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United States District Court for the Western District of Missouri

In the matter of: United States of America, Plaintiff, vs. Health Choice of Northwest Missouri, Inc., Heartland Health System, Inc., and St. Joseph Physicians, Inc., Defendants.

Final Judgment

Plaintiff, the United States of America, having filed its Complaint on September 13, 1995, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of fact or law;

And Whereas defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is hereby ordered, adjudged, and decreed: 1

Jurisdiction

This Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states claims upon which relief may be granted against the defendants under Section 1 of the Sherman Act, 15 U.S.C. 1.

ΙΙ

Definitions

As used in this Final Judgment:
(A) "Ancillary services" means home

health care, hospice care, outpatient rehabilitation services, and durable medical equipment.

(B) "Competing physicians" means physicians in the same relevant physician market in separate medical practices.

(C) "General adult primary care" ("GAPC") means family practice and general internal medicine, whether or not physicians practicing in these areas are Board certified or Board eligible.

(D) "Health Choice" means Health Choice of Northwest Missouri, Inc., each organization controlled by or under common control with it, and its directors, officers, agents, employees, and successors.

(E) "Heartland" means Heartland Health System, Inc., each organization controlled by or under common control with it, and its directors, officers, agents, employees, and successors, but does not include Heartland Health Foundation.

(F) "Messenger model" means the use of an agent or third party to convey to purchasers any information obtained from individual providers about the fees which each provider is willing to accept from such purchasers, and to convey to providers any contract offer made by a purchaser, where (1) each provider makes a separate, independent, and unilateral decision to accept or reject a purchaser's offer, (2) the fee information conveyed to purchasers is obtained separately from each individual provider, and (3) the agent or third party (a) does not negotiate collectively for the providers, (b) does not disseminate to any provider the agent's or third party's or any other provider's views or intentions as to the proposal and (c) does not otherwise serve to facilitate any agreement among providers on price or other significant terms of competition.

(G) "Non-Heartland physician" means a physician who is not employed by Heartland and whose practice is not owned by Heartland.

(H) "Provider panel" means those health care providers whom an

organization authorizes to provide care to its enrollees and whom enrollees are given financial incentives to use.

(I) "Qualified managed care plan" means an organization that is owned, in whole or in part, by any or all of the defendants and that offers a provider panel. A qualified managed care plan must satisfy each of the following criteria:

(1) Its owners or not-for-profit members ("members") who compete either with other owners or members or with providers participating on the organizations' provider panel (a) share substantial financial risk and (b) either directly or through ownership or membership in another organization comprise no more than 30% of the physicians in any relevant physician market, except that it may include Heartland, any single physician, or any single physician practice group for each relevant physician market,

(2) it has a provider panel that includes no more than 30% of the physicians in any relevant physician market, unless, for those subcontracting physicians whose participation increases the panel beyond 30%, (a) there is a sufficient divergence of economic interest between those physicians and the owners or members of the organization so that the owners or members have the incentive to bargain down the fees of the subcontracting physicians, (b) the organization does not directly pass through to the payer substantial liability for making payments to the subcontracting physicians, and (c) the organization does not compensate those subcontracting physicians in a manner that substantially replicates ownership in the organization, and

(3) it does not facilitate agreements between any subcontracting physicians and the owners or members concerning charges to payors not contracting with

the organization.

Nothing herein shall be deemed to limit the ability of a qualified managed care plan to create financial incentives for improved performance goals for a provider or the organization or to shift risk to a provider, consistent with this

Paragraph.

(J) "Relevant physician market" means GAPC physicians, pediatricians, obstetricians or gynecologists in Buchanan County, Missouri, unless defendants obtain plaintiff's prior written approval of a different definition for any or all of these markets, or any other relevant market for physician services. This definition is for the sole and limited purposes of this Final Judgment, and shall not constitute an admission or agreement that the