

[PUBLIC]

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

In the Matter of)
)
EVANSTON NORTHWESTERN HEALTHCARE)
CORPORATION,) Docket No. 9315
)
and) Honorable Stephen J. McGuire
)
EHN MEDICAL GROUP, INC.,)
Respondents.)
_____)

**UNICARE HEALTH PLAN OF THE MIDWEST, INC.’S
REPLY IN FURTHER SUPPORT OF ITS
MOTION FOR EXTENSION OF TIME**

UNICARE HEALTH PLANS OF THE MIDWEST, INC. (“UNICARE”), by its attorneys, Donald A. Murday, Elizabeth G. Doolin and Chittenden, Murday & Novotny LLC, states as follows for its Reply in Further Support of Its Motion for Extension of Time:

In response to UNICARE’s Motion for Extension of Time to file Motion to Quash or Limit Subpoena Duces Tecum, both Respondents and the FTC have argued that the extension requested by UNICARE should be limited due to the discovery schedule set in this matter.

UNICARE files this Reply in order to clarify its position. UNICARE’s law department did not receive a copy of the subpoena (issued April 19, 2004) until April 28, 2004. UNICARE had not previously retained counsel in connection with any investigation conducted by the FTC prior to the filing of the Complaint in this matter, and therefore its counsel needs a reasonable period of time in order to review this matter, the breadth of the subpoena, and any possible objections thereto. It was for this reason that UNICARE sought a thirty (30) day extension of time in which to file its Motion to Limit or Quash the Subpoena.

Obviously, there was a miscommunication between counsel for UNICARE and counsel for Respondents concerning UNICARE's request for this extension. Counsel for UNICARE did contact counsel for Respondents and leave a voicemail message expressing her intention to file the Motion for Extension. After counsel for Respondents responded with another voicemail message indicating he had no objection, counsel for UNICARE left a second voicemail message, before filing UNICARE's motion, confirming that UNICARE would be seeking an additional thirty (30) days, due to the fact that counsel had only just been retained and given the extremely broad nature of the subpoena. Counsel for UNICARE believed that Respondents had no objection to its motion when it was filed.

It was only the following week that UNICARE learned that counsel for Respondents did not agree to a thirty-day extension of time. In light of this misunderstanding, and in an effort to amicably resolve the issue, counsel for UNICARE informed counsel for Respondents that it would reduce its request for time to fourteen (14) days from the date UNICARE's Motion to Quash or Limit the Subpoena would have been due (May 10, 2004), or until May 24, 2004. In light of the extremely broad nature of the subpoena, as well as the date on which UNICARE received same, this request for an extension is more than reasonable.

UNICARE is a third-party respondent to discovery. While counsel for the parties in this matter have had an extensive period of time in which to analyze the issues in this case and review documents in connection therewith, counsel for UNICARE has only recently been retained, and it is not unreasonable to request an extension of time in order for counsel to adequately review this matter and protect UNICARE's interests.

Finally, UNICARE confirms that it will certainly cooperate, as required by the rules, in resolving any issues with Respondents concerning the breadth and extent of Respondents'

subpoena to it, as well as in arranging for the production of documents in the most logical manner, and counsel for UNICARE has indicated as much to counsel for Respondents. It is not correct, however, that counsel for UNICARE has made any “commitment to make a rolling production of documents responsive to the subpoena.” Counsel for UNICARE has told both counsel for Respondents and counsel for the FTC that it needs to review this matter prior to discussing ways in which the parties may agree to limit the subpoena and arrange for the production of documents.

For all of these reasons, UNICARE requests that, at a minimum, it be granted an extension until May 24, 2004, in which to file its Motion to Quash or Limit the Subpoena Duces Tecum served upon it.

Respectfully submitted,

CHITTENDEN, MURDAY & NOVOTNY LLC

By: _____
One of the Attorneys for **UNICARE HEALTH
PLANS OF THE MIDWEST, INC.**

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CERTIFICATE OF SERVICE

I, Elizabeth G. Doolin, hereby certify that on May 13, 2004, I caused copies of:

Non-Party UNICARE Health Plans of the Midwest, Inc.'s Reply in Support of its Motion for Extension of Time

to be served upon the following persons:

Office of the Secretary
Federal Trade Commission
Room H-159
600 Pennsylvania Avenue, NW
Washington, DC 20580
(Original and 12 copies served via FedEx overnight delivery, and electronic copies served via e-mail)

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

ELECTRONIC COPY CERTIFICATION

UNICARE HEALTH PLANS OF THE MIDWEST, by and through its attorneys, hereby certifies that an electronic copy of the following:

Non-Party UNICARE HEALTH PLANS OF THE MIDWEST, INC.'s
Reply in Support of its Motion for Extension of Time

is a true and correct copy of the paper original, and that a paper copy, with original signature, has been filed with the Secretary of the Federal Trade Commission this same day via Federal Express Overnight Delivery sent on May 13, 2004.

Dated: May 14, 2004.