

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman

Pamela Jones Harbour
Jon Leibowitz
William E. Kovacic
J. Thomas Rosch

_____)	
In the matter of)	
)	Docket No. 9315
Evanston Northwestern Healthcare Corporation,)	
a corporation, and)	PUBLIC
)	
ENH Medical Group, Inc.,)	
a corporation)	
_____)	

RESPONDENTS' MOTION FOR LEAVE TO FILE CORRECTED RESPONSE

TO COMPLAINT COUNSEL'S COMMENTS ON PROPOSED FINAL ORDER

Respondents Evanston Northwestern Healthcare ("ENH") timely filed their

November 9, 2007

Respectfully submitted,

Duane M. Kelley
Duane M. Kelley by permission JMD
David E. Dahlquist
Scott C. Walton
WINSTON & STRAWN LLP
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Counsel for Respondent
Evanston Northwestern Healthcare
Corporation and ENH Medical Group,
Inc.

**UNITED STATES OF AMERICA
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Evanston Northwestern Healthcare)	
Corporation,)	
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)	
ENH Medical Group, Inc.,)	
a corporation)	
_____)	

ORDER

Upon consideration of Respondents' Motion For Leave to File Corrected Response to Complaint Counsel's Comments On Proposed Final Order, and any opposition thereto, it is hereby ORDERED that Respondents' motion is hereby GRANTED.

DATED: _____
For the Federal Trade Commission

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served by delivering
copies to:

Office of the Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

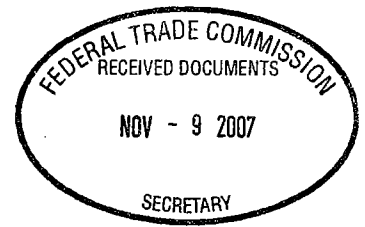
Thomas H. Brock
Federal Trade Commission
601 New Jersey Ave., N.W.
Washington, D.C. 20580

Elizabeth A. Piotrowski
Federal Trade Commission
601 New Jersey Ave., N.W.
Washington, D.C. 20580

Dated: November 9, 2007

David S. [unclear]

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION



Pamela Jones Harbour

William E. Kovacic
J. Thomas Rosch

In the matter of)

Evanston Northwestern Healthcare)
Corporation,)
a corporation, and)

ENH Medical Group, Inc.,)
a corporation)
_____)

Docket No. 9315

PUBLIC

I. Outpatient Services Should Not Be Included In Separate Contracting

Complaint Counsel's attempt to include outpatient services within the scope of the Order contravenes Complaint Counsel's position throughout this litigation because outpatient services were not part of the relevant market in the Complaint, the Initial Decision, or the Commission's Opinion. *See* Comments at 6-7, 14. As the Commission stated, "we conclude that the evidence in the record establishes that the relevant product

Respondents' Submission in Support at 2. Because the Commission found that the competitive harm occurred in a market consisting only of inpatient services, and not a

ENH proposed a definition of the term “payor” that included the entities Complaint Counsel alleged were harmed in this case – commercial managed care organizations (“MCOs”). See Proposed Order at 2; *see also* Submission in Support at 2

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Washington, D.C. 20580

Elizabeth A. Piotrowski
Federal Trade Commission
~~601 New Jersey Ave. N.W.~~

Exhibit
A

BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Deborah Platt Majoras, Chairman

**Jon Leibowitz
William E. Kovacic
J. Thomas Rosch**

In the Matter of)

**EVANSTON NORTHWESTERN HEALTHCARE)
CORPORATION,)**

E. "Person" means any individual, partnership, joint venture, firm, corporation, association, trust, unincorporated organization, joint venture, or other business or

H. "Payor" means a managed care company, its officers, directors, employees, agents,

information.

S. N. "Contract Administration" means the act or acts associated with compliance and implementation of final contract terms, such as payment monitoring, communication of Payor medical and administrative policies, utilization management, liaison to the Business Office, annual updates, and organizing managed care-related budget

information.

T. A. "Contract Measurement System" means software application or other system that

V.

IT IS FURTHER ORDERED that, Respondent shall promptly offer all Payors with which it has a Current/Pre-existing Contract the option of reopening and renegotiating their contracts with ENH under the terms of this Order;

- A. Within thirty (30) days after the date this order becomes final, ENH shall provide all Payors with which it has a Current/Pre-existing Contract notification of this Order and offer the opportunity to negotiate contracts with the Highland Park

Negotiating Team for Inpatient Services for Highland Park for each such contract

Respondent shall *use its best efforts* to give such notifications to the Chief

Executive Officer, the General Counsel, and to the Network Manager of the District

will provide the Pavor with the option to negotiate separately for Innatient

Separate fee for Highland Park - Any Developer electing to negotiate separately for

Inpatient Services at Highland Park - All other services - DPHH of its intent in writing

G. The Corporate Managed Care Department is permitted to use Managed Care Contract Information obtained from both the ENH Negotiating Team and the

H. The Corporate Managed Care Department is prohibited from providing, sharing,

or otherwise making available:

setting forth in detail the manner and form in which it has complied and is complying with the Order;

C. In each such verified written report, include, among other things that are required

from time to time, the following:

(i) A full description of the efforts being made to comply with the each

Paragraph of the Order including all internal memoranda and all reports

and recommendations concerning compliance with the requirements of

~~XI. IT IS FURTHER ORDERED~~ that ENH shall, within sixty (60) days after the date this Order becomes final, send by first-class mail, return receipt requested, a copy of this Order to each officer and director of ENH.

~~XII.~~

~~XI.~~

IT IS FURTHER ORDERED that, this Order will remain in effect for ten (10) years after the date of its issuance. ENH may petition the Commission at any time for removal or expiration the Order shall terminate ten (10) years from the date on which this Order becomes final.

PRIOR NOTIFICATION PROVISION

~~IT IS FURTHER ORDERED~~ that, for a period of commencing on the date this Order

Respondents shall not consummate the transaction until thirty (30) days after substantially complying with such request. Early termination of the waiting

periods in this Paragraph may be required and where appropriate, counted as

shall not be required by this Paragraph for a transaction for which Section is

Exhibit
B

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

OFFICE OF ADMINISTRATIVE LAW JUDGES

_____)
In the matter of)

_____)
Rhapsody Northwestern Healthcare)

_____)
Docket No. 0216)

_____)
Corporation,)
a corporation)
_____)

AMENDED GLOSSARY OF TERMS

At the Court's request, the parties are submitting an Amended Glossary of Terms, which amends the Glossary of Terms filed on February 10, 2005. This amendment includes all of the terms previously submitted in the original Glossary of Terms, as well as additional relevant terms. This glossary is being provided as a reference only and does not constitute a

- **ADMINISTRATIVE SERVICES ORGANIZATION (ASO)** - A company that administers a managed care plan on behalf of an entity, usually an employer or union,

- **AMERICAN COLLEGE OF CARDIOLOGY (ACC) /AMERICAN HEART ASSOCIATION (AHA) CLINICAL PRACTICE GUIDELINES** – Clinical practice guidelines are developed through a rigorous methodological approach that mandates the

review and consideration of the available medical literature. Practice guidelines define

the role of specific diagnostic tests and therapeutic interventions.

arteries and veins in the chest. This surgical field also focuses on surgical treatments for

lung and esophageal problems, such as lung or esophageal cancer, emphysema,

TRANSFERRING OR EXCLUSION OF LIVES

managed care plan and a hospital that specifies that particular procedures or services (either inpatient or outpatient) are not included under the standard reimbursement

CLERICAL DECISION SUPPORT SYSTEMS

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codes are most commonly used by physicians for billing purposes; sometimes they are also used for outpatient services provided by facilities. Rarely they are used to categorize inpatient services.

- **DIAGNOSIS RELATED GROUP (DRG)** - A grouping of inpatients into hundreds of separate categories based on their diagnoses and the procedures they undergo while hospitalized. Each DRG is assigned a case weight based on the average resources among many hospitals required to treat patients in that DRG.

~~DIAGNOSIS RELATED GROUP (DRG)~~

provider outpatient services claims to third party companies or insurance carriers. HCRA

HEALTH MAINTENANCE ORGANIZATION (HMO) Traditional

- **MANAGED CARE ORGANIZATION** - A company that provides access to health care services on an insured, partially insured or a self-insured basis, including plans such as health maintenance organizations, preferred provider organizations, and point of service plans. A managed care company may be a licensed insurer or an administrative services organization, or both. The services may include network access and development, contract negotiation with providers, provider relations, medical and utilization management and claims administration.
- **MANAGED CARE PLAN** - Health insurance plans offered by Managed Care Organizations. These plans include "health maintenance organizations," "point of service plans" and "preferred provider organizations" which are defined below.

contracts to provide services to enrollees of a health benefit plan (HMO, PPO, POS, etc.)

- **OBSERVED MORTALITY (OMR)** – Is the observed number of deaths (for patients

on severity (1st degree, 2nd degree, 3rd degree, and 4th degree). These tears are associated with vaginal deliveries, particularly operative vaginal deliveries.

PICTURE ARCHIVING AND COMMUNICATION SYSTEM (PACS)

relevant statewide mortality rate (for example 2.25% for isolated CABG patients in 1999-2001 or 7.13% for Valve or Valve/CABG patients in 1999-2001)

- **RISK-ADJUSTMENT** – A statistical technique that is used to account for differences in patient characteristics when comparing hospital performance. Different hospitals tend to treat different types of patients. For example, some hospitals treat sicker and older

- **VAGINAL BIRTH AFTER CESAREAN (VBAC)** – A vaginal delivery after a previous caesarean delivery. One of the most common reasons for caesarean sections is the presence of a uterine scar from a previous caesarean section.

Respectfully Submitted

Thomas Brock / PAT

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Washington, DC 20580

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Complaint Counsel

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Duane M. Kelley

CERTIFICATE OF SERVICE

I hereby certify that on April 22, 2005, a copy of the foregoing *Amended Glossary of Terms* was served by hand, email and first class mail, postage prepaid, on:

The Honorable Stephen J. McGuire
Chief Administrative Law Judge
Federal Trade Commission

600 Pennsylvania Ave. NW

Washington, DC 20580

(copy courtesy notice delivered by hand)

Thomas H. Donohue, Esq.

Federal Trade Commission
600 Pennsylvania, Ave. NW (H-374)

Washington, DC 20580