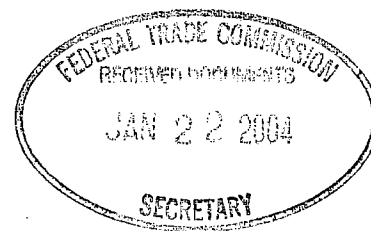


UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION



In the Matter of)
)
)

NORTH TEXAS SPECIALTY PHYSICIANS,)

Respondent.)
_____)

Docket No. 9312

MOTION TO LIMIT SUBPOENA AD TESTIFICANDUM

Pursuant to 16 C.F.R. § 3.34 and Rule 3.34 of the Rules of Practice for Adjudicative Proceedings before the United States Federal Trade Commission, Aetna Health Inc. ("Aetna"), a Texas corporation and non-party to this proceeding, filed the following Motion to Limit Subpoena Ad Testificandum.

I. INTRODUCTION

On January 12, 2004, North Texas Specialty Physicians ("NTSP") served on Aetna a Subpoena Ad Testificandum for the deposition of Aetna's corporate representative on several topics. Aetna's counsel is currently working with NTSP's counsel to schedule a date for the deposition of someone with general knowledge of the topics listed in the Subpoena. A few categories of topics in the Subpoena are overly broad, however, seeking a great deal of confidential and proprietary information that would have little bearing on the issues in this proceeding. In fact, a few of the topics encompass detailed information about Aetna's contracts with physicians other than NTSP across the State of Texas, as well as reimbursement rates paid by Aetna and its affiliates to physicians, without limitation. Aetna's reimbursement rates and pricing information are highly confidential matters and of the most competitively-sensitive information maintained by Aetna. Furthermore, the topics also encompass confidential and

proprietary cost analyses unrelated to NTSP. Aetna respectfully requests that the scope of examination regarding Aetna's physician contracts, reimbursement rates, and cost comparisons be limited to contracts with, reimbursements rates paid to, and cost and comparisons of, NTSP physicians.

II. ARGUMENT AND AUTHORITIES

A. A Non-Party May Bring A Motion to Quash Or Limit An Unduly Burdensome Subpoena

A non-party served with a subpoena ad testificandum may seek relief from an Administrative Law Judge by filing a motion setting forth all of its assertions of privilege or other factual and legal objections to the subpoena. 16 C.F.R. § 3.34(c). The Administrative Law Judge shall limit a subpoena if, *inter alia*, he determines that the burden and expense of the discovery outweighs its likely benefit. *Id.* at § 3.31(c)(iii). Furthermore, he may “deny discovery or make any other order which justice requires to protect a party or other person from annoyance, embarrassment, oppression, or undue expense.” *Id.* at § 3.31(d)(1). And, he may also limit or deny discovery that calls for privileged information. *Id.* at § 3.31(c)(2).

B. Topics Including Examination On Aetna's Contractual Negotiations, Contractual Terms and Reimbursement Rates With Respect To Physicians Other Than NTSP Are Overly Broad And Unduly Burdensome

The Nature of the Information Sought. Aetna is a health maintenance organization that contracts with physicians and other health care providers to arrange for the provision of covered medical care and services to its health plan members. In providing a competitive product to its customers, *i.e.*, employers and other health plan sponsors, Aetna must provide a quality and cost-effective network of physicians to its members. Aetna therefore negotiates with physicians for competitive contractual terms, including the reimbursement rate(s) that Aetna pays to physicians for their services.

The Scope Of Certain Examination Topics Is Overly Broad. The Examination Topics Nos. 2 and 6 are overly broad because they encompass testimony about reimbursement rates paid to physicians other than NTSP's physicians, as well as any comparisons of those rates, without limitation as to time, geographic area or physician specialty. Additionally, Examination Topic No. 1 includes contracts of *any* of Aetna's affiliates. As such, these topics are overly broad and include matters of little relevance to the issues in this proceeding. See Exhibit A, Affidavit of David M. Roberts ("Roberts Affidavit"), at ¶5.

The Scope Of Certain Examination Topics Is Unduly Burdensome. With respect to Examination Topics Nos. 1, 2 and 6, Aetna's negotiations with physicians regarding their participation in Aetna's network, particularly with respect to terms such as reimbursement rate, are highly confidential. Revealing Aetna's negotiation strategies would significantly harm Aetna's competitive ability to negotiate with physicians. Additionally, this information would significantly harm Aetna with respect to its competitors if they obtained this proprietary information about Aetna's network processes and strategies. See Roberts Affidavit at ¶6.

Similarly, revealing Aetna's contractual terms and reimbursement or compensation paid to physicians for their services would be of significant competitive harm to Aetna. Indeed, this is of the most highly-sensitive competitive information maintained by Aetna. Providing a physician group with the rates that Aetna pays to all providers would give the providers an unfair advantage in negotiating with Aetna. See Roberts Affidavit at ¶¶5-7.

Furthermore, Aetna has thousands of physician contracts in Texas alone and its affiliates have hundreds of thousands more across the country. See Roberts Affidavit at ¶9. The testimony sought (without limitation to geography, time or physician specialty) therefore encompasses information on thousands of contracts, which would be maintained in various

offices across the State of Texas and the country. Researching and retrieving this information would require hundreds of man-hours at a significant cost to Aetna. Even Examination Topic No. 1, which is limited to certain counties in the North Texas area, would require extensive research inasmuch as it is estimated that Aetna has thousands of contracts in these combined counties.

For all of these reasons, the burden on Aetna to produce a corporate representative to testify on these matters, including the potential competitive harm to Aetna, is significantly outweighed by any benefit that may be derived by its disclosure to NTSP. Topics Nos. 1, 2 and 6 (as No. 6 relates to compensation paid to physicians) should be limited to any contracts, contract negotiations, or compensation paid to NTSP.

B. Topics Including Examination On Aetna's Cost and Cost Comparisons Are Overly Broad And Unduly Burdensome

Although Aetna performed a minimal amount of cost analysis with respect to NTSP at the time the parties were attempting to negotiate a contract, Aetna does not usually analyze total medical costs at the physician level. To the extent that Examination Topic Nos. 3, 4 and 6 encompass any other cost evaluations, the Topic is overly broad and unduly burdensome.

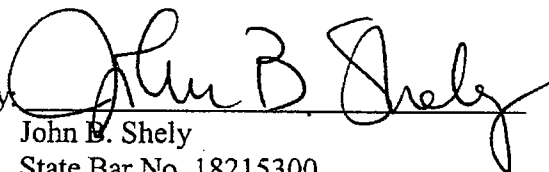
More specifically, cost data beyond that directly relating to NTSP has no bearing on the issues in this proceeding. Such data also contains confidential, proprietary cost information, which, if disclosed, would cause substantial competitive harm to Aetna. *See Roberts Affidavit at ¶8.* Furthermore, preparing for testimony on this data would require reviewing documents from various sources, including numerous paper files and electronic databases, in Aetna's various offices across the State of Texas, and the country. *See Roberts Affidavit at ¶9.* Therefore, Topics Nos. 3, 4 and 6 (as No. 6 relates to physician costs) should be limited to cost comparisons directly related to NTSP.

III. CONCLUSION

For the foregoing reasons, Aetna respectfully requests that the Administrative Law Judge limit the Subpoena Ad Testificandum issued to Aetna as set forth herein.

Respectfully submitted,

ANDREWS KURTH LLP

By 

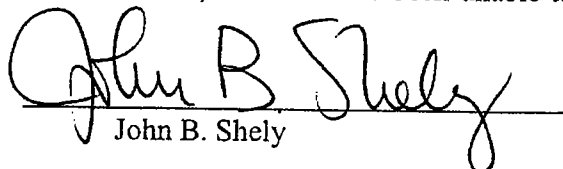
John B. Shely
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(713) 220-4200 Telephone
(713) 220-4285 Telecopier

Kay Lynn Brumbaugh
State Bar No. 00785152
1717 Main Street, Suite 3700
Dallas, Texas 75201
(214) 659-4400 Telephone
(214) 659-4401 Telecopier

ATTORNEYS FOR
AETNA HEALTH INC.

CERTIFICATE OF CONFERENCE

Counsel for Aetna has conferred in good faith with NTSP's counsel by telephone on multiple occasions, first beginning Wednesday, January 21, 2004, in an effort to resolve the discovery matters in dispute by agreement. Despite these efforts, counsel have been unable to reach full agreement on all the disputed issues.


John B. Shely

CERTIFICATE OF SERVICE

A true and correct copy of this document has been delivered to the following counsel by certified mail, return receipt requested, on January 22, 2004:

Michael Bloom
Federal Trade Commission
One Bowling Green, Suite 318
New York, New York 10004
(By CM/RRR and E-mail)

Barbara Anthony
Federal Trade Commission
One Bowling Green, Suite 318
New York, New York 10004
(By CM/RRR)

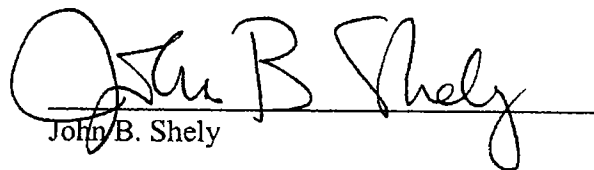
The Honorable D. Michael Chappell
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room H-104
Washington, D.C. 20580
(By CM/RRR and E-mail)

Donald S. Clark
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
(By CM/RRR and E-mail)

Gregory S. C. Huffman
William M. Katz, Jr.
Gregory D. Binns
Thompson & Knight LLP
1700 Pacific Avenue, Suite 3300
Dallas, Texas 75201-4693
(By CM/RRR)

Jonathan Platt
(By E-mail)

Susan E. Raitt
Federal Trade Commission
One Bowling Green, Suite 318
New York, New York 10004
(By CM/RRR and E-mail)


John B. Shely

**UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION**

In the Matter of)
)

NORTH TEXAS SPECIALTY PHYSICIANS,)
)

Respondent.)
)

Docket No. 9312

AFFIDAVIT OF DAVID M. ROBERTS

STATE OF TEXAS

§

§

COUNTY OF DALLAS

§

David M. Roberts, being by me duly sworn, deposes and says as follows:

1. My name is David M. Roberts. I am over the age of 21, I have never been convicted of a felony, and I am competent to make this affidavit.

2. I am a Network Vice-President for Aetna Health Inc. in the north Texas market. In the course of my responsibilities, I have become familiar with (1) the nature of Aetna's contractual relationships with providers, (2) the nature of certain financial, medical and commercial information utilized and generated in Aetna's provider network programs, and (3) Aetna's provider network management strategies and operations, including its fee structures. The statements contained herein are based on my personal knowledge and on the business records of Aetna and are true and correct.

3. Attached hereto as Exhibit 1 is a true and correct copy of a Subpoena Ad Testificandum (the "Subpoena") directed to Aetna Health Inc. I have reviewed the attached Subpoena and its attachments and exhibits.

4. The Subpoena commands testimony on certain confidential and proprietary information utilized or generated by Aetna. In particular, the topics for examination include: contractual reimbursement rates and pricing information (Topic Nos. 1, 2 and 6); Aetna's network negotiation strategies (Topic No. 1); and comparisons of the cost of physician services (Topic Nos. 3, 4 and 6).

5. Aetna is a Texas health maintenance organization that contracts with employers and other customers to provide health care coverage for eligible participants. Among other services provided to its enrollees, Aetna arranges for the provision of covered medical care and services for its enrollees through contacts with physicians and other health care providers. In providing a competitive product, Aetna must maintain a quality and cost-effective network of

physicians. In an effort to provide such product, Aetna negotiates with physicians for competitive contractual terms, including the reimbursement rate(s) that Aetna pays to physicians for the services provided to Aetna's health plan members.

6. Aetna's contractual reimbursement rate and pricing information is highly confidential information and is among the most competitively sensitive information maintained by Aetna. Testimony commanded by the Subpoena would provide detailed data regarding costs, fee structures, strategy and operations that could be used by physicians to obtain an unfair advantage in their negotiations with Aetna, and by competitors to obtain an unfair competitive advantage over Aetna.

7. Aetna's contractual arrangements with providers usually include a mutual confidentiality provision prohibiting the parties from disclosing contractual terms. Among other reasons, it protects Aetna from having its fee structures disclosed to other contracting providers and competing payors and protects the providers from having their rates disclosed to their competitors, such as other physicians and physician groups. Therefore, Aetna is contractually bound to keep confidential the terms of Aetna's provider agreements.

8. Aetna does not analyze total medical cost at the physician level. Nevertheless, Aetna did analyze various costs associated with services provided by NTSP's physicians during the time the parties were attempting to negotiate a contract. To the extent that Aetna does analyze costs associated with other services, such as pharmacy costs, hospital costs, *etc.*, this information is also extremely sensitive. Recognizing the importance of that kind of information, Aetna has invested substantial resources, both financial and human, to develop highly sophisticated data analysis and reporting capabilities by department and functional area, to help Aetna, its customers, and providers to track and manage health care costs. Disclosure of this type of information would make available proprietary information about services, systems, methodologies, formats and processes that have been developed by Aetna at great expense and only after the commitment of substantial resources.

9. With respect to Topic Nos. 1, 2 and 6, Aetna, its predecessors and its affiliates, have contracted with hundreds of thousands of health care providers across the United States. Aetna contracts with over twenty-five thousand providers in the Southwest Region, which consists of Texas and Oklahoma. Information concerning all of these contracts and contractual rates therefore would be maintained in separate offices located across the country. Furthermore, much of this information has been archived, or, over the passage of time, confidentially destroyed, particularly for prior years and for provider networks that were operated by other health benefit companies that were subsequently acquired by Aetna during the time period in question (e.g., Aetna's acquisition of New York Life's managed care business in 1998 and Aetna's acquisition of Prudential Healthcare in 1999). At a minimum, gathering all of this information would require people in Aetna's various offices across the United States to research and retrieve information on hundreds of thousands of contracts and a similar number of different rates. It is estimated that researching and retrieving all of this information would likely take hundreds and more likely thousands of man hours at a substantial cost to Aetna.

10. With respect to Topic Nos. 3, 4 and 6, information about cost comparison analyses maintained by Aetna and its affiliates would be maintained in separate offices located

across the State of Texas, and across the United States. Furthermore, the information is located across separate and distinct electronic databases, archiving systems, and paper files, and older information has been archived. At a minimum, researching and retrieving all of this information would require people in many different offices to search through various forms of stored information. It is estimated that researching and retrieving all of this information would likely take more hundreds of man hours, at substantial expense to Aetna.


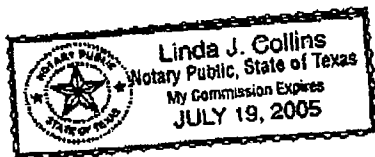
11. The facts stated in this affidavit are based on my personal knowledge and are true and correct.

Further Affiant Sayeth Naught.



David M. Roberts

SWORN TO AND SUBSCRIBED BEFORE ME this ^{22nd} day of January, 2004.


Notary Public in and for
The State of Texas



SUBPOENA AD TESTIFICANDUM

Issued Pursuant to Rule 3.34(a)(1), 16 C.F.R. § 3.34(a)(1) (1997)

AT
01-12-04

1. TO
 Aetna Health Inc.
 c/o C T Corporation System, Registered Agent
 350 N. St. Paul Street
 Dallas, Texas 75201
 *see attached for topics of examination

2. FROM
 UNITED STATES OF AMERICA
 FEDERAL TRADE COMMISSION

This subpoena requires you to appear and give testimony, at the date and time specified in Item 5, at the request of Counsel listed in Item 8, in the proceeding described in Item 6.

3. PLACE OF HEARING
 Thompson & Knight
 1700 Pacific Avenue, Suite 3300
 Dallas, Texas 75201-4693

4. YOUR APPEARANCE WILL BE BEFORE
 Gregory S. C. Huffman or other designated
 Respondent's Counsel

5. DATE AND TIME OF HEARING OR DEPOSITION
 January 27, 2004 at 9:00 a.m.

6. SUBJECT OF PROCEEDING

In the Matter of North Texas Specialty Physicians, Docket No. 9312

7. ADMINISTRATIVE LAW JUDGE
 The Honorable D. Michael Chappell

Federal Trade Commission
 Washington, D.C. 20580

8. COUNSEL REQUESTING SUBPOENA
 Gregory S. C. Huffman
 Thompson & Knight LLP
 1700 Pacific Avenue, Suite 3300
 Dallas, Texas 75201

DATE ISSUED
 NOV 24 2003

SECRETARY'S SIGNATURE

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed with the Secretary of the Federal Trade Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 8, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to Counsel listed in Item 8 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from Counsel listed in Item 8.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

- in person.*
- by registered mail.*
- by leaving copy at principal office or place of business, to wit:*

.....
.....
.....
.....

on the person named herein on:

.....
(Month, day, and year)

.....
(Name of person making service)

.....
(Official title)

Pursuant to 16 C.F.R. § 3.33(c), Aetna Health Inc. shall designate one or more officers, directors, or managing agents, or other persons who consent to testify on its behalf, to testify on the topics of examination listed below. The persons so designated shall testify as to matters know or reasonably available to the organization.

Topics for Examination

1. The negotiation and terms of contracts Aetna Health Inc., Aetna U.S. Healthcare of North Texas Inc., Aetna U.S. Healthcare, or any of its parents, subsidiaries, affiliates, predecessors, or successors (hereinafter referred to collectively as "Aetna") has had or attempted to negotiate with North Texas Specialty Physicians and other physician providers located in Collin, Dallas, Denton, Ellis, Grayson, Henderson, Hood, Hunt, Johnson, Kaufman, Parker, Rockwall, and Tarrant Counties, all of which are located in the State of Texas.
2. The contractual rates paid by Aetna for medical services provided by physician providers in Texas and any comparisons of those rates conducted by Aetna or others.
3. Comparisons of medical expense (PMPM) for HMO network primary care physicians located in Texas in regard to physician, pharmacy and facility costs.
4. Comparisons of unique-patient-seen costs per physician or of utilization indicators of procedures performed per unique-patient-seen, by physician or by specialty division.
5. The geographic service areas in Texas set by Aetna for physician providers in Texas and how those geographic service areas are determined by Aetna.
6. The topics listed under the designation of Dave Roberts, Dr. Chris Jagmin, and Celina Burns on Complaint Counsel's Preliminary Witness List, a copy of which is attached as Exhibit A.
7. Documents, information, and interviews provided by Aetna to the Federal Trade Commission in the last 18 months regarding the investigation of physician groups in North Texas.
8. Aetna's complaints about or criticisms of North Texas Specialty Physicians.

The relevant time period for these topics is January 1, 1997 through the present.

CERTIFICATE OF SERVICE

I, Greg D. Binns, hereby certify that on January 12, 2004, I caused a copy of the foregoing to be served upon the following by e-mail and Federal Express:

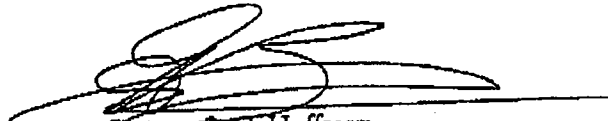
Michael Bloom
Senior Counsel
Federal Trade Commission
Northeast Region
One Bowling Green, Suite 318
New York, NY 10004

and upon the following via hand delivery

Aetna Health Inc.
c/o C T Corporation System, Registered Agent
350 N. St. Paul Street
Dallas, Texas 75201

and by e-mail upon the following: Susan Raitt (sraitt@ftc.gov), and Jonathan Platt (jplatt@ftc.gov).

Respectfully submitted,



Gregory S. C. Huffman
William M. Katz, Jr.
Gregory D. Binns

THOMPSON & KNIGHT LLP
1700 Pacific Avenue, Suite 3300
Dallas TX 75201-4693
214 969 1700
214 969 1751 - Fax
gregory.huffman@tklaw.com
william.katz@tklaw.com

**ATTORNEYS FOR NORTH TEXAS
SPECIALTY PHYSICIANS**

THIRD PARTY WITNESSES

1. **Rick Haddock, Blue Cross Blue Shield of Dallas, Texas**

Mr. Haddock is Director for Network Management for Blue Cross Blue Shield of Dallas, Texas ("BCBS"). We expect Mr. Haddock and/or another representative of BCBS to testify about:

- The nature of BCBS.
- Different types of health insurance, including HMO and PPO products.
- North Texas Speciality Physicians ("NTSP") and its participating physicians.
- Physician, hospital, and health plan competition in Tarrant County and adjacent Counties in Texas, as well as other areas.
- Communications and negotiations with NTSP or its participating physicians.
- The cost of physician services.
- Physician compensation under the FFS contracts that NTSP negotiated or sought to negotiate.
- Physician compensation under other FFS contracts.
- NTSP's failure to timely messenger or convey to its participating physicians offers that did not provide for compensation acceptable to NTSP.
- NTSP's explicit or implicit refusals to deal or collective departicipations, or threats to do either.
- Utilization review, case management, quality assurance, and credentialing.

2. **David Bird and Rick Grizzle of CIGNA Healthcare of Texas, Inc.**

David Bird was Associate Vice President of Network Operations and Rick Grizzle is Vice President of Network Development for CIGNA Healthcare of Texas, Inc. ("CIGNA"). We expect them and/or another representative of CIGNA to testify about:

- The nature of CIGNA.
- Different types of health insurance, including HMO and PPO products.
- NTSP and its participating physicians.
- Physician, hospital, and health plan competition in Tarrant County and adjacent Counties in Texas, as well as other areas.
- Communications and negotiations with NTSP or its participating physicians.
- The cost of physician services.
- Physician compensation under the FFS contracts that NTSP negotiated or sought to negotiate.
- Physician compensation under other FFS contracts.
- NTSP's failure to timely messenger or convey to its participating physicians offers that did not provide for compensation acceptable to NTSP.

- NTSP's explicit or implicit refusals to deal or collective de participations, or threats to do either.
- Utilization review, case management, quality assurance, and credentialing.

3. **Thomas Quirk and Dr. David Ellis, United Healthcare of Texas**

Thomas Quirk is CEO and President and Dr. Ellis is Medical Director for United Healthcare of Texas ("UHC"). We expect them and/or another representative of UHC to testify about:

- The nature of UHC.
- Different types of health insurance, including HMO and PPO products.
- NTSP and its participating physicians.
- Physician, hospital, and health plan competition in Tarrant County and adjacent Counties in Texas, as well as other areas.
- Communications and negotiations with NTSP or its participating physicians.
- The cost of physician services.
- Physician compensation under the FFS contracts that NTSP negotiated or sought to negotiate.
- Physician compensation under other FFS contracts.
- NTSP's failure to timely messenger or convey to its participating physicians offers that did not provide for compensation acceptable to NTSP.
- NTSP's explicit or implicit refusals to deal or collective de participations, or threats to do either.
- Utilization review, case management, quality assurance, and credentialing.

4. **Dave Roberts, Dr. Chris Jagmin, and Celina Burns, Aetna, Inc.**

Dave Roberts is Senior Network Manager, Dr. Chris Jagmin is Medical Director, Patient Management, and Celina Burns was General Manager for Aetna, Inc. We expect them and/or another representative of Aetna, Inc. to testify about:

- The nature of Aetna, Inc.
- Different types of health insurance, including HMO and PPO products.
- NTSP and its participating physicians.
- Physician, hospital, and health plan competition in Tarrant County and adjacent Counties in Texas, as well as other areas.
- Communications and negotiations with NTSP or its participating physicians.
- The cost of physician services.
- Physician compensation under the FFS contracts that NTSP negotiated or sought to negotiate.

- Physician compensation under other FFS contracts.
- NTSP's failure to timely messenger or convey to its participating physicians offers that did not provide for compensation acceptable to NTSP.
- NTSP's explicit or implicit refusals to deal or collective departicipations, or threats to do either.
- Utilization review, case management, quality assurance, and credentialing.

5. **Diane Youngblood, Health Texas Provider Network**

Diane Youngblood is Vice President of Network Management for Health Texas Provider Network ("HTPN"). We expect Ms. Youngblood and/or another representative of HTPN to testify about:

- HTPN, which is an IPA.
- NTSP and its participating physicians.
- Communications with NTSP and/or its participating physicians.
- HTPN's affiliation with NTSP and/or its participating physicians and any other agreements between NTSP and HTPN.
- NTSP's explicit or implicit refusals to deal or collective departicipations, or threats to do either.

6. **Jim Mosley, Benefits Consultant for Effective Plan Management, Inc.**

We expect Mr. Mosley and/or a representative of the City of Fort Worth to testify about:

- Effective Plan Management, Inc., which is a benefits consulting company for the City of Fort Worth.
- Physician, hospital, and health plan competition in Tarrant County, Texas and adjacent Counties.
- The purpose, nature, and affect of Effective Plan Management, Inc.'s and the City of Fort Worth's relationship with payors, third party administrators, brokers, or consultants in Tarrant County and adjacent Counties in Texas, as well as other areas.
- Communications with such entities.
- Criteria used in selecting a plan administrator.
- Discussions concerning contracting with physicians' organizations.
- The price of medical services, including physician services, and the effect of same on the City of Fort Worth.
- Standards used concerning or assessing minimum or desirable physician coverage levels in Tarrant County and adjacent Counties in Texas.
- Geographic access studies performed by or for City of Fort Worth.

- Disruption analyses prepared by or for the City of Fort Worth assessing the effects on employee access to physicians (including specialists) if the City of Fort Worth switched to a different payor provider network.

RESPONDENT

1. Karen Van Wagner

Ms. Van Wagner is the Executive Director NTSP. We expect Ms. Wagner to testify about:

- NTSP and its participating physicians.
- NTSP's physician boards and committees.
- The formation and purpose of NTSP.
- The operations and functions of NTSP.
- The creation and purpose of NTSP's polling instrument.
- The work Ms. Van Wagner performed on NTSP's behalf.
- Different types of health insurance, including FMO and PPO products.
- Physician, hospital, and health plan competition in Tarrant County, Texas and adjacent Counties.
- NTSP's relationship and affiliation with physicians, physician organizations, payors, and employers.
- Communications and negotiations with physicians, physician organizations, payors, and employers.
- The cost of physician services.
- Physician compensation under the FFS contracts that NTSP negotiated or sought to negotiate.
- Physician compensation under other FFS contracts.
- NTSP's failure to timely messenger or convey to its participating physicians offers that did not provide for compensation acceptable to NTSP.
- NTSP's explicit or implicit refusals to deal or collective deparicipations, or threats to do either.
- Utilization review, case management, quality assurance, and credentialing.
- NTSP's purported efficiencies.
- Contextual and other information relating to NTSP and other documents that may appear on Complaint Counsel's exhibit list.

2. Dr. William Vance, M.D.

Dr. Vance was a founding member of NTSP and serves on its Board of Directors. We expect Dr. Vance to testify about:

- NTSP and its participating physicians.
- NTSP's physician boards and committees.
- The formation and purpose of NTSP.
- The operations and functions of NTSP.
- The creation and purpose of NTSP's polling instrument.
- The work Dr. Vance performed on NTSP's behalf.
- Different types of health insurance, including HMO and PPO products.
- Physician, hospital, and health plan competition in Tarrant County, Texas and adjacent Counties.
- NTSP's relationship and affiliation with physicians, physician organizations, payors, and employers.
- Communications and negotiations with physicians, physician organizations, payors, and employers.
- The cost of physician services.
- Physician compensation under the FFS contracts that NTSP negotiated or sought to negotiate.
- Physician compensation under other FFS contracts.
- NTSP's failure to timely messenger or convey to its participating physicians offers that did not provide for compensation acceptable to NTSP.
- NTSP's explicit or implicit refusals to deal or collective departicipations, or threats to do either.
- Utilization review, case management, quality assurance, and credentialing.
- NTSP's purported efficiencies.

3. NTSP

We expect to call other representatives of NTSP to testify about:

- NTSP and its participating physicians.
- NTSP's physician boards and committees.
- The formation and purpose of NTSP.
- The operations and functions of NTSP.
- The creation and purpose of NTSP's polling instrument.
- Different types of health insurance, including HMO and PPO products.
- Physician, hospital, and health plan competition in Tarrant County, Texas and adjacent Counties.
- NTSP's relationship and affiliation with physicians, physician organizations, payors, and employers.
- Communications and negotiations with physicians, physician organizations, payors, and employers.
- The cost of physician services.

- Physician compensation under the FFS contracts that NTSP negotiated or sought to negotiate.
- Physician compensation under other FFS contracts.
- NTSP's failure to timely messenger or convey to its participating physicians offers that did not provide for compensation acceptable to NTSP.
- NTSP's explicit or implicit refusals to deal or collective de participations, or threats to do either.
- Utilization review, case management, quality assurance, and credentialing.
- NTSP's purported efficiencies.

4. NTSP Participating Physicians and/or their Office Managers

We expect to call some of NTSP physician members and/or their office managers. We expect them to testify about:

- NTSP and its participating physicians.
- NTSP's physician boards and committees.
- The formation and purpose of NTSP.
- The operations and functions of NTSP.
- The creation and purpose of NTSP's polling instrument.
- Different types of health insurance, including HMO and PPO products.
- Physician, hospital, and health plan competition in Tarrant County, Texas and adjacent Counties.
- NTSP's relationship and affiliation with physicians, physician organizations, payors, and employers.
- Communications and negotiations with physicians, physician organizations, payors, and employers.
- The cost of physician services.
- Physician compensation under the FFS contracts that NTSP negotiated or sought to negotiate.
- Physician compensation under other FFS contracts.
- NTSP's failure to timely messenger or convey to its participating physicians offers that did not provide for compensation acceptable to NTSP.
- NTSP's explicit or implicit refusals to deal or collective de participations, or threats to do either.
- Utilization review, case management, quality assurance, and credentialing.
- NTSP's purported efficiencies.

Respectfully Submitted,

Susan E. Raitt / *Ch P*

Susan E. Raitt
Complaint Counsel
Federal Trade Commission
Northeast Regional Office
One Bowling Green, Suite 318
New York, NY 10004

Dated: December 9, 2003

CERTIFICATE OF SERVICE

I, Christine Rose, hereby certify that on December 9, 2003, I caused a copy of the foregoing document to be served upon the following persons:

Gregory Huffman, Esq.
Thompson & Knight, LLP
1700 Pacific Avenue, Suite 3300
Dallas, TX 75201-4693
Gregory.Huffman@tklaw.com

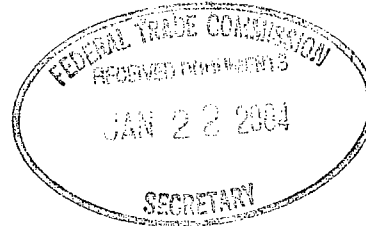
Hon. D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
Room H-104
600 Pennsylvania Avenue NW
Washington, D.C. 20580

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



Christine Rose
Honors Paralegal

January 22, 2004



Via Messenger

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

Re: Docket No. 9312; *In the Matter of North Texas Specialty Physicians, United States of America Before Federal Trade Commission*

Dear Secretary:

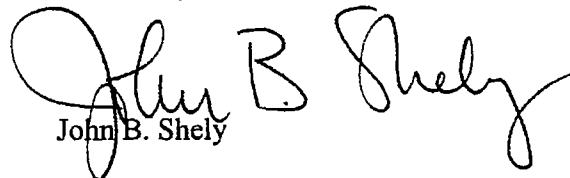
Enclosed for filing are the originals and fourteen (14) copies of each of the following:

1. Motion to Limit Subpoena Ad Testificandum; and,
2. Motion to Quash, Or, Alternatively, Limit Subpoena Duces Tecum.

Please file in your customary manner, and return the extra file-stamped copies to our messenger. Pursuant to 16 C.F.R. § 4.2(c), true and correct copies of electronic versions of these pleadings are also being filed on this same day by e-mail to the Office of the Secretary of the Federal Trade Commission at secretary@ftc.gov.

Should you have any questions, please call me directly at 713-220-4105.

Yours very truly,


John B. Shely

2298:vmc
Enclosures

HOU:2264856.1