

IN THE MATTER OF THE TERMINATION)
OF THE CONTRACT BETWEEN) ADMINISTRATIVE
AMERICHoice OF NEW JERSEY, INC. AND) ORDER
THE HOSPITALS OF SAINT CLARE'S)
HEALTH SYSTEM)

THIS MATTER having been opened by the Commissioner of the Department of Health and Senior Services (DHSS) in accordance with his authority at N.J.S.A. 26:1A-15, and N.J.S.A. 26:2J-1 et seq.:

WHEREAS, AmeriChoice of New Jersey, Inc. (AmeriChoice) sent notice to DHSS on or about June 20, 2005 of the termination of the contract between AmeriChoice and Saint Clare's Health System's hospitals (St. Clare's); and

WHEREAS, DHSS requested clarification from AmeriChoice about the date of the termination of the contract, and AmeriChoice confirmed by email on June 27, 2005 that the effective date of the contract termination was June 20, 2005;

WHEREAS, N.J.A.C. 8:38-2.7(a), requires an HMO to provide 30-days prior notice to DHSS and the Department of Banking and Insurance of the possible termination of a contract with a hospital, and to satisfy both agencies that removal of the hospital from the HMO's provider network will not have an adverse impact upon the HMO's ability to meet the network adequacy requirements of N.J.A.C. 8:38-6;

WHEREAS, AmeriChoice failed to provide DHSS with 30-days prior notice of the termination of the contract between AmeriChoice and St. Clare's, consistent with the requirements of N.J.A.C. 8:38-2.7(a);

WHEREAS, N.J.S.A. 26:2J-11.1, which requires that the terms of a contract between a hospital and HMO that is terminated be extended for at least a four-month period following the

date of termination, also requires that, following the date of termination, an HMO provide notice to its members and other health care providers with which the HMO is contracted of the extension of the terms of the contract with the hospital, setting forth the options of the members and other health care providers in the receipt of care during and following the conclusion of the four-month extension period;

WHEREAS, N.J.A.C. 8:38-3.5(e) specifies that, when a contract between the HMO and the hospital terminates, an HMO provide notice to members and other health care providers no later than 15 business days following the date of the termination;

WHEREAS, AmeriChoice provided notice to the Department on or about July 8, 2005 that AmeriChoice and St. Clare's had entered into a new agreement, executed on July 8, 2005;

NOW, THEREFORE, IT IS ORDERED on this 22nd day of September, 2005 that:

1. AmeriChoice shall pay a fine of Fifteen Thousand Dollars (\$15,000), determined by multiplying 30 days by \$500,¹ for failing to provide at least 30-days prior notice of the termination of the contract between St. Clare's and AmeriChoice to DHSS and the Department of Banking and Insurance in accordance with N.J.A.C. 8:38-2.7(a);

2. AmeriChoice shall submit payment of the penalties by check or money order made payable to the State Treasurer of New Jersey in a single sum no later than the date on which this paragraph becomes effective, as specified in Paragraph 10 of this Order. AmeriChoice shall submit payment to the Director of the Office of Managed Care, P.O. Box 360, Trenton, NJ 08625-0360.

¹ Because this represents a second violation of the same rules by AmeriChoice within more than a 24-month but less than a 36-month period (see OMC Order 2002-07), DHSS' policy is to increase the multiplier for the fine, so that this second offense (in which no harm has been documented) is \$500 per day of the violation.

3. Nothing in this Order shall be interpreted to prejudice the interests of AmeriChoice or St. Clare's in any legal action, and nothing in this Order shall be interpreted to prejudice the interests of health care providers or members in any legal action that has been or may be brought against AmeriChoice or St. Clare's.

5. Nothing in this Order shall be construed to preclude DHSS from taking enforcement action against AmeriChoice for related matters not set forth herein.

6. Nothing in this Order shall be construed to preclude DHSS from taking enforcement action against St. Clare's separately in this same matter or for matters related to this matter but not set forth herein.

7. Obligations under this Order are imposed pursuant to the police powers of the State of New Jersey for the enforcement of law and the protection of public health, safety, and welfare and are not intended to constitute a debt or debts subject to limitation or discharge in a bankruptcy proceeding.

8. All numbered paragraphs of this Order, other than Paragraphs 1 and 2 shall be effective as of the date of this Order.

9. Paragraphs 1 and 2 shall not become effective until 30 days following the date of this Order, in accordance with N.J.A.C. 8:38-2.14(c), unless AmeriChoice files with DHSS, prior to the end of the 30-day period, a written request for a hearing, and a written request to Stay the Order with respect to Paragraphs 1 and 2 until an administrative hearing has been concluded and a final decision is rendered by the Commissioner of DHSS. A request for a hearing shall be accompanied by a written response to the violations set forth in this Order.

10. If AmeriChoice wishes to request an administrative hearing, AmeriChoice shall submit its request in writing no later than 30 days following the date of this Order to Sylvia

Allen-Ware, Director of the Office of Managed Care, at P.O. Box 360, Trenton, NJ 08625-0360,
or by fax at (609) 633-0807.

Questions regarding this Order should be submitted to Sylvia Allen-Ware (609-633-
0660), Director of the Office of Managed Care.

/s/Marilyn Dahl

MARILYN DAHL

Deputy Commissioner

Department of Health and Senior Services

c: Sylvia Allen-Ware
Director, Office of Managed Care