less than Baa3 by Moody's and BBB by S&P; (5) the delivery of evidence that, after giving pro forma effect to the Merger, the total debt to capital ratio of the Company is not more than 40% and that the aggregate amount of liquidity available to the Company is not less than \$500 million; (6) evidence that the final terms and conditions of each aspect of the Merger are materially consistent with the description thereof previously delivered to the lenders under the Permanent Credit Facilities or otherwise reasonably satisfactory to such lenders; (7) except for the filing of the certificate of merger with respect to the Merger and certain conditions set forth in the Merger Agreement that are to be satisfied on or immediately prior to the effective date of the Merger, all conditions for the effectiveness of the Merger have been satisfied; and (8) such other conditions that are customary for a transaction of this nature.

Loans incurred under the Permanent Credit Facilities bear interest at a rate per annum at the option of the Company of either (i) the eurodollar rate (as in effect from time to time for the relevant interest period) plus an applicable margin (1) in the case of the 5-Year Credit Agreement, ranging from 0.220% to 0.800% and (2) in the case of the 364-Day Credit Agreement, ranging from 0.235% to 0.825% (or from 0.360% to 0.950% if the final maturity thereof is extended as described below), in each case, based upon the debt rating of the Company's senior unsecured long term debt or (ii) a base rate option. The respective final maturities of the Permanent Credit Facilities, are (x) in the case of the 364-Day Credit Agreement, 364 days from the date upon which the conditions to closing of the 364-Day Credit Agreement have been satisfied, with ability to extend such final maturity at the option of the Company (so long as no default or event of default is in existence) for a period of one year from the final maturity date and (y) in the case of the 5-Year Credit Agreement, five years from such date upon which the conditions to closing of the 5-Year Credit Agreement have been satisfied. In addition, the initial loans incurred under the Permanent Credit Facilities will become due within two days of the incurrence of such loans if the Merger has not been consummated within such time. The Permanent Credit Facilities contain customary affirmative covenants for transactions of this nature regarding, among other things, the Company's use of proceeds, delivery of financial and other information to the lenders, maintenance of records, compliance with law, maintenance of property and insurance and conduct of business. The Permanent Credit Facilities also contain certain customary negative covenants for transactions of this nature limiting the ability of the Company and/or its subsidiaries to, among other things, make investments and purchases, enter into transactions with affiliates, incur debt, acquire or dispose of assets, and which require the Company to maintain a minimum net worth and maintain a maximum total debt to capital ratio. The foregoing restrictions are subject to certain customary exceptions for transactions of this nature. The Permanent Credit Facilities include events of default (and related remedies, including acceleration of the loans made thereunder) usual for facilities of this type, including payment default, covenant default (including breaches of the covenants described above), material inaccuracy of representations and warranties, bankruptcy and involuntary proceedings, change of control, default under other agreements and judgment default. Many of the defaults are subject to certain materiality thresholds and grace periods consistent with transactions of this nature.

The agents and the lenders under the Permanent Credit Facilities and their affiliates have provided, and future lenders under the Permanent Credit Facilities may provide, various investment banking, other commercial banking and/or financial advisory services to Anthem for which they have received, and will in the future receive, customary fees. Some of such services provided to Anthem are described in the Form 8-K filed with the SEC by Anthem on November 19, 2004. In addition, Goldman, Sachs & Co., an affiliate of one of the co-documentation agents, acted as Anthem's financial advisor in connection with the Merger and has provided certain investment banking services to Anthem from time to time, which are more fully described in Amendment No. 1 to the Form S-4 (Registration No. 333-110830) filed with the SEC by Anthem on May 11, 2004 in connection with the Merger. The agents and the lenders under the Permanent Credit Facilities also act as agents and/or lenders under the Loan Agreement described above.

Each of the 364-Day Credit Agreement and the 5-Year Credit Agreement are attached hereto as Exhibit 10.1 and Exhibit 10.2, respectively, and are incorporated herein by reference. The above summary is qualified in its entirety by reference to Exhibit 10.1 and Exhibit 10.2 attached hereto.

Item 9.01. Financial Statements, *Pro Forma* Financial Information and Exhibits.

(c) Exhibits.

<u>Exhibit No.</u>	<u>Exhibit</u>
10.1	364-Day Credit Agreement, dated as of November 19, 2004
10.2	5-Year Credit Agreement, dated as of November 19, 2004

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

Dated: November 24, 2004

ANTHEM, INC.

By: /s/ David R. Frick

Name: David R. Frick

Title: Chief Legal and Administrative Officer

EXHIBIT INDEX

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