

IN THE MATTER OF THE TERMINATION)
OF THE CONTRACT BETWEEN PHYSICIANS) ADMINISTRATIVE
HEALTH SERVICES AND CENTRASTATE) ORDER
MEDICAL CENTER)

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

WHEREAS, Physicians Health Services, a/k/a PHS Health Plans, Inc., (hereafter, "PHS") notified DHSS on September 11, 2000 that CentraState Medical Center (hereafter, "CentraState") intended to operate as if it were no longer a participating provider of PHS' network after September 13, 2000;

WHEREAS, CentraState and PHS agree that PHS was on notice in January of 2000 that CentraState intended to terminate the contract between PHS and CentraState;

WHEREAS, CentraState provided notice to PHS in March 2000 that continued discussions with PHS did not result in rescission of the January notice, and indicated that it desired the contract to terminate as of May 13, 2000;

WHEREAS, N.J.A.C. 8:38-2.7(a), requires an HMO to provide notice to DHSS and the Department of Banking and Insurance of the expected 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, N.J.A.C. 8:38-2.7(a) requires that such notice be provided at least 30 days prior to the date the expected termination is to occur;

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, advising members of their options;

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, PHS failed to notify DHSS and the Department of Banking and Insurance in accordance with N.J.A.C. 8:38-2.7(a);

WHEREAS, PHS did not notify DHSS until at least 151 days following the date that PHS should have provided notice that it anticipated that the contract with CentraState would terminate (that is, PHS did not provide notice on or about April 13, 2000);

WHEREAS, PHS did not provide notice to members and health care providers no later than June 5, 2000 in accordance with N.J.S.A. 26:2J-11.1, and more specifically, N.J.A.C. 8:38-3.5(e);

WHEREAS, PHS has failed to provide appropriate notice to members and health care providers for at least 97 days (that is, PHS did not provide notice on or about June 5, 2000);

NOW, THEREFORE, IT IS ORDERED on this 18th day of September 2000 that:

1. PHS shall pay a fine of \$104,500 which, in its component parts, is as follows: Forty-five Thousand Three Hundred Dollars (\$45,300) for failing to notify DHSS and the Department of Banking and Insurance as required by N.J.A.C. 8:38-2.7(a) for no less than 151 days multiplied by \$300 per day; Twenty-Nine Thousand One Hundred Dollars (\$29,100) for failing to notify members as required by N.J.A.C. 8:38-3.5(e) for no less than 97 days multiplied by \$300 per day; and Twenty-Nine Thousand One Hundred Dollars (\$29,100) for failing to

notify health care providers as required by N.J.A.C. 8:38-3.5(e) for no less than 97 days multiplied by \$300 per day.

2. PHS shall submit payment of the penalty by check or money order made payable to the State Treasurer of New Jersey in a single amount of One Hundred Four Thousand Five Hundred Dollars (\$104,500) no later than the date on which this paragraph becomes effective, as specified in Paragraph 16 of this Order. PHS shall submit payment to the Director of the Office of Managed Care, P.O. Box 360, Trenton, NJ 08625-0360.

3. In accordance with N.J.S.A. 26:2J 11.1, PHS shall assure that members residing in the county in which CentraState is located and in adjacent counties within PHS' service area may utilize services at CentraState in accordance with the terms of the health benefits plan under which each member is covered, as if CentraState continues to be a network health care facility, for no less than four months from the date of this Order, and shall assure that no member who accesses services at CentraState during this time period shall be liable for payment of any costs associated with such services in excess of what that member would have been liable for had the member obtained services from a network health care facility. Nothing in this paragraph shall be construed to prohibit PHS from encouraging members to utilize the services of health care facilities within PHS' network.

4. PHS shall assure that health care providers that otherwise would have been terminated from PHS' network because of termination of the agreement with CentraState are allowed to continue to provide services to PHS' members for no less than four months from the date of this Order, at the discretion of the health care provider and the member, and PHS shall assure that the terms of the contracts between such health care providers remain in effect during this four-month period, except that PHS shall not prohibit a health care provider from, or

penalize a health care provider for, referring a member to CentraState for services and/or seeking precertification and preauthorization for services at CentraState during this time period.

a. Nothing in the foregoing paragraph shall be construed to prohibit PHS from encouraging such health care providers to utilize the services of health care facilities within PHS' network in accordance with the terms of the health care provider's contract with PHS.

b. Nothing in paragraph 4 shall be construed to eliminate any obligation that a health care provider and PHS may have with respect to continuity of care for members in the event that the health care provider's contract terminates either prior to, or at the end of, the four-month period specified in paragraph 4 above as required by N.J.S.A. 26:2S-9.1 and N.J.A.C. 8:38-3.5 generally.

5. PHS shall not prohibit any other health care provider from, or penalize any other health care provider for, referring a member to CentraState for services and/or seeking precertification and preauthorization for services at CentraState during this time period. Nothing in this paragraph shall be construed to prohibit PHS from encouraging any health care providers to utilize the services of health care facilities within PHS' network in accordance with the terms of the health care provider's contract with PHS.

6. PHS shall provide written notice to members and health care providers within no more than 15 business days following the date of this Order, specifically regarding the termination of CentraState from PHS' network. The notice shall explain the options available for obtaining health care services both during the four month period following the date of this Order, including the right of members to continue accessing services at CentraState as if CentraState were still a network facility, consistent with the terms of Paragraphs 3, 4 and 5 above. The

notice shall also explain the options available for obtaining health care services after the end of the four-month time period.

7. Within no more than 3 days following the date of this Order, PHS shall submit to DHSS for review and approval the notices it intends to mail to its members and health care providers in accordance with Paragraph 6 above.

8. PHS shall submit documentation to DHSS and the Department of Banking and Insurance within no more than 15 business days following the date of this Order explaining how removal of CentraState from PHS' network, and other health care providers whose contracts may terminate at the end of the four-month period because of the termination of CentraState, does not have an adverse impact upon PHS' ability to meet the network adequacy requirements for the certificate of authority issued to PHS, or, alternatively, what actions PHS will take prior to the end of the four-month period following the date of this Order to assure that PHS does meet the network adequacy requirements for the certificate of authority issued to PHS.

9. In the event that PHS is unable to supply documentation pursuant to Paragraph 8 above that satisfies DHSS and the Department of Banking and Insurance that PHS can meet the network adequacy requirements, PHS shall submit an application to modify its certificate of authority accordingly.

10. Nothing in this Order shall be construed to limit or eliminate any notice standards with which PHS may be required to comply in accordance with its contract with, and regulations of, the State's Medicaid Program.

11. Nothing in this Order shall be interpreted to prejudice the interests of PHS or CentraState 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 PHS or CentraState.

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

13. Nothing in this Order shall be construed to preclude DHSS from taking enforcement action against CentraState in this same matter or for matters related to this matter but not set forth herein.

14. 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.

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

16. 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 PHS 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.

17. If PHS wishes to request an administrative hearing, PHS shall submit its request in writing no later than 30 days following the date of this Order to Carole Slimm, Office of Legal and Regulatory Affairs, P.O. Box 360, Trenton, NJ 08625-0360, or by fax at (609) 292-5333.

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

FOR:

CHRISTINE GRANT, COMMISSIONER
NEW JERSEY DEPARTMENT OF HEALTH
AND SENIOR SERVICES

BY:

MARILYN DAHL
Senior Assistant Commissioner