



Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, OCTOBER 4, 1996

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JUSTICE DEPARTMENT WILL NOT CHALLENGE NETWORK OF HOME HEALTH CARE PROVIDERS IN MISSISSIPPI

WASHINGTON, D.C. -- Three home health care providers in Mississippi may form a nonexclusive network to contract with managed care plans to provide statewide home health care coverage, according to a Business Review Letter issued today by the Department's Antitrust Division. The group, to be called Home Care Alliance, Inc., will contract using a messenger model, a method of contracting which is designed to avoid price agreements among competitors.

Home health providers in Mississippi serve state-designated territories, beyond which they may not market their services. The three proposed members of the Alliance serve completely separate parts of the state, with the exception of one county, and therefore for the most part do not and cannot, compete with each other.

A messenger employed by the Alliance will provide payers with each member's fee schedule, and then will transmit any payer contract offers back to each provider for consideration. Each provider remains free to accept or reject each contract, as well as to contract independently with any payer and to join other home health networks.

Although the three proposed members of the network are not competitors, the messenger to be employed by the network will not share a member-provider's contract information with the other member-providers. This system is designed so that other home health care providers who compete with one of the network's three founding members will be able to join the network, without harming competition.

The network proposal was submitted by counsel for Alexander's Home Health, one of the three initial Alliance members. The purpose of the network is to facilitate contracting with managed care plans, employers and other third party payers that need home health services for their enrollees or employees. The network will provide monitoring of utilization review, quality assurance, and credentialing, but will not attempt to impose standards for these functions on any payer.

The Department's position was stated in a business review letter from Anne K. Bingaman, Assistant Attorney General in charge of the Antitrust Division, to counsel for Alexander's Home Health in Columbus, Mississippi.

Bingaman's letter explained that neither the participation of the three initial members nor the addition of more members in the future should harm competition, since the Alliance will contract through a messenger. Networks using properly designed and implemented messenger arrangements rarely present substantial antitrust concerns.

Under the Department's business review procedure, an organization may submit a proposed action to the Antitrust

Division and receive a statement whether the Division will challenge the action under the antitrust laws.

A file containing the business review request and the Department's response may be examined in the Legal Procedure Unit of the Antitrust Division, Room 215 North, Liberty Place, Department of Justice, Washington, D.C. 20530. After a 30-day waiting period, the documents supporting the business review will be added to the file.

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96-491