
Section 1: DEFA14A (FORM 8-K)

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: November 17, 2016
(Date of earliest event reported: November 16, 2016)

UNIVERSAL AMERICAN CORP.
(Exact Name of Registrant as Specified in its Charter)

Delaware
(State or Other Jurisdiction
of Incorporation)

001-35149
(Commission
File Number)

27-4683816
(I.R.S. Employer
Identification No.)

44 South Broadway, White Plains, New York
(Address of Principal Executive Offices)

10601
(Zip Code)

(914) 934-5200
(Registrant's telephone number, including area code)

Not Applicable
(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:

- 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 5.03 Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year

On November 16, 2016, the Board of Directors of Universal American Corp. (the “Company”), approved a forum selection amendment to the Company’s Bylaws (the “Bylaw Amendment”), effective immediately prior to entry into the Merger Agreement (as defined below). The Bylaw Amendment provides that unless the Company consents in writing to the selection of an alternative forum, the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Company, (b) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer or, to the fullest extent permitted by law, employee or agent of the Company to the Company or the Company’s stockholders, or a claim of aiding and abetting any such breach of fiduciary duty, (c) any action asserting a claim arising pursuant to any provision of the Delaware General Corporation Law, the Company’s Certificate of Incorporation or Bylaws, or (d) any action asserting a claim governed by the internal affairs doctrine shall be the Court of Chancery of the State of Delaware (or if the Court of Chancery in the State of Delaware lacks subject matter jurisdiction over any such action or proceeding, the sole and exclusive forum for such action or proceeding shall be another state or federal court located within the State of Delaware). Further, the Bylaw Amendment provides that any person who, or entity that, holds, purchases or otherwise acquires an interest in stock of the Company shall be deemed to have consented to the personal jurisdiction of such courts.

The descriptions of the changes in the Amended Bylaws contained in this Current Report on Form 8-K are qualified in their entirety by reference to the full text of the Amended Bylaws, a copy of which is attached hereto as Exhibit 3.1 and incorporated herein by reference.

Item 8.01 Other Events

On November 17, 2016, the Company and WellCare Health Plans, Inc. (“WellCare”) issued a joint press release announcing they have entered into an Agreement and Plan of Merger (the “Merger Agreement”), dated as of November 17, 2016, by and among the Company, WellCare and Wind Merger Sub, Inc. (a wholly owned subsidiary of WellCare). A copy of the press release is attached hereto as Exhibit 99.1 and is incorporated herein by reference.

Additional Information and Where to Find It

This filing may be deemed to be solicitation material in respect of the transaction. In connection with the transaction, Universal American plans to file with the SEC and furnish to Universal American’s shareholders a proxy statement and other relevant documents. BEFORE MAKING ANY VOTING DECISION, UNIVERSAL AMERICAN’S SHAREHOLDERS ARE URGED TO READ THE PROXY STATEMENT IN ITS ENTIRETY WHEN IT BECOMES AVAILABLE AND ANY OTHER DOCUMENTS TO BE FILED WITH THE SEC IN CONNECTION WITH THE MERGER OR INCORPORATED BY REFERENCE IN THE PROXY STATEMENT BECAUSE THEY WILL CONTAIN IMPORTANT INFORMATION ABOUT THE MERGER AND THE PARTIES TO THE MERGER. Universal American’s shareholders will be able to obtain a free copy of documents filed with the SEC at the SEC’s website at <http://www.sec.gov>. In addition, Universal American’s shareholders may obtain a free copy of Universal American’s filings with the SEC from Universal American’s website at <http://www.universalamerican.com> or by directing a request to Universal American at Universal American, 44 South Broadway, Suite 1200, White Plains, NY 10601-4411.

Participants in the Solicitation

The directors, executive officers and certain other members of management and employees of Universal American and the directors, executive officers and certain other members of management and employees of WellCare may be deemed “participants” in the solicitation of proxies from shareholders of Universal American in favor of the transaction. Information regarding the persons who may, under the rules of the SEC, be considered participants in the solicitation of the shareholders of Universal American in connection with the transaction will be set forth in the proxy statement and other relevant documents to be filed with the SEC. You can find information about Universal American’s executive officers and directors in Universal American’s Annual Report on Form 10-K for the fiscal year ended December 31, 2015 and in Universal American’s definitive proxy statement filed with the SEC on Schedule 14A. You can find information about WellCare’s executive officers and directors in WellCare’s Annual Report on Form 10-K for the fiscal year ended December 31, 2015 and in WellCare’s definitive proxy statement filed with the SEC on Schedule 14A.

Cautionary Statement Regarding Forward-Looking Statements

This report and oral statements made from time to time by executive officers of WellCare or Universal American may contain “forward-looking” statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, and the Private Securities Litigation Reform Act of 1995, known as the PSLRA. Such statements that are not historical facts are hereby identified as forward-looking statements and intended to be covered by the safe harbor provisions of the PSLRA and can be identified by the use of the words “believe,” “expect,” “predict,” “project,” “potential,” “estimate,” “anticipate,” “should,” “intend,” “may,” “will,” and similar expressions or variations of such words, or by discussion of future financial results and events, strategy or risks and uncertainties, trends and conditions in WellCare’s or Universal American’s business and competitive strengths, all of which involve risks and uncertainties.

Many factors could cause actual future events to differ materially from the forward-looking statements in this communication, including but not limited to: (i) the risk that the transaction may not be completed in a timely manner or at all, which may adversely affect WellCare’s business or Universal American’s business and the price of the common stock of WellCare or the common stock of Universal American, (ii) the failure to satisfy the conditions to the consummation of the transaction, including the adoption of the merger agreement by the stockholders of Universal American and the receipt of certain governmental and regulatory approvals, (iii) the parties may be unable to achieve expected synergies and operating efficiencies in the merger within the expected time frames or at all and to successfully integrate Universal American’s operations into those of WellCare, (iv) the transaction may not result in the accretion to WellCare’s earnings or other benefits expected to achieve of the transactions, (v) such integration may be more difficult, time consuming or costly than expected, (vi) revenues following the transaction may be lower than expected, (vii) the occurrence of any event, change or other circumstance that could give rise to the termination of the merger agreement, (viii) the effect of the announcement or pendency of the transaction on WellCare and/or Universal American’s business relationships, operating results, and business generally, risks related to the proposed transaction disrupting current plans and operations of WellCare and/or Universal American and potential difficulties in Universal American’s employee retention as a result of the transaction, (ix) risks related to diverting management’s attention from WellCare and/or Universal American’s ongoing business operations, (x) the outcome of any legal proceedings that may be instituted against WellCare and/or Universal American, its officers or directors related to the merger agreement or the transaction and (xi) the possibility that competing offers or acquisition proposals for Universal American will be made.

Where, in any forward-looking statement, WellCare, Universal American or their respective members of management expresses an expectation or belief as to future results or actions, there can be no assurance that the statement of expectation or belief will result or be achieved or accomplished. WellCare’s and Universal American’s actual results may differ materially from their respective expectations, plans or projections. Forward-looking statements are only predictions and estimates, which are inherently subject to risks, trends and uncertainties, many of which are beyond WellCare’s and Universal American’s ability to control or predict with accuracy and some of which might not even anticipate. There can be no assurance that we will achieve WellCare’s and Universal American’s expectations and neither WellCare nor Universal American do assume responsibility for the accuracy and completeness of the forward-looking statements. Future events and actual results, financial and otherwise, may differ materially from the results discussed in the forward-looking statements as a result of many factors, including the risk factors described in the risk factor section of WellCare’s and Universal American’s SEC reports, respectively. Other unknown or unpredictable factors could also have material adverse effects on future results, performance or achievements of WellCare and/or Universal American.

All forward-looking statements included in this report are based upon information available to WellCare and Universal American as of the date of the report, and we assume no obligation to update or revise any such forward-looking statements.

Item 9.01 Financial Statements and Exhibits

(d) Exhibits

<u>Exhibit No.</u>	<u>Exhibit</u>
3.2	First Amendment to the Amended and Restated Bylaws of Universal American Corp., effective November 17, 2016
99.1	Press Release, dated November 17, 2016, announcing entry by Universal American Corp., Wellcare Health Plans, Inc. and Wind Merger Sub, Inc. into a merger agreement, dated November 17, 2016.

SIGNATURE

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.

UNIVERSAL AMERICAN CORP.

By: /s/ Tony L. Wolk
Name: Tony L. Wolk
Title: EVP, General Counsel and Secretary

Date: November 17, 2016

EXHIBIT INDEX

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Section 2: EX-3.2 (EXHIBIT 3.2)

EXHIBIT 3.2

AMENDMENT TO AMENDED AND RESTATED BY-LAWS

OF

UNIVERSAL AMERICAN CORP.,
a Delaware corporation

The Amended and Restated By-Laws of Universal American Corp are hereby amended to add a new Article 7, as set forth below:

ARTICLE 7

EXCLUSIVE FORUM

Unless the Corporation consents in writing to the selection of an alternative forum, the sole and exclusive forum for (a) any derivative action or proceeding brought on behalf of the Corporation, (b) any action asserting a claim of breach of a fiduciary duty owed by any current or former director, officer or, to the fullest extent permitted by law, employee or agent of the Corporation to the Corporation or the Corporation's stockholders, or a claim of aiding and abetting any such breach of fiduciary duty, (c) any action asserting a claim arising pursuant to any provision of the DGCL, the Certificate of Incorporation or these By-laws, or (d) any action asserting a claim governed by the internal affairs doctrine shall be the Court of Chancery of the State of Delaware. If the Court of Chancery of the State of Delaware lacks jurisdiction over such action or proceeding, the sole and exclusive forum for such action or proceeding shall be another court of the State of Delaware or, if no court of the State of Delaware has jurisdiction, then the federal district court for the District of Delaware. To the fullest extent permitted by applicable law, any person who, or entity that, holds, purchases or otherwise acquires an interest in stock of the Corporation shall be deemed to have consented to the personal jurisdiction of the Court of Chancery of the State of Delaware (or if the Court of Chancery does not have jurisdiction, another court of the State of Delaware, or if no court of the State of Delaware has jurisdiction, the federal district court for the District of Delaware) in any proceeding brought to enjoin any action by that person or entity that is inconsistent with the exclusive jurisdiction provided for in this By-law. To the fullest extent permitted by applicable law, if any action the subject matter of which is within the scope of this By-law is filed in a court other than as specified above in the name of any stockholder, such stockholder shall be deemed to have consented to (a) the personal jurisdiction of the Court of Chancery of the State of Delaware, another court in the State of Delaware or the federal district court in the District of Delaware, as appropriate, in connection with any action brought in any such court to enforce this By-law and (b) having service of process made upon such stockholder in any such action by service upon such stockholder's counsel in the action as agent for such stockholder.

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Section 3: EX-99.1 (EXHIBIT 99.1)



WELLCARE TO ACQUIRE UNIVERSAL AMERICAN CORP.

*Strengthens Medicare Advantage Business in Key Markets
Positions Company for Growth with Addition of High-Quality Medicare Advantage Plans
Transaction Expected to be Accretive to Earnings*

TAMPA, Fla. and White Plains, NY (Nov. 17, 2016) — WellCare Health Plans, Inc. (NYSE: WCG) and Universal American Corp. (NYSE: UAM) announced today that they have entered into a definitive agreement under which WellCare will acquire Universal American in an all cash transaction valued at \$10.00 per share of common stock. This represents a 34 percent premium to Universal American’s 60-day volume-weighted average closing stock price as of November 16, 2016.

WellCare expects to retire Universal American’s outstanding preferred shares shortly after closing and, in connection with the merger, Universal American’s outstanding convertible notes will become convertible and holders will have the right to require their convertible notes to be repurchased. The proposed price for Universal American’s common shares implies an equity value of approximately \$600 million. With the retirement of Universal American’s preferred shares and its convertible debt, the transaction would be valued at approximately \$800 million. The transaction was approved by the board of directors of WellCare and Universal American. The transaction is expected to be funded through available cash on hand and is expected to close in the second quarter of 2017.

“We are pleased to announce this agreement with Universal American. Their focus on Medicare Advantage makes this transaction a very good strategic fit for WellCare,” said Ken Burdick, WellCare’s CEO. “With approximately 114,000 Medicare Advantage members, and nearly 70 percent enrolled in a 4.0 or higher Star Rating plan, the transaction strengthens WellCare’s Medicare Advantage business in two key local markets—New York and Texas—and gives us a Medicare Advantage presence in Maine. In addition, we intend to leverage their core competency in physician engagement to strategically develop and grow value-based provider relationships.”

“Everyone associated with Universal American has worked tirelessly to bring vibrancy to the Healthy Collaboration® model in which we work closely with our physician partners to improve quality and lower costs for Medicare beneficiaries,” said Richard A. Barasch, Universal American’s Chairman and CEO. “Through this acquisition, WellCare is demonstrating its commitment to this model.”

The acquisition is expected to add approximately 65,000 Medicare Advantage (MA) members in a 4.5-Star plan in Houston-Beaumont, Texas and approximately 14,000 MA members in a 4.0-Star plan in the Northeast, primarily in New York, to WellCare’s Medicare Health Plans membership. In addition, Universal American partners with Accountable Care Organizations (ACO) in 11 states, six of which are WellCare Medicare Advantage markets.

Under the terms of the agreement, Universal American stockholders will receive \$10.00 in cash for each share of Universal American common stock. WellCare expects annual synergies of approximately \$25 million to \$30 million by 2019. The transaction is currently expected to produce \$0.60 to \$0.70 of accretion to WellCare's adjusted earnings per share in the first year after closing and \$0.70 to \$0.80 of accretion in the second year after closing, excluding one-time transaction costs and integration costs. The transaction is subject to approval by Universal American's stockholders and other customary closing conditions, including regulatory approvals.

BofA Merrill Lynch is acting as financial advisor to WellCare. Kirkland & Ellis LLP and Bass, Berry & Sims PLC are acting as legal advisers to WellCare. MTS Health Partners, LP is acting as financial advisor to Universal American. Paul, Weiss, Rifkind, Wharton & Garrison LLP is acting as legal advisor to Universal American.

WellCare's presentation describing the highlights of the transaction can be accessed via the following link: <http://ir.wellcare.com/presentations>.

About WellCare Health Plans, Inc.

Headquartered in Tampa, Fla., WellCare Health Plans, Inc. (NYSE: WCG) focuses exclusively on providing government-sponsored managed care services, primarily through Medicaid, Medicare Advantage and Medicare Prescription Drug Plans, to families, children, seniors and individuals with complex medical needs. The company served approximately 3.8 million members nationwide as of September 30, 2016. For more information about WellCare, please visit the company's website at www.wellcare.com.

About Universal American Corp.

Universal American (NYSE: UAM), through our family of healthcare companies, provides health benefits to people covered by Medicare. We are dedicated to working collaboratively with healthcare professionals, especially primary care physicians, in order to improve the health and well-being of those we serve and reduce healthcare costs. For more information on Universal American, please visit our website at www.UniversalAmerican.com.

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Participants in the Solicitation

The directors, executive officers and certain other members of management and employees of Universal American and the directors, executive officers and certain other members of management and employees of WellCare may be deemed “participants” in the solicitation of proxies from shareholders of Universal American in favor of the transaction. Information regarding the persons who may, under the rules of the SEC, be considered participants in the solicitation of the shareholders of Universal American in connection with the transaction will be set forth in the proxy statement and other relevant documents to be filed with the SEC. You can find information about Universal American’s executive officers and directors in Universal American’s Annual Report on Form 10-K for the fiscal year ended December 31, 2015 and in Universal American’s definitive proxy statement filed with the SEC on Schedule 14A. You can find information about WellCare’s executive officers and directors in WellCare’s Annual Report on Form 10-K for the fiscal year ended December 31, 2015 and in WellCare’s definitive proxy statement filed with the SEC on Schedule 14A.

Cautionary Statement Regarding Forward-Looking Statements

This report and oral statements made from time to time by executive officers of WellCare or Universal American may contain “forward-looking” statements within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended, and the Private Securities Litigation Reform Act of 1995, known as the PSLRA. Such statements that are not historical facts are hereby identified as forward-looking statements and intended to be covered by the safe harbor provisions of the PSLRA and can be identified by the use of the words “believe,” “expect,” “predict,” “project,” “potential,” “estimate,” “anticipate,” “should,” “intend,” “may,” “will,” and similar expressions or variations of such words, or by discussion of future financial results and events, strategy or risks and uncertainties, trends and conditions in WellCare’s or Universal American’s business and competitive strengths, all of which involve risks and uncertainties.

Many factors could cause actual future events to differ materially from the forward-looking statements in this communication, including but not limited to: (i) the risk that the transaction may not be completed in a timely manner or at all, which may adversely affect WellCare’s business or Universal American’s business and the price of the common stock of WellCare or the common stock of Universal American, (ii) the failure to satisfy the conditions to the consummation of the transaction, including the adoption of the merger agreement by the stockholders of Universal American and the receipt of certain governmental and regulatory approvals, (iii) the parties may be unable to achieve expected synergies and operating efficiencies in the merger within the expected time frames or at all and to successfully integrate Universal American’s operations into those of WellCare, (iv) the transaction may not result in the accretion to WellCare’s earnings or other benefits expected to be achieved from the transactions, (v) such integration may be more difficult, time consuming or costly than expected, (vi) revenues following the transaction may be lower than expected, (vii) the occurrence of any event, change or other circumstance that could give rise to the termination of the merger agreement, (viii) the effect of the announcement or pendency of the transaction on WellCare and/or Universal American’s business relationships, operating results, and business generally, risks related to the proposed transaction disrupting current plans and operations of WellCare and/or Universal American and potential difficulties in Universal American’s employee retention as a result of the transaction, (ix) risks related to diverting management’s attention from WellCare and/or Universal American’s ongoing business operations, (x) the outcome of any legal proceedings that may be instituted against WellCare and/or Universal American, its officers or directors related to the merger agreement or the transaction, (xi) the possibility that competing offers or acquisition proposals for Universal American will be made, (xii) WellCare’s progress on top priorities such as improving health care quality and access, ensuring a competitive cost position, and delivering prudent, profitable growth, (xiii) WellCare’s ability to access capital and (xiv) WellCare’s ability to comply with the terms of the Corporate Integrity Agreement.

Where, in any forward-looking statement, WellCare, Universal American or their respective members of management expresses an expectation or belief as to future results or actions, there can be no assurance that the statement of expectation or belief will result or be achieved or accomplished. WellCare's and Universal American's actual results may differ materially from their respective expectations, plans or projections. Forward-looking statements are only predictions and estimates, which are inherently subject to risks, trends and uncertainties, many of which are beyond WellCare's and Universal American's ability to control or predict with accuracy and some of which might not even anticipate. There can be no assurance that we will achieve WellCare's and Universal American's expectations and neither WellCare nor Universal American do assume responsibility for the accuracy and completeness of the forward-looking statements. Future events and actual results, financial and otherwise, may differ materially from the results discussed in the forward-looking statements as a result of many factors, including the risk factors described in the risk factor section of WellCare's and Universal American's SEC reports, respectively. Other unknown or unpredictable factors could also have material adverse effects on future results, performance or achievements of WellCare and/or Universal American.

All forward-looking statements included in this report are based upon information available to WellCare and Universal American as of the date of the report, and we assume no obligation to update or revise any such forward-looking statements.

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