alleging that defendant Health Choice of Northwest Missouri, Inc. ("Health Choice"), defendant Heartland Health System, Inc. ("Heartland"), and defendant St. Joseph Physicians, Inc. ("SJPI"), with others not named as defendants, entered into an agreement, the purpose and effect of which was to restrain competition unreasonably by preventing or delaying the development of managed care in Buchanan County, Missouri ("Buchanan County"), in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint seeks injunctive relief to enjoin continuance or recurrence of the violation.

The United States filed with the Complaint a proposed Final Judgment intended to settle this matter. Entry of the proposed Final Judgment by the Court will terminate this action, except that the Court will retain jurisdiction over the matter for further proceedings that may be required to interpret, enforce, or modify the Judgment, or to punish violations of any of its provisions.

Plaintiff and all defendants have stipulated that the Court may enter the proposed Final Judgment after compliance with the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b)–(h) ("APPA"), unless prior to entry plaintiff has withdrawn its consent. The proposed Final Judgment provides that its entry does not constitute any evidence against, or admission by, any party concerning any issue of fact or law.

The present proceeding is designed to ensure full compliance with the public notice and other requirements of the APPA. In the Stipulation to the proposed Final Judgment, defendants have also agreed to be bound by the provisions of the proposed Final Judgment pending its entry by the Court.

## Π

## Practices Giving Rise to the Alleged Violations

SJPI is a Missouri for-profit corporation, with its principal place of business in St. Joseph, Missouri ("St. Joseph").<sup>1</sup> SJPI was incorporated in April 1986 by roughly 85 percent of the approximately 130 physicians practicing or living in Buchanan County. The physicians who own SJPI have never integrated their separate, individual medical practices or shared substantial financial risk for SJPI's failure to achieve predetermined cost containment goals.

SJPI was formed primarily to negotiate collectively about fees and other contract terms with managed care plans seeking to enter Buchanan County. Managed care is a type of health care financing and delivery that seeks to contain costs through using administrative procedures and granting financial incentives to providers and patients. Typically, under such an approach, individual health care providers either are paid one set, predetermined fee for meeting all or nearly all of an enrollee's health care needs, regardless of the frequency or severity of the needed services, or are subject to a substantially discounted fee schedule and rigorous utilization review (i.e., assessment of the necessity and appropriateness of treatment). Beginning almost immediately after its incorporation, SJPI entered into fee negotiations collectively on behalf of its physicians with various managed care plans attempting to enter Buchanan County

Heartland operates the only acute care hospital in the three-county area of Buchanan and Andrew Counties, Missouri, and Doniphan County, Kansas.<sup>2</sup> On several occasions before January 1990, Heartland supported SJPI's efforts to deal collectively with managed care plans seeking to enter Buchanan County, and, in at least one instance, represented SJPI in such dealings. Between April 1986 and December 1989, no managed care plan was able to obtain a contract with SJPI or with any individual SJPI physician.

In January 1990, SJPI and Heartland formed Health Choice, a for-profit Missouri corporation, to provide managed care services to individuals in Buchanan County. Heartland and SJPI each own 50% of the common stock of Health Choice.

The Health Choice physician provider panel consists of approximately 85% of the physicians working or residing in Buchanan County, including nearly all of the SJPI physicians. Heartland is the primary provider of hospital services for Health Choice.

SJPI and Heartland established, through Health Choice, a utilization review program and a fee schedule for competing physicians in Buchanan County and agreed on several occasions that SJPI physicians and Heartland

would deal with managed care plans only through Health Choice. In general, SJPI and Heartland advised managed care plans that they had to use Health Choice's provider panel, fee schedule, and utilization review program. At no time, however, did Heartland, SJPI or the physicians participating on the Health Choice provider panel share substantial risk in connection with the achievement by Health Choice of predetermined cost containment goals. Since the formation of Health Choice, no managed care plan has been able to enter Buchanan County without contracting with Health Choice, despite the efforts of several plans to do so. Because of the high percentage of local doctors participating in Health Choice, no managed care plan could assemble an adequate panel of providers without including some physicians who participated in Health Choice.<sup>3</sup> By refusing to deal with managed care plans except through Health Choice, Heartland and SJPI physicians were able to obtain higher compensation and a more favorable hospital utilization review program from managed care plans than they would have been able to obtain independently.

Based on the facts described above, the Complaint alleges that the defendants entered into a contract, combination, or conspiracy to reduce or eliminate the development of managed care in Buchanan County in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. The Complaint further alleges that this conduct had the effect of (1) unreasonably restraining price and other competition among managed care plans, (2) unreasonably restraining price competition among physicians, and (3) depriving consumers and third-party payors of the benefits of free and open competition in the purchase of health care services in Buchanan County.

## III

## Explanation of the Proposed Final Judgment

The proposed Final Judgment is intended to prevent the continuance or recurrence of defendants' agreement to discourage the development of managed care in Buchanan County. The overarching goal of the proposed Final Judgment is to enjoin defendants from engaging in any activity that unreasonably restraints competition among physicians and among managed care plans in Buchanan County, while

<sup>&</sup>lt;sup>1</sup> St. Joseph is the county seat of Buchanan County, which has a population of about 72,000 and is located about 55 miles northwest of Kansas City, Missouri.

<sup>&</sup>lt;sup>2</sup> Heartland also provides home health care, hospice, rehabilitation, and other "ancillary" health care services in Buchanan County. There was some evidence that Heartland may have used its market power in inpatient hospital services to gain a competitive advantage in various ancillary health care services.

<sup>&</sup>lt;sup>3</sup> Shortly before Health Choice became operational, HealthNet, a competing managed care plan, entered Buchanan County. HealthNet contracted with several self-insured plans in Buchanan County but with no managed care plans.