

IN THE MATTER OF THE TERMINATION)	
OF THE CONTRACTS BETWEEN)	
HORIZON HEALTHCARE OF NJ, INC. AND)	ADMINISTRATIVE
VIRTUA HEALTH SYSTEM AND SHORE)	ORDER
MEMORIAL HOSPITAL)	

THIS MATTER having been opened by the Commissioner of the Department of Health and Senior Services (hereafter, "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, DHSS received notice by electronic mail from a representative of Horizon BlueCross BlueShield of New Jersey, Inc. ("BCBSNJ"), and Horizon Healthcare of NJ, Inc. ("Horizon"), on or about January 8, 2003 regarding the termination of the contract with Virtua Health System¹ ("Virtua") and Shore Memorial Hospital ("Shore"); and

WHEREAS, it appears that Virtua and Shore each terminated its participation with Horizon and BCBSNJ effective on or about December 31, 2002; and

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 substantial changes, including but not limited to changes or reductions in the provider network that may have an adverse impact upon the HMO's ability to meet the network adequacy requirements of N.J.A.C. 8:38-6, as well as termination of a contract with a hospital; and

WHEREAS, Horizon is an HMO, and is required to comply with N.J.A.C. 8:38 and all of its provisions²; and

¹ Virtua Health System includes the following hospitals: Virtua West Jersey Hospital – Berlin; Virtua West Jersey Hospital – Marlton; Virtua West Jersey Hospital – Voorhees; and, Virtua Memorial Hospital of Burlington County.

² In general, the HMO statutes, N.J.S.A. 26:2J-1 et seq., and rules promulgated pursuant thereto, including N.J.A.C. 8:38-2.7, do not apply to BCBSNJ. Instead, BCBSNJ's enabling statutes, at N.J.S.A. 17:48E-1 et seq., address

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

NOW, THEREFORE, IT IS ORDERED on this 3rd day of February, 2003 that:

1. Horizon shall pay a fine of Nineteen Thousand dollars (\$19,000), determined by multiplying 38 days (counting from December 1, 2002 through January 7, 2003) by \$250, for failing to provide prior notice to DHSS and the Department of Banking and Insurance in accordance with N.J.A.C. 8:38-2.7(a) of the termination of the contract between Virtua and Horizon and between Shore and Horizon, and adding those sums (\$9,500 each) together.

2. Horizon 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 11 of this Order. Horizon shall submit payment to the Director of the Office of Managed Care, P.O. Box 360, Trenton, NJ 08625-0360.

3. Horizon shall assure that its HMO members, at a minimum, have access to Virtua and Shore for at least the duration of the statutorily-required four-month extension period set forth at N.J.S.A. 26:2J-11.1, which ends on or about April 30, 2003.

4. Within 10 business days following the date of this Order, Horizon shall submit the following information, certified to by an officer of Horizon:

termination issues for that carrier. The latter statutes are under the jurisdiction of the Department of Banking and Insurance.

(a). A separate *Table 2 (Summary of Physicians by County)* completed³ to show each of the following:

- (1). The current physician network in Burlington and Atlantic counties;
- (2). The number of primary care and specialty care physicians who only have privileges with Virtua, and the number of primary care and specialty care physicians who only have privileges with Shore, with a written explanation of how many providers in each discipline Horizon expects to leave its network, and the means by which Horizon will address this issue; and
- (3). The network Horizon expects to be available on May 1, 2003.

(b). A separate *Table 3 (General Acute Hospitals)* completed to show each of the following:

- (1). The current acute care hospitals in Burlington and Atlantic counties under contract with Horizon, specifying the number of beds available at each hospital and the services each hospital offers
- (2). The hospitals, beds, and services that will be available on May 1, 2003.

(c). A geo-access evaluation report of the hospital and physician networks that will be available to Horizon enrollees on May 1, 2003, submitted on diskette as well as hardcopy.

³ In preparation of *Table 2*, Horizon shall not leave blanks or “1s” for any specialist provider category; if out-of-county providers are used to provide or supplement the network for Burlington and/or Atlantic county, that number shall be indicated, and followed by an asterisk, which shall provide an explanation on a separate page(s) listing the provider(s) by name, specialty, office address, including county, and hospital affiliation. In preparation of *Table 2*, Horizon shall include behavioral/mental health and substance abuse providers, regardless of whether a secondary contractor provides the services.

(d). Current enrollment charts for Atlantic and Burlington counties by male/female under age 18 and male/female age 18 and over.

(e). Copies of all forms of notification letters sent to enrollees who reside in Burlington and Atlantic county informing them of their options with respect to their health care coverage, including a list of the network hospitals that will be available at the conclusion of the four-month extension period. This notice shall include a statement that the terms of the current contracts between Horizon and Virtua and Horizon and Shore will continue from January 1, 2003 until the end of the extension period, which shall be no earlier than April 30, 2003.

(f). Copies of all forms of notification letters sent to network health care providers, and specifically physicians that have admitting privileges at Virtua and Shore. This notice shall include a statement that the terms of the current contracts between Horizon and Virtua and Horizon and Shore will continue from January 1, 2003 until the end of the extension period, which shall be no earlier than April 30, 2003. The notice also shall include an explanation of the right of members to have care continued in accordance with N.J.S.A. 26:2S-9.1.

5. Within 10 business days following the date of this Order, Horizon shall submit a list of, at a minimum, the acute care hospitals in each county with which it has a contract for participation, a letter of agreement or other understanding by which Horizon and the hospital has agreed that Horizon HMO members are permitted to use the hospital without being subject to billing or balance billing. Horizon shall indicate on the list the classification of the agreements with the hospital (for example: executed contract, letter of agreement), whether Horizon includes the hospital in Horizon's directory or actively refers its members there, and the current status of the agreement (for example: in effect, termination notice given, statutory extension

period in effect). All of the information submitted by Horizon in satisfaction of this requirement shall be certified to by an officer of Horizon.

6. Nothing in this Order shall be interpreted to prejudice the interests of Horizon, Virtua or Shore 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 Horizon, Virtua or Shore.

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

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

9. 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.

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

11. Paragraphs 1 and 2 shall become effective on the 31st day following the date of this Order, in accordance with N.J.A.C. 8:38-2.14(c), unless Horizon files with DHSS, prior to the end of the 30th day, 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.

12. If Horizon wishes to request an administrative hearing, Horizon shall submit its request in writing no later than the 30th day 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 Sylvia Allen-Ware (609-633-0660), Director of the Office of Managed Care.

MARILYN DAHL
Senior Assistant Commissioner

/s/Marilyn Dahl