



Department of Justice

FOR IMMEDIATE RELEASE
FRIDAY, MARCH 1, 1996

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**JUSTICE DEPARTMENT WON'T APPROVE NEW JERSEY PEDIATRICIANS'
NETWORK PROPOSAL CITING IT COULD RAISE PRICES TO CONSUMERS**

WASHINGTON, D.C. -- The Justice Department today advised a group of southern New Jersey pediatricians that it would not approve their proposal to form a physician network because it is likely to be used to raise prices to consumers without countervailing procompetitive benefits.

The Department's position was stated in a business review letter from Anne K. Bingaman, Assistant Attorney General in charge of the Department's Antitrust Division to counsel for Children's Healthcare P.A.

"Children's Healthcare P.A. would achieve substantial power in several significant local markets sufficient to enable it to increase prices to consumers and deprive consumers of competitive health care choices," said Bingaman.

Bingaman's letter pointed out that the Department firmly supports the formation of properly structured physician-controlled networks that offer the prospect of cutting costs and improving patient care.

Bingaman said, "Unlike many physician networks that have received favorable business review letters, this proposed network is not likely to achieve substantial cost or other efficiencies that would benefit consumers."

The proposed network would be formed by 65 to 70 southern New Jersey pediatricians to negotiate and contract with managed care plans to provide basic healthcare for children. The network would comprise approximately 50 to 75 percent of the primary-care pediatricians in at least several important local markets for pediatric services in southern New Jersey.

Bingaman said the investigation concluded that basic healthcare for children is provided in local markets and that family practitioners and other physicians are not effective substitutes for pediatricians in the establishment of marketable managed care networks.

"Undoubtedly this network could be structured in a way to avoid anticompetitive effects on consumers. The Department remains flexible to consider revisions to the structure of the network and to provide guidance about how to do this to eliminate our competitive concerns," said Bingaman.

Among the many business review letters in the health care area issued in the last two years, 10 involved physician networks. All 10 were approved by the Department because the networks were structured to avoid anticompetitive harm to consumers.

After a thorough investigation that included many discussions with payers, hospitals, large employers and physicians, the Department rejected Children's Healthcare P.A.'s contention that the antitrust effects of its proposal should be tested in a market including all pediatricians and family practice doctors in the Greater Delaware Valley which includes, southern New Jersey, southeastern Pennsylvania, and northern Delaware.

Bingaman said, "Our investigation confirmed that insurance plan enrollees want pediatricians in their local areas to provide basic health care for their children. Parents do not want to drive long distances to obtain basic pediatric care."

The business review letter also noted that while Children's Healthcare stated that its members would maintain independent practices and would be permitted, with some restrictions, to participate in other networks or to contract individually with payers, the investigation revealed a real danger that its members would seek higher prices and other anticompetitive contract terms. Documents strongly suggested that a primary objective of Children's Healthcare was to obtain and exercise enhanced bargaining power in negotiations with health plans by presenting a united front.

Under the Department's business review procedure, a person or organization may submit a proposed action to the Antitrust Division and receive a statement as to 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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96-082