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2014 APR 17 A 9:17
OIC HEARINGS UNIT
PATRICIA S. PETERSEN
CHIEF PRESIDING OFFICER

STATE OF WASHINGTON
BEFORE THE WASHINGTON STATE
OFFICE OF THE INSURANCE COMMISSIONER

In the Matter of:

Seattle Children's Hospital Appeal of OIC's
Approvals of HBE Plan Filings.

Docket No. 13-0293

SEATTLE CHILDREN'S
HOSPITAL'S PROPOSED
STATEMENT OF ISSUES FOR
HEARING

As discussed at the prehearing telephone conference on April 14, 2014, plaintiff Seattle Children's Hospital (SCH) submits this proposed statement of the issues for hearing. This proceeding raises the following legal issues, which provide the framework for the factual issues to be addressed at the hearing:

I. Legal Framework

- A. Does the Affordable Care Act ("ACA") permit an exchange plan to satisfy the requirement to include essential community providers ("ECPs") in its network if its network simply includes any ECPs?
1. Does the CMS "tool," referenced in the Declaration of Molly Nollette, dated January 15, 2014, represent controlling authority on the question?
 2. If not, under what conditions will an exchange plan's network be considered adequate if it excludes other ECPs?
- B. To what extent does the ACA require an exchange plan to provide coverage for essential health benefits ("EHBs") through in-network providers?

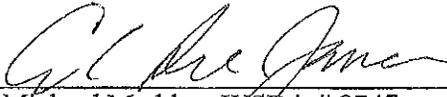
- C. To what extent and under what circumstances does Washington law permit a health care services contractor or health maintenance organization to provide covered services using non-contracted providers?

II. Issues of Fact

- A. In making its 2013 approval decisions regarding the Intervenors' exchange plans,
1. Did the OIC fail to consider the ACA requirements relating to ECPs?
 - a. What use, if any, did the OIC make of the CMS ECP "tool" to evaluate Intervenors' filings?
 2. Did the OIC fail to consider whether the Intervenors' plans were in compliance with EHB requirements?
 - a. If the OIC gave any consideration to the issue of compliance with EHB requirements, what standards did it apply, and what findings did it make?
 3. What was the OIC told and what did it understand regarding inclusion or exclusion of SCH from the Intervenors' networks?
- B. What EHB pediatric services are uniquely available at SCH?
- C. What is the level of demand for EHB pediatric services in SCH's service area?
- D. What is the capacity of other facilities in SCH's service area to provide EHB pediatric services?
- E. Has SCH refused to contract with the Intervenors at generally applicable payment rates or refused to contract under reasonable terms and conditions?
- F. What are the consequences of omitting SCH from the Intervenors' networks?
- G. To what extent, if any, was the OIC aware of the facts relevant to questions B-F when it approved the Intervenors' plans?

DATED this 16th day of April, 2014.

BENNETT BIGELOW & LEEDOM, P.S.

By 

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CERTIFICATE OF SERVICE

I certify that I served a true and correct copy of this document on all parties or their counsel of record on the date below by hand delivery on today's date addressed to the following:

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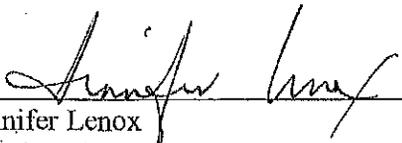
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I declare under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct.

Executed at Seattle, Washington, this 16th day of April, 2014.



Jennifer Lenox
Legal Assistant

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SEATTLE CHILDREN'S
HOSPITAL'S DISCLOSURE OF
POSSIBLE PRIMARY WITNESSES

Plaintiff Seattle Children's Hospital (SCH) submits the following list of potential witnesses to be called at the hearing.

1. **Mark Del Beccaro, MD.**

Dr. Del Beccaro is VP of Medical Affairs for SCH. He may be called to testify regarding the issues identified in headings (II)(B), (II)(C), and (II)(F) in the accompanying Proposed Statement of the Issues, and other information relevant to this action.

2. **Sandy Melzer, MD.**

Dr. Melzer is a Senior VP and Chief Strategy Officer for SCH. He may be called to testify regarding the issues identified in headings (II)(B), (II)(C), (II)(D), and (II)(F) in the accompanying Proposed Statement of the Issues, and other information relevant to this action.

3. **Eileen O'Connor.**

Ms. O'Connor is the Senior Director of Contracting and Payor Relations for SCH. She may be called to testify regarding the issues identified in headings (II)(E) and (II)(F) in the accompanying Proposed Statement of the Issues, and other information relevant to this action.

3. Suzanne Vanderwerff.

Ms. Vanderwerff is the Senior Director of Revenue Cycle for SCH. She may be called to testify regarding the issue identified in heading (II)(F) in the accompanying Proposed Statement of the Issues, and other information relevant to this action.

4. Alexandra Szablya.

Ms. Szablya and her minor daughter are enrolled in the Lifewise Exchange Gold plan. She will testify regarding her experiences relating to the lack of coverage for her daughter's inpatient treatment at SCH following their presentation at the SCH emergency room (as relevant to headings (II)(D) and (II)(F) in the accompanying Proposed Statement of the Issues).

5. Molly Nollette or other OIC witness.

Ms. Nollette, OIC Deputy Commissioner, Rates and Forms Division, or another OIC witness, is anticipated to testify as an adverse witness regarding what consideration the OIC gave to the issues identified in headings (II)(A) and (II)(G) in the accompanying Proposed Statement of the Issues.

Any other individual identified during the course of discovery.

Any witnesses identified by the OIC or by Intervenors. SCH does not intend to waive and reserves the right to challenge any witness identified by the OIC or by Intervenors.

SCH reserves the right to supplement this list as discovery progresses.

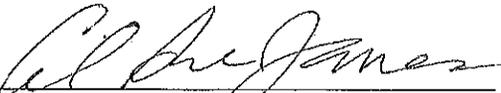
SCH reserves the right to amend and delete witnesses from this disclosure, due to scheduling or availability conflicts, new issues raised by any party during the course of discovery or as it otherwise becomes appropriate given the course of this action.

SCH has listed those witnesses who may be called to testify. However, by listing a name, SCH does not intend to waive and expressly reserves any privilege with respect to any witnesses listed herein. SCH maintains the right to full protection of all consulting experts as provided for by the Washington State Civil Rules of Procedure and any applicable case law which prohibits

parties from using any deposition, or portions thereof, of any consulting expert not chosen by SCH to be called as an expert to give testimony at the time of hearing.

DATED this 16th day of April, 2014.

BENNETT BIGELOW & LEEDOM, P.S.

By 

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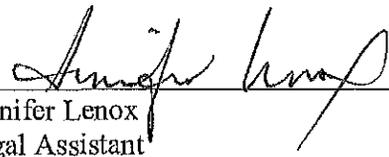
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