

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Edith Ramirez, Chairwoman
Maureen K. Ohlhausen
Terrell McSweeney

)	
In the Matter of)	
)	
Cooperativa de Médicos Oftalmólogos)	Docket No. G
de Puerto Rico)	
a corporation.)	
)	

COMPLAINT

Pursuant to the provisions of the Federal Trade Commission Act, 15 U.S.C. § 41, et seq. and by virtue of the authority vested in it by said Act, the Federal Trade Commission ("Commission"), having reason to believe that Cooperativa de Médicos Oftalmólogos de Puerto Rico ("OFTACOOPI"), hereinafter referred to as Respondent, have violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, issues this Complaint, stating its charges in that respect as follows:

NATURE OF THE CASE

1. This matter concerns an agreement among competing ophthalmologists to refuse to deal with a health plan that tried to establish a lower cost provider network for its members who sought medical treatment for eye problems in the Commonwealth of Puerto Rico.
2. Respondent OFTACOOPI is a healthcare cooperative in Puerto Rico composed of about 100 member ophthalmologists. Respondent orchestrated an agreement among competing ophthalmologists not to deal with a health plan MCS Advantage, Inc. ("MCS") and its network administrator Eye Management of Puerto Rico ("Eye Management"). Respondents concerted refusal to deal succeeded MCS had to abandon its plans to have Eye Management create a lower-cost network of ophthalmologists.
3. OFTACOOPI has not undertaken any efficiency

RESPONDENT

5. OFTACOOP is a not-for-profit corporation organized and existing and doing business as a cooperative under and

would enter into new contracts directly with ophthalmologists to replace MCS's existing contracts with each ophthalmologist. In addition, Eye Management ~~administer~~ ophthalmology services and benefits provided to MCS enrollees, including ~~credentialing~~, utilization review, claims processing, and other management services

20. On or about June 4, 2014, MCS sent a letter to OFTACOOP ~~meeting~~ other ophthalmologists ~~in its network~~ explaining ~~an~~ arrangement with Eye Management ~~On~~ or about June 8, 2014, Eye Management ~~sent~~ proposed contract to each ophthalmologist under which Eye Management offered to pay the ophthalmologist at rates that were about ~~lower~~, on average, than the rates under the existing contracts between MCS and ~~each~~ ophthalmologist.

Collective Refusal to Deal Defeated the Eye Management Network and Forced MCS to Maintain Higher Rates

21. In response ~~to~~ the letters from MCS and Eye Management ~~OFTACOOP~~ convened a meeting ~~on~~ June 14, 2014. Under the leadership ~~of~~ OFTACOOP's president ~~a~~ number of OFTACOOP member and ~~non-~~member ophthalmologists ~~including a~~ former secretary of the Board of Directors ~~attended~~ the meeting ~~At the meeting~~ the ophthalmologists discussed their dissatisfaction with Eye Management and MCS ~~and their refusal to accept~~ Eye Management's proposed contract

22. The ~~Employees (Log) to 12071530 Td-6(w)14.82912d4(.92J(Bs)) Tddj.45 D Tdd(e)Tj P-c/8~~

32. With the ophthalmologists standing firm in their agreement not to participate in any lower cost arrangement with MCS, MCS met with OFTACOOP's president, the former secretary of the Board, and other ophthalmologists to try to resolve the impasse. During a meeting in September 2014, the ophthalmologists made clear that OFTACOOP remained united in opposing MCS's efforts to contract at lower rates. MCS therefore had no choice but to abandon its plan to reduce rates and instead continue paying the higher rates to the ophthalmologists to retain its provider network for its Medicare Advantage members. Had MCS been able to lower the rates it paid to ophthalmologists, it may have been able to benefit consumers in two ways: (i) pass savings along to its members in the form of lower pocket medical expenditures or (ii) refrain from potentially decreasing benefits or increasing out-of-pocket expenditures.

33. Through its concerted conduct, Respondent restrained competition by collectively refusing to deal with Eye Management and MCS. The purpose and effect of the concerted refusal to deal was to prevent Eye Management from creating a network of ophthalmologists on behalf of MCS and to defeat MCS's attempt to lower the costs of ophthalmology services provided to Medicare Advantage enrollees.

RESPONDENT'S CONDUCT IS NOT LEGALLY JUSTIFIED

34. Respondent's conduct described above has not been, and is not, reasonably related to achieving any efficiency-enhancing integration. Respondent has not undertaken any activities to create any integration among OFTACOOP members in their delivery of ophthalmology services and thus cannot justify the conduct described above.

ANTICOMPETITIVE EFFECTS

35. Respondent's actions described in paragraphs 23 through 34 have had the purpose and effect of unreasonably restraining trade and hindering competition in the provision of ophthalmology services in the Commonwealth of Puerto Rico in the following ways, among others

- a. unreasonably restraining price and other forms of competition among ophthalmologists;
- b. increasing costs for ophthalmology services;
- c. depriving payors and individual consumers access to ophthalmology services.

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VIOLATION CHARGED

36. The acts and practices described above constitute unfair methods of competition in violation of Section 5 of the Federal Trade Commission Act, amended 15 U.S.C. § 45. Such acts and practices or the effects thereof will recur in the absence of the relief herein requested.

WHEREFORE, THE PREMISES CONSIDERED, the Federal Trade Commission on this ____ day of _____, 2017, issues its Complaint against the Cooperativa de Médicos Oftalmólogos de Puerto Rico

By the Commission.

Donald S. Clark
Secretary

SEAL: