

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

)
)
In the Matter of)
)
Evanston Northwestern Healthcare)
Corporation,)
a corporation, and)
)
ENH Medical Group, Inc.)
a corporation.)
_____)

Docket No. 9315

MEMORANDUM IN SUPPORT OF RESPONDENTS' MOTION TO COMPEL FIRST HEALTH TO PRODUCE DOCUMENTS REQUESTED BY SUBPOENA DUCES TECUM

Respondents Evanston Northwestern Healthcare and ENH Medical Group (collectively "Respondents") respectfully submit this Motion to Compel First Health to Produce Documents Requested by Subpoenas Duces Tecum in accordance with Commission Rule § 3.38(a)(2).

BACKGROUND

Respondents served subpoenas duces tecum on Affordable Medical Carriers, Inc., ("Affordable") and Community Care Network, Inc. ("CCN") on April 14, 2004 ("the Subpoenas"). (See Exhibits 1 and 2). Respondents later learned that both Affordable and CCN were the subject of corporate acquisitions and are currently owned and operated by the First Health Corporation ("First Health"). Counsel for First Health agreed to accept service of Respondents subpoenas on behalf of First Health.

Counsel for Respondents and counsel for First Health have been in communication since soon after service of the Subpoenas. First Health did not file any motions

or objections with this Court in response to the Subpoenas. Over the past four months, counsel for Respondents has attempted to negotiate in good faith with counsel for First Health in order to narrow the scope of its Subpoenas. Counsel for Respondents and counsel for First Health have had numerous telephone conferences, as well as exchanged numerous letters, emails and voicemails in an attempt to move towards the production of relevant documents.

As of the date of filing of this motion, First Health has produced only 168 pages of documents, a small portion of the total documents requested by the Subpoenas. In fact, the only documents produced by First Health to date are its contracts with Respondents, documents which were already in Respondents' possession. Despite Respondents' efforts, First Health has continued to delay and stall its production efforts, leaving Respondents no option but to file this motion.

DISCUSSION

Respondents' document requests are highly relevant to the Complaint's allegations that respondent Evanston Northwestern Healthcare ("ENH") has violated and is violating Section 7 of the Clayton Act and that respondent ENH Medical Group ("ENH Medical Group") has violated and is violating Section 5 of the Federal Trade Commission Act. Under Commission Rule § 3.31(c)(1), Respondents have a right to "obtain discovery to the extent that it may be reasonably expected to yield information relevant to the allegations of the complaint, to the proposed relief, or to the defenses of any respondent." 16 C.F.R. § 3.31(c)(1). "The practice of the Commission has been to uphold subpoenas duces tecum upon a showing...that the requested information is generally relevant to the issues raised by the pleadings." Kaiser Aluminum & Chem. Corp., No. 9080, 1976 FTC LEXIS 68, at *4 (Nov. 12, 1976). Relevancy of the information sought is determined by "laying the subpoena along side the pleadings." Rambus

Inc., No. 9302, 2002 WL 31868184 (Nov. 18, 2002). The documents sought by Respondents are far more than "generally relevant" to the issues raised in the Complaint; they relate directly to issues that are explicitly raised in the pleadings, the proposed relief, and are integral to Respondents' defenses.

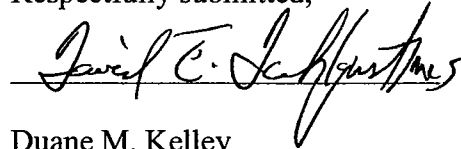
Respondents' seek the immediate production of documents and electronic data responsive to its Subpoenas including but not limited to all of First Health's contracts with hospitals in the Geographic Area (as defined by Definition F in the Subpoenas) (Request 1), all strategic plans or market studies developed or commissioned by First Health during the relevant time period (Requests 4 and 5), all documents comparing hospitals in the Geographic Area (Request 6), all documents created during the process of negotiating contracts with hospitals in the Geographic Area including but not limited to internal and external correspondence, emails, and proposals (Request 8), and all patient claim data for each hospital in the Geographic Area (Requests 11 and 12), all contracts and related contracting documents (internal and external correspondence, emails, proposals) for physician groups in the Geographic Area (Request 32).

Commission Rule § 3.38(a)(1) squarely places the burden of justifying an objection to a subpoena on the opposing party. 16 C.F.R. § 3.38(a)(1); see F.T.C. v. Texaco, 555 F.2d 862, 882 (D.C. Cir. 1977) (stating that "[t]he burden of showing that the request is unreasonable is on the subpoenaed party"). To date, First Health has not objected to the production of documents, rather merely attempted to avoid production through constant delay. Respondents file this motion in an attempt to ask the Court to end First Health's efforts to delay discovery in this matter.

WHEREFORE, for the foregoing reasons, Respondents request that the requested documents should be produced.

DATED: August 27, 2004

Respectfully submitted,



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David E. Dahlquist
WINSTON & STRAWN LLP
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msibarium@winston.com
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Attorneys for Respondents

CERTIFICATE OF SERVICE

I hereby certify that on August 27, 2004, a copy of the foregoing Memorandum in Support of Respondents' Motion to Compel First Health to Produce Documents Requested By Subpoena Duces Tecum was served by email and first class mail, postage prepaid, on:

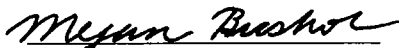
The Honorable Stephen J. McGuire
Chief Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Ave. NW (H-106)
Washington, DC 20580
(two courtesy copies delivered by messenger only)

Jennifer E. Schneid, Esq.
First Health Group Corp.
3200 Highland Avenue
Downers Grove, IL 60515
JenniferSchneid@firsthealth.com

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(service by email only)


Megan Bushor



SUBPOENA DUCES TECUM

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

1. TO
 CCN MANAGED CARE, INC.
 c/o C T Corporation System
 208 So. LaSalle Street, Suite 814
 Chicago, IL 60604-1101

2. FROM

 UNITED STATES OF AMERICA
 FEDERAL TRADE COMMISSION

This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things - or to permit inspection of premises - at the date and time specified in Item 5, at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

3. PLACE OF PRODUCTION OR INSPECTION
 Winston & Strawn LLP
 1400 L Street, N.W.
 Washington, D.C. 20005

4. MATERIAL WILL BE PRODUCED TO
 David Dahlquist, Esq.

5. DATE AND TIME OF PRODUCTION OR INSPECTION
 May 4, 2004

6. SUBJECT OF PROCEEDING

 In the Matter of Evanston Northwestern Healthcare Corporation, et al., Docket No. 9315
 See Attached Schedule A

7. MATERIAL TO BE PRODUCED

8. ADMINISTRATIVE LAW JUDGE

 The Honorable Stephen J. McGuire

 Federal Trade Commission
 Washington, D.C. 20580

9. COUNSEL REQUESTING SUBPOENA
 Michael L. Sibarium
 Charles B. Klein
 Winston & Strawn LLP
 1400 L Street, N.W.
 Washington, D.C. 20005

DATE ISSUED
 MAR 17 2004

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 9, 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 9 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 9.

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



SCHEDULE A

INSTRUCTIONS

A. Unless otherwise specified, the time period addressed by this Schedule is January 1, 1997 through the present day. All references to year refer to a calendar year.

B. If you have produced documents responsive to this Schedule in the course of the pre-complaint investigation of this matter, FTC File No. 0110234, those documents need not be produced again so long as such documents are identified by Bates range or comparable means in your response to this subpoena.

C. If any document requested is withheld pursuant to a claim of privilege or any similar claim, the claim must be asserted no later than the return date of this Subpoena. In addition, you must submit, together with the claim of privilege, a log stating the following information for each data item withheld: (a) the specifications and sub-specifications for which the data is responsive; (b) the type or specific subject matter, and date of the data; (c) the names, addresses, positions, and organizations of all authors and recipients of the data; and (d) the specific grounds for claiming that the data is privileged with sufficient particularity and detail to permit the Administrative Law Judge to adjudicate the validity of such claim. If only some portion of any responsive information or data is privileged, all non-privileged portions of the information or data must be submitted.

D. With respect to specific documents produced in response to this Schedule, each document provided shall be complete and, unless privileged, unredacted and submitted as found in your files (e.g. documents that in their original condition were stapled, clipped or otherwise fastened together shall be produced in such form). You may submit photocopies (with color photocopies where necessary to interpret the document) in lieu of original documents, provided

that such copies are accompanied by an affidavit of an officer of Your Company stating that the copies are true, correct and complete copies of the original documents.

E. Each document produced by you in response to this Schedule should be marked with corporate identification and consecutive document control numbers. To the extent you produced documents in the course of the pre-complaint investigation of this matter, FTC File No. 0110234, please use a different pre-fix on documents produced in response to this Schedule. In addition, all documents produced in response to the Schedule shall be organized and labeled to correspond with each request or any part thereof.

F. In the event that any document referred to or identified has been destroyed or otherwise disposed of, that document is to be identified by (i) the author; (ii) the addressee, including persons to whom blind copies were addressed; (iii) the date; (iv) the subject matter; (v) the number of pages, attachments or appendices; (vi) all persons to whom the document was distributed, shown or explained, (vii) a description of the circumstances under which the document was destroyed or disposed of; (viii) the date of destruction or other disposition; (ix) the person who destroyed or disposed of the document; and (x) the person who directed or authorized such destruction or disposition.

G. This Schedule is continuing and any document obtained subsequent to production that would have been produced had it been available or its existence been known at the time of production shall be produced forthwith.

H. This Schedule is intended to include all requested documents in the possession, custody or control of Your Company and all individuals purporting to act on its behalf, wherever located and by whomever prepared.

I. Reference to an individual shall also refer to that individual's predecessors and successors in interest, direct or indirect, and his or her heirs, employees, assigns, trusts, estates, attorneys and agents.

J. Reference to an entity shall also refer to that entity's companies corporations divisions, departments, associations, partnerships, joint ventures, trusts, subsidiaries, affiliates, and any other forms of business or commercial organization or arrangement, predecessors and successors in interest, direct or indirect, and its past, present and future partners, associates, officers, directors, shareholders, principals, employees, representatives, assigns, advisors, attorneys and agents.

K. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The word "including" shall be construed to mean without limitation. The terms "each" and "all" are to be constructed as a request that every document or piece of information be identified separately.

L. The use of the past tense shall include the present tense, and the use of the present tense shall include the past tense, so as to make the request inclusive rather than exclusive

M. The singular includes the plural, and vice versa.

N. The production of documents pursuant to this subpoena is subject to the terms and conditions of the attached Protective Order.

O. Any questions you have relating to the scope or meaning of anything in this Schedule or any suggestions for possible modifications thereto should be directed to David E. Dahlquist at (312) 558-5660 or ddahlquist@winston.com. A response to this Subpoena shall be addressed to the attention of David E. Dahlquist, Esq., Winston & Strawn LLP, 35 West Wacker Drive, Chicago, IL 60601-9703.

DEFINITIONS

A. The terms “constitute,” “contain,” “discuss,” “analyze,” or “relate to” mean constituting, reflecting, respecting, regarding, concerning, pertaining to, referring to, relating to, stating, describing, recording, noting, embodying, memorializing, containing, mentioning, studying, assessing, analyzing or discussing.

B. The term “document” is used herein in the broadest sense permissible under Federal Trade Commission Rule of Practice 3.34(b) and includes, without limitation, writings, drawings, graphs, charts, handwritten notes, film, photographs, audio and video recordings and any such representations stored on a computer, a computer disk, CD-ROM, magnetic or electronic tape, or any other means of electronic storage, and other compilations from which information can be obtained in machine-readable form (translated, if necessary, into reasonably usable form by the person subject to the Subpoena). The term “documents” includes electronic mail and drafts of documents, copies of documents that are not identical duplicates of the originals, and copies of documents the originals of which are not in your possession, custody or control.

C. The term “ENH” means Evanston Northwestern Healthcare Corporation (including Evanston Hospital, Glenbrook Hospital, and Highland Park Hospital), its parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing. The terms “subsidiary,” “affiliate” and “joint venture” refer to any person in which there is partial (25 percent or more) or total ownership or control between ENH and any other person.

D. The term “ENH/Highland Park transaction” means the merger between ENH and Highland Park Hospital which was consummated in January 2000.

E. The term "ENH Medical Group" means ENH Medical Group, Inc., its predecessors and affiliates.

F. The term "Geographic Area" means Lake, Cook, Kane, Kendall, and McHenry counties in Illinois.

G. The term "health care facility" means a hospital, health maintenance organization facility, ambulatory care center, first aid or other clinic, urgent care center, free-standing emergency care center, imaging center, ambulatory surgery center and all other entities that provide health care services.

H. The term "health care service" means a medical or surgical service or procedure performed at a health care facility.

I. The term "hospital" is a type of health care facility that provides, among other services, inpatient health care services.

J. The term "Highland Park" means Highland Park Hospital, its parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing.

K. The term "Highland Park IPA" means the Highland Park Independent Physician Association.

L. The term "licensed beds" means beds recognized, authorized, or approved by the State of Illinois.

M. The term "third party payor" means a person other than a natural person that pays any health care expenses of any other person, and all of its directors, officers, employees, agents and representatives. Third party payor includes, but is not limited to: Blue Cross and Blue Shield plans, commercial insurance companies, health maintenance organizations, preferred provider

organizations, competitive medical plans, union trust funds, multiple employer trusts, corporate or governmental self-insured health benefit plans, Medicare, Medicaid, or CHAMPUS.

N. The terms "you" or "Your Company" mean CNN Managed Care, Inc. and any of its subsidiaries, affiliates or predecessors that are licensed as health maintenance organizations or that offer any form of health insurance product of the variety known as point of service products.

DOCUMENTS TO BE PRODUCED

1. From January 1, 1992 to the present day, all contracts between any third party payor (including, but not limited to, Your Company) and any health care facility in the Geographic Area, including all amendments, appendices, and related documents reflecting any contract terms.

2. All documents referring or relating in any manner to the criteria or factors used by Your Company in selecting which health care facility to contract with, and all documents that apply those criteria to such health care facilities.

3. Documents (in electronic form if they exist) sufficient to establish the number of enrollees (including monthly enrollment numbers), subscribers or patients, and the number of employer-subscribers, for all managed health care plans sponsored or administered by Your Company.

4. All documents relating to competition among third party payors relating to health care facilities in the Geographic Area, including but not limited to the desirability or necessity of entering into contracts with particular health care facilities in the Geographic Area, including ENH.

5. All documents relating to competition in the provision of any health care service in the Geographic Area including, but not limited to, market studies, forecasts, and surveys, and all other documents relating to:

- (a) the market share or competitive position of any health care facility
- (b) the quality of care provided by any health care facility;
- (c) the relative strength or weakness of health care facilities providing any health care service;
- (d) supply and demand conditions;
- (e) health care facility preferences or perceptions of employers, consumers, brokers, unions, associations, patients or customers who reside, or physicians who practice, in any portion of the Geographic Area;
- (f) the preference of third party payors (including, but not limited to, Your Company) for health care facilities that include health care facilities located in any portion of the Geographic Area; or
- (g) any analysis of alternative medical or surgical procedures which may affect the time spent by any inpatient in a hospital for the time period from January 2000 to the present.

6. All documents describing, comparing or evaluating the services, the quality of services, the cost of services, the staff, or the facilities of hospitals in the Geographic Area including, but not limited to, Evanston Hospital, Glenbrook Hospital and Highland Park.

7. All documents relating to any study, analysis, report, summary or tabulation regarding any characteristic of any patients admitted or discharged from any hospital in the Geographic Area, including such characteristics as: age; place of residence; type of admission;

principal diagnosis; procedures performed; charges; payments; admitting physician, physician group or physician organization; category of third party payor affiliation.

8. All documents relating to Your Company's negotiation of contracts with any hospital in the Geographic Area, including but not limited to all documents relating to any determination of whether or not to negotiate with any particular hospital, any actual or potential termination of such contracts, any decision to later reopen negotiations after termination, and any refusal by ENH or any other hospital to negotiate or agree upon terms with any third party payor.

9. All documents analyzing, summarizing, describing, referring or relating in any manner to Your Company's contracts, contract proposals or negotiations with any hospital in the Geographic Area.

10. All documents referring or relating in any manner to any third party payor's (including, but not limited to Your Company's) pre-certification and medical management policies, procedures, or protocols (including, but not limited to, concurrent reviews, referrals, etc.) applicable to any hospital in the Geographic Area.

11. All documents sufficient to show for any third party payor (including Your Company) and, if available, for each product sold by such third party payor:

(a) the total number of members, subscribers, enrollees, or patients who have been admitted to or discharged from each hospital in the Geographic Area;

(b) the total number of members, enrollees, subscribers or patients who reside in the Geographic Area and who have been admitted to or discharged from each hospital in the Geographic Area;

(c) the total dollar amount billed by and paid to each hospital in the Geographic Area on behalf of members, subscribers, enrollees or patients residing in the Geographic Area; and

(d) the hospital days per thousand of your enrollees.

12. All documents (in machine readable data if available) sufficient to establish separately for each enrollee, subscriber or patient of Your Company who resides in the Geographic Area and who was admitted to a hospital:

(a) the zip code of the patient's residence;

(b) the date of admission;

(c) the principal diagnosis;

(d) the number of hospital days for that admission;

(e) the amounts billed and paid by Your Company for that admission; and

(f) the identity of the admitting physician for that admission.

13. Documents sufficient to establish for each year the total number of treatments by International Classification of Diseases (ICD) codes (whether or not resulting in an admission) and the total amount billed to and paid by Your Company to each health care facility in the Geographic Area for all services, for inpatient services, and for emergency room or other ambulatory or clinic services.

14. All documents describing, discussing, summarizing or analyzing the utilization of hospitals in the Geographic Area by enrollees in any managed health care plan you sponsor or administer.

15. Documents (in machine readable form if available) sufficient to identify the physicians participating in any managed health care plan that Your Company sponsors or

administers who have admitting privileges at any hospital in the Geographic Area and, as to each such physician, documents sufficient to establish:

- (a) the location of the physician's office or offices;
- (b) the physician's medical specialty;
- (c) the physician's Universal Provider Identification Number;
- (d) the physician's Illinois license number;
- (e) any other identification number your plan assigns to the physician;
- (f) the aggregate number of admissions of enrollees in the managed health care plans that you sponsor or administer that the physician made each year at each hospital;
- (g) the total amount billed or paid to each hospital each year as a result of that physician's admissions to the respective hospitals;
- (h) the aggregate number of outpatient procedures performed on enrollees in the managed health care plans that you sponsor or administer that the physician made each year at each health care facility; and
- (i) the total amount billed or paid to each health care facility each year as a result of that physician's outpatient procedures performed to the respective health care facility.

16. All documents referring or relating in any manner to the shift or diversion, or impediments to diversion, of patients or any category of patients to or from any hospital or any health care facility in the Geographic Area by any third party payor, including, but not limited to, Your Company.

17. All speeches, articles, press releases, publications correspondence with public agencies or authorities, or testimony of management of Your Company regarding (i) the merger, consolidation or combination of hospitals generally, (ii) the merger, consolidation or combination of particular hospitals in the Geographic Area or (iii) the role of academic or teaching hospitals.

18. All documents referring or relating in any manner to any offer to or by any third party payor (including, but not limited to, Your Company) to designate any hospital in the Geographic Area as its sole preferred provider within a network for any category of services or for any group of enrollees or physicians or for any geographic area that includes any portion of the Geographic Area.

19. All documents referring or relating to any complaint by Your Company that any health care facility in the Geographic Area (including, but not limited to, ENH) is not acting competitively, is violating the antitrust law, or is competing unfairly.

20. All documents referring or relating to any complaint by Your Company that any health care facility in the Geographic Area (including, but not limited to, ENH) is raising the rates on its charge master without notice.

21. All documents referring or relating in any manner to the ENH/Highland Park transaction.

22. All print advertisements and the texts of any radio or television advertisements that refer or relate to any health care facility, and a representative sample of all sales and promotional literature of Your Company.

23. All proposals to employers, sponsors, employer groups, unions, agencies, counties or municipalities that discuss hospitals located in the Geographic Area.

24. Documents sufficient to show all managed health care plans or products offered by Your Company including documents relating to development of those plans, and the terms and conditions and the services provided by such plans.

25. All documents referring or relating in any manner to the basis upon which (i) employers select or are perceived to select among third party payors, or (ii) enrollees select or are perceived to select among third party payors.

26. All documents constituting, referring or relating to any complaints by physicians, subscribers, enrollees or patients regarding any decision of any third party payor (including Your Company) to direct a patient, enrollee or subscriber to a hospital for admission or to a physician for diagnosis or treatment other than the hospital or physician to which such enrollee, patient or subscriber (or a physician on his or her behalf) originally sought admission or treatment.

27. Documents referring or relating to any third party payor's (including Your Company's) policies, guidelines or practices relating to utilization of hospitals in the Geographic Area including, but not limited to, provider manuals; member handbooks; documents relating to utilization review criteria and usage of hospitals; and any other documents that define or distinguish between primary, secondary or tertiary hospitals for any purpose.

28. All documents relating to actual or proposed "carve out" or tiered services contracts pursuant to which Your Company has agreed to divert patients for services to any provider other than ENH.

29. All documents relating to the Northwestern Healthcare Network since its inception.

30. All documents that discuss the use or potential use of alternative contracting methodologies, including but not limited to discount off list pricing or per diem pricing.

31. All documents that discuss the creation of any physician networks in the Geographic Area, including, but not limited to, the costs of creating such networks.
32. All documents relating to contracting with physician groups in the Geographic Area, including, but not limited to, the ENH Medical Group and the Highland Park IPA.
33. All documents that discuss the relative benefits of the use of Medicare's Resource Based Relative Value System to determine the amount of pay for physician services.
34. All documents relating to the relative costs, burdens, and/or benefits of negotiating contracts using the messenger models.
35. All documents relating to the way in which Your Company processes payments to physicians with contracts with multiple entities, such as multiple independent physician associations.
36. All subpoenas received from U.S. Federal Trade Commission in connection with the ENH/Highland Park transaction.
37. All correspondence with, and documents that constitute any indices of documents produced to, the U.S. Federal Trade Commission in connection with the ENH/Highland Park transaction.
38. All documents related to any increase in insurance premiums that Your Company asserts was caused by the ENH/Highland Park transaction.
39. All documents reflecting any communications with your customers (including but not limited to brokers, employers, associations or unions) about the rates charged by any hospitals in the Geographic Area.
40. All documents which constitute any training manuals, manuals, or guides (or similar documents) which demonstrate common techniques used by your contract negotiations.

41. All documents which constitute process flow diagrams related to contracting with, or reimbursement of providers or healthcare facilities, and organizational charts.

42. All documents referring or relating to any policies, theories or practices of paying different prices to health care facilities based on the quality of care provided at the facility.

43. All documents referring or relating in any manner to hospitals identified by Your Company as "centers of excellence" or any equivalent applications meant to connote the highest quality of hospital care for any service.

DC:353945.1



SUBPOENA DUCES TECUM

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

1. TO AFFORDABLE MEDICAL CARRIERS, INC. c/o John C. Santee 200 E. Evergreen, Suite 116 Mt. Prospect, IL 60056	2. FROM UNITED STATES OF AMERICA FEDERAL TRADE COMMISSION
----------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------

This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things - or to permit inspection of premises - at the date and time specified in Item 5, at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

3. PLACE OF PRODUCTION OR INSPECTION Winston & Strawn LLP 1400 L Street, N.W. Washington, D.C. 20005	4. MATERIAL WILL BE PRODUCED TO David Dahlquist, Esq. 5. DATE AND TIME OF PRODUCTION OR INSPECTION May 4, 2004
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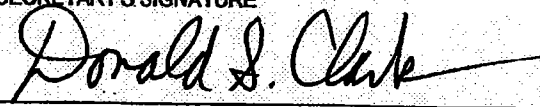
6. SUBJECT OF PROCEEDING

In the Matter of Evanston Northwestern Healthcare Corporation, et al., Docket No. 9315

See Attached Schedule A

7. MATERIAL TO BE PRODUCED

8. ADMINISTRATIVE LAW JUDGE The Honorable Stephen J. McGuire Federal Trade Commission Washington, D.C. 20580	9. COUNSEL REQUESTING SUBPOENA Michael L. Sibarium Charles B. Klein Winston & Strawn LLP 1400 L Street, N.W. Washington, D.C. 20005
--------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------------------------------------------------------------------------------------------------------

DATE ISSUED MAR 13 2004	SECRETARY'S SIGNATURE 
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SCHEDULE A
INSTRUCTIONS

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B. If you have produced documents responsive to this Schedule in the course of the pre-complaint investigation of this matter, FTC File No. 0110234, those documents need not be produced again so long as such documents are identified by Bates range or comparable means in your response to this subpoena.

C. If any document requested is withheld pursuant to a claim of privilege or any similar claim, the claim must be asserted no later than the return date of this Subpoena. In addition, you must submit, together with the claim of privilege, a log stating the following information for each data item withheld: (a) the specifications and sub-specifications for which the data is responsive; (b) the type or specific subject matter, and date of the data; (c) the names, addresses, positions, and organizations of all authors and recipients of the data; and (d) the specific grounds for claiming that the data is privileged with sufficient particularity and detail to permit the Administrative Law Judge to adjudicate the validity of such claim. If only some portion of any responsive information or data is privileged, all non-privileged portions of the information or data must be submitted.

D. With respect to specific documents produced in response to this Schedule, each document provided shall be complete and, unless privileged, unredacted and submitted as found in your files (e.g. documents that in their original condition were stapled, clipped or otherwise fastened together shall be produced in such form). You may submit photocopies (with color photocopies where necessary to interpret the document) in lieu of original documents, provided

that such copies are accompanied by an affidavit of an officer of Your Company stating that the copies are true, correct and complete copies of the original documents.

E. Each document produced by you in response to this Schedule should be marked with corporate identification and consecutive document control numbers. To the extent you produced documents in the course of the pre-complaint investigation of this matter, FTC File No. 0110234, please use a different pre-fix on documents produced in response to this Schedule. In addition, all documents produced in response to the Schedule shall be organized and labeled to correspond with each request or any part thereof.

F. In the event that any document referred to or identified has been destroyed or otherwise disposed of, that document is to be identified by (i) the author; (ii) the addressee, including persons to whom blind copies were addressed; (iii) the date; (iv) the subject matter; (v) the number of pages, attachments or appendices; (vi) all persons to whom the document was distributed, shown or explained, (vii) a description of the circumstances under which the document was destroyed or disposed of; (viii) the date of destruction or other disposition; (ix) the person who destroyed or disposed of the document; and (x) the person who directed or authorized such destruction or disposition.

G. This Schedule is continuing and any document obtained subsequent to production that would have been produced had it been available or its existence been known at the time of production shall be produced forthwith.

H. This Schedule is intended to include all requested documents in the possession, custody or control of Your Company and all individuals purporting to act on its behalf, wherever located and by whomever prepared.

I. Reference to an individual shall also refer to that individual's predecessors and successors in interest, direct or indirect, and his or her heirs, employees, assigns, trusts, estates, attorneys and agents.

J. Reference to an entity shall also refer to that entity's companies corporations divisions, departments, associations, partnerships, joint ventures, trusts, subsidiaries, affiliates, and any other forms of business or commercial organization or arrangement, predecessors and successors in interest, direct or indirect, and its past, present and future partners, associates, officers, directors, shareholders, principals, employees, representatives, assigns, advisors, attorneys and agents.

K. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive. The word "including" shall be construed to mean without limitation. The terms "each" and "all" are to be constructed as a request that every document or piece of information be identified separately.

L. The use of the past tense shall include the present tense, and the use of the present tense shall include the past tense, so as to make the request inclusive rather than exclusive

M. The singular includes the plural, and vice versa.

N. The production of documents pursuant to this subpoena is subject to the terms and conditions of the attached Protective Order.

O. Any questions you have relating to the scope or meaning of anything in this Schedule or any suggestions for possible modifications thereto should be directed to David E. Dahlquist at (312) 558-5660 or ddahlquist@winston.com. A response to this Subpoena shall be addressed to the attention of David E. Dahlquist, Esq., Winston & Strawn LLP, 35 West Wacker Drive, Chicago, IL 60601-9703.

DEFINITIONS

A. The terms "constitute," "contain," "discuss," "analyze," or "relate to" mean constituting, reflecting, respecting, regarding, concerning, pertaining to, referring to, relating to, stating, describing, recording, noting, embodying, memorializing, containing, mentioning, studying, assessing, analyzing or discussing.

B. The term "document" is used herein in the broadest sense permissible under Federal Trade Commission Rule of Practice 3.34(b) and includes, without limitation, writings, drawings, graphs, charts, handwritten notes, film, photographs, audio and video recordings and any such representations stored on a computer, a computer disk, CD-ROM, magnetic or electronic tape, or any other means of electronic storage, and other compilations from which information can be obtained in machine-readable form (translated, if necessary, into reasonably usable form by the person subject to the Subpoena). The term "documents" includes electronic mail and drafts of documents, copies of documents that are not identical duplicates of the originals, and copies of documents the originals of which are not in your possession, custody or control.

C. The term "ENH" means Evanston Northwestern Healthcare Corporation (including Evanston Hospital, Glenbrook Hospital, and Highland Park Hospital), its parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing. The terms "subsidiary," "affiliate" and "joint venture" refer to any person in which there is partial (25 percent or more) or total ownership or control between ENH and any other person.

D. The term "ENH/Highland Park transaction" means the merger between ENH and Highland Park Hospital which was consummated in January 2000.

E. The term "ENH Medical Group" means ENH Medical Group, Inc., its predecessors and affiliates.

F. The term "Geographic Area" means Lake, Cook, Kane, Kendall, and McHenry counties in Illinois.

G. The term "health care facility" means a hospital, health maintenance organization facility, ambulatory care center, first aid or other clinic, urgent care center, free-standing emergency care center, imaging center, ambulatory surgery center and all other entities that provide health care services.

H. The term "health care service" means a medical or surgical service or procedure performed at a health care facility.

I. The term "hospital" is a type of health care facility that provides, among other services, inpatient health care services.

J. The term "Highland Park" means Highland Park Hospital, its parents, predecessors, divisions, subsidiaries, affiliates, partnerships and joint ventures, and all directors, officers, employees, agents, and representatives of the foregoing.

K. The term "Highland Park IPA" means the Highland Park Independent Physician Association.

L. The term "licensed beds" means beds recognized, authorized, or approved by the State of Illinois.

M. The term "third party payor" means a person other than a natural person that pays any health care expenses of any other person, and all of its directors, officers, employees, agents and representatives. Third party payor includes, but is not limited to: Blue Cross and Blue Shield plans, commercial insurance companies, health maintenance organizations, preferred provider

organizations, competitive medical plans, union trust funds, multiple employer trusts, corporate or governmental self-insured health benefit plans, Medicare, Medicaid, or CHAMPUS.

N. The terms "you" or "Your Company" mean Affordable Medical Carriers, Inc. and any of its subsidiaries, affiliates or predecessors that are licensed as health maintenance organizations or that offer any form of health insurance product of the variety known as point of service products.

DOCUMENTS TO BE PRODUCED

1. From January 1, 1992 to the present day, all contracts between any third party payor (including, but not limited to, Your Company) and any health care facility in the Geographic Area, including all amendments, appendices, and related documents reflecting any contract terms.
2. All documents referring or relating in any manner to the criteria or factors used by Your Company in selecting which health care facility to contract with, and all documents that apply those criteria to such health care facilities.
3. Documents (in electronic form if they exist) sufficient to establish the number of enrollees (including monthly enrollment numbers), subscribers or patients, and the number of employer-subscribers, for all managed health care plans sponsored or administered by Your Company.
4. All documents relating to competition among third party payors relating to health care facilities in the Geographic Area, including but not limited to the desirability or necessity of entering into contracts with particular health care facilities in the Geographic Area, including ENH.

5. All documents relating to competition in the provision of any health care service in the Geographic Area including, but not limited to, market studies, forecasts, and surveys, and all other documents relating to:

- (a) the market share or competitive position of any health care facility
- (b) the quality of care provided by any health care facility;
- (c) the relative strength or weakness of health care facilities providing any health care service;
- (d) supply and demand conditions;
- (e) health care facility preferences or perceptions of employers, consumers, brokers, unions, associations, patients or customers who reside, or physicians who practice, in any portion of the Geographic Area;
- (f) the preference of third party payors (including, but not limited to, Your Company) for health care facilities that include health care facilities located in any portion of the Geographic Area; or
- (g) any analysis of alternative medical or surgical procedures which may affect the time spent by any inpatient in a hospital for the time period from January 2000 to the present.

6. All documents describing, comparing or evaluating the services, the quality of services, the cost of services, the staff, or the facilities of hospitals in the Geographic Area including, but not limited to, Evanston Hospital, Glenbrook Hospital and Highland Park.

7. All documents relating to any study, analysis, report, summary or tabulation regarding any characteristic of any patients admitted or discharged from any hospital in the Geographic Area, including such characteristics as: age; place of residence; type of admission;

principal diagnosis; procedures performed; charges; payments; admitting physician, physician group or physician organization; category of third party payor affiliation.

8. All documents relating to Your Company's negotiation of contracts with any hospital in the Geographic Area, including but not limited to all documents relating to any determination of whether or not to negotiate with any particular hospital, any actual or potential termination of such contracts, any decision to later reopen negotiations after termination, and any refusal by ENH or any other hospital to negotiate or agree upon terms with any third party payor.

9. All documents analyzing, summarizing, describing, referring or relating in any manner to Your Company's contracts, contract proposals or negotiations with any hospital in the Geographic Area.

10. All documents referring or relating in any manner to any third party payor's (including, but not limited to Your Company's) pre-certification and medical management policies, procedures, or protocols (including, but not limited to, concurrent reviews, referrals, etc.) applicable to any hospital in the Geographic Area.

11. All documents sufficient to show for any third party payor (including Your Company) and, if available, for each product sold by such third party payor:

(a) the total number of members, subscribers, enrollees, or patients who have been admitted to or discharged from each hospital in the Geographic Area;

(b) the total number of members, enrollees, subscribers or patients who reside in the Geographic Area and who have been admitted to or discharged from each hospital in the Geographic Area;

(c) the total dollar amount billed by and paid to each hospital in the Geographic Area on behalf of members, subscribers, enrollees or patients residing in the Geographic Area; and

(d) the hospital days per thousand of your enrollees.

12. All documents (in machine readable data if available) sufficient to establish separately for each enrollee, subscriber or patient of Your Company who resides in the Geographic Area and who was admitted to a hospital:

(a) the zip code of the patient's residence;

(b) the date of admission;

(c) the principal diagnosis;

(d) the number of hospital days for that admission;

(e) the amounts billed and paid by Your Company for that admission; and

(f) the identity of the admitting physician for that admission.

13. Documents sufficient to establish for each year the total number of treatments by International Classification of Diseases (ICD) codes (whether or not resulting in an admission) and the total amount billed to and paid by Your Company to each health care facility in the Geographic Area for all services, for inpatient services, and for emergency room or other ambulatory or clinic services.

14. All documents describing, discussing, summarizing or analyzing the utilization of hospitals in the Geographic Area by enrollees in any managed health care plan you sponsor or administer.

15. Documents (in machine readable form if available) sufficient to identify the physicians participating in any managed health care plan that Your Company sponsors or

administers who have admitting privileges at any hospital in the Geographic Area and, as to each such physician, documents sufficient to establish:

- (a) the location of the physician's office or offices;
- (b) the physician's medical specialty;
- (c) the physician's Universal Provider Identification Number;
- (d) the physician's Illinois license number;
- (e) any other identification number your plan assigns to the physician;
- (f) the aggregate number of admissions of enrollees in the managed health care plans that you sponsor or administer that the physician made each year at each hospital;
- (g) the total amount billed or paid to each hospital each year as a result of that physician's admissions to the respective hospitals;
- (h) the aggregate number of outpatient procedures performed on enrollees in the managed health care plans that you sponsor or administer that the physician made each year at each health care facility; and
- (i) the total amount billed or paid to each health care facility each year as a result of that physician's outpatient procedures performed to the respective health care facility.

16. All documents referring or relating in any manner to the shift or diversion, or impediments to diversion, of patients or any category of patients to or from any hospital or any health care facility in the Geographic Area by any third party payor, including, but not limited to, Your Company.

17. All speeches, articles, press releases, publications correspondence with public agencies or authorities, or testimony of management of Your Company regarding (i) the merger, consolidation or combination of hospitals generally, (ii) the merger, consolidation or combination of particular hospitals in the Geographic Area or (iii) the role of academic or teaching hospitals.

18. All documents referring or relating in any manner to any offer to or by any third party payor (including, but not limited to, Your Company) to designate any hospital in the Geographic Area as its sole preferred provider within a network for any category of services or for any group of enrollees or physicians or for any geographic area that includes any portion of the Geographic Area.

19. All documents referring or relating to any complaint by Your Company that any health care facility in the Geographic Area (including, but not limited to, ENH) is not acting competitively, is violating the antitrust law, or is competing unfairly.

20. All documents referring or relating to any complaint by Your Company that any health care facility in the Geographic Area (including, but not limited to, ENH) is raising the rates on its charge master without notice.

21. All documents referring or relating in any manner to the ENH/Highland Park transaction.

22. All print advertisements and the texts of any radio or television advertisements that refer or relate to any health care facility, and a representative sample of all sales and promotional literature of Your Company.

23. All proposals to employers, sponsors, employer groups, unions, agencies, counties or municipalities that discuss hospitals located in the Geographic Area.

24. Documents sufficient to show all managed health care plans or products offered by Your Company including documents relating to development of those plans, and the terms and conditions and the services provided by such plans.

25. All documents referring or relating in any manner to the basis upon which (i) employers select or are perceived to select among third party payors, or (ii) enrollees select or are perceived to select among third party payors.

26. All documents constituting, referring or relating to any complaints by physicians, subscribers, enrollees or patients regarding any decision of any third party payor (including Your Company) to direct a patient, enrollee or subscriber to a hospital for admission or to a physician for diagnosis or treatment other than the hospital or physician to which such enrollee, patient or subscriber (or a physician on his or her behalf) originally sought admission or treatment.

27. Documents referring or relating to any third party payor's (including Your Company's) policies, guidelines or practices relating to utilization of hospitals in the Geographic Area including, but not limited to, provider manuals; member handbooks; documents relating to utilization review criteria and usage of hospitals; and any other documents that define or distinguish between primary, secondary or tertiary hospitals for any purpose.

28. All documents relating to actual or proposed "carve out" or tiered services contracts pursuant to which Your Company has agreed to divert patients for services to any provider other than ENH.

29. All documents relating to the Northwestern Healthcare Network since its inception.

30. All documents that discuss the use or potential use of alternative contracting methodologies, including but not limited to discount off list pricing or per diem pricing.

31. All documents that discuss the creation of any physician networks in the Geographic Area, including, but not limited to, the costs of creating such networks.
32. All documents relating to contracting with physician groups in the Geographic Area, including, but not limited to, the ENH Medical Group and the Highland Park IPA.
33. All documents that discuss the relative benefits of the use of Medicare's Resource Based Relative Value System to determine the amount of pay for physician services.
34. All documents relating to the relative costs, burdens, and/or benefits of negotiating contracts using the messenger models.
35. All documents relating to the way in which Your Company processes payments to physicians with contracts with multiple entities, such as multiple independent physician associations.
36. All subpoenas received from U.S. Federal Trade Commission in connection with the ENH/Highland Park transaction.
37. All correspondence with, and documents that constitute any indices of documents produced to, the U.S. Federal Trade Commission in connection with the ENH/Highland Park transaction.
38. All documents related to any increase in insurance premiums that Your Company asserts was caused by the ENH/Highland Park transaction.
39. All documents reflecting any communications with your customers (including but not limited to brokers, employers, associations or unions) about the rates charged by any hospitals in the Geographic Area.
40. All documents which constitute any training manuals, manuals, or guides (or similar documents) which demonstrate common techniques used by your contract negotiations.

41. All documents which constitute process flow diagrams related to contracting with, or reimbursement of providers or healthcare facilities, and organizational charts.

42. All documents referring or relating to any policies, theories or practices of paying different prices to health care facilities based on the quality of care provided at the facility.

43. All documents referring or relating in any manner to hospitals identified by Your Company as "centers of excellence" or any equivalent applications meant to connote the highest quality of hospital care for any service.

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