

IN THE MATTER OF THE TERMINATION)
OF CONTRACTS BETWEEN PHYSICIANS) ADMINISTRATIVE ORDER
HEALTH SERVICES, INC. AND) AMENDING A PRIOR
HACKETTSTOWN COMMUNITY HOSPITAL) ADMINISTRATIVE ORDER
& VIRTUA WEST JERSEY HOSPITAL SYSTEM)

THIS MATTER having been opened by the Commissioner of the Department of Health and Senior Services (hereafter, "DHSS") pursuant to the authority vested by N.J.S.A. 26:2J-1 et seq.;

WHEREAS, DHSS issued an Administrative Order on February 7, 2001 (hereafter, "OMC Order 2001-01") against Physicians Health Services, a/k/a PHS Health Plans (although now named HealthNet of New Jersey, hereafter still referred to as "PHS"), requiring PHS to:

1. Pay a fine for failing to comply with N.J.A.C. 8:38-2.7;
2. Submit a Plan of Correction specifying the changes to current operations that PHS would implement to assure future compliance with N.J.A.C. 8:38-2.7;
3. Submit certain statements confirming that PHS members would be afforded all regulatory rights arising upon the termination of a contract with the specific hospitals; and
4. Submit certain statements regarding the adequacy of PHS' networks in the event that the contracts did terminate.

WHEREAS, OMC Order 2001-01 was based upon DHSS' belief that PHS was in violation of N.J.A.C. 8:38-2.7(a)3 (which requires HMOs to submit notification to DHSS and the Department of Banking and Insurance of termination of a contract between the HMO and a hospital at least 30 days prior to the date the termination is expected to take place), because of certain correspondence from PHS dated October 13, 2000 setting forth notice of the impending termination of the provider agreement between PHS and Virtua-West Jersey Hospital System

(WJHS), to be effective on or about November 5, 2000 (and Virtua-Memorial Hospital of Burlington County, to be effective on or about December 4, 2000), and additional correspondence from PHS, dated December 11, 2000, but sent by facsimile on December 12, 2000, setting forth notice of the impending termination of the provider agreement between PHS and Hackettstown Community Hospital (Hackettstown), effective on or about January 2, 2001;

WHEREAS, PHS requested an administrative hearing regarding OMC Order 2001-01 and a Stay of OMC Order 2001-01;¹

WHEREAS, in preparation for the hearing, PHS has presented a provision of the contracts in effect between PHS and the health care providers which states that either party to the contract may terminate the contract without cause with 90-days prior notice to the other party, but that the contract will continue in full force and effect during the 90-day notice period and shall then terminate on the last day of the month in which the ninetieth day following such notice occurs;

WHEREAS, the contract between PHS and Virtua-West Jersey Hospital should not have terminated prior to November 30, 2000,² and the contract between PHS and Hackettstown should not have terminated prior to January 31, 2001;

WHEREAS, based upon this new information, it appears that the notices from PHS were provided to the Department of Banking and Insurance and DHSS at least 30-days prior to the date of the expected terminations; and

WHEREAS, the contracts between PHS and the hospitals did not, in fact, terminate;

NOW, THEREFORE, it is hereby ORDERED on this 20th day of December, 2001 that:

1. Paragraphs 1 and 2 of OMC Order 2001-01 are rescinded in their entirety.

2. PHS shall not be required to comply with any provision of the remaining paragraphs of OMC Order 2001-01 with which it has not already complied for the purposes of the matters addressed in OMC Order 2001-01.

3. The terms of this Order are effective immediately upon the date signed.

Questions regarding this Order should be submitted to Marilyn Dahl, Senior Assistant Commissioner (609-984-3939), or Sylvia Allen-Ware (609-633-0660), Director of the Office of Managed Care.

FOR: GEORGE T. DIFERDINANDO
ACTING COMMISSIONER
NEW JERSEY DEPARTMENT OF HEALTH
AND SENIOR SERVICES

BY: _____
MARILYN DAHL
SENIOR ASSISTANT COMMISSIONER

DATE: _____

¹ The Stay was granted on March 6, 2001.

² The contract between PHS and Virtua-Memorial Hospital of Burlington County should not have terminated prior to December 31, 2000.