

IN THE MATTER OF HEALTH NET OF NEW	)	
JERSEY, INC., AND ITS UTILIZATION	)	ADMINISTRATIVE
MANAGEMENT APPEALS PROGRAM	)	ORDER

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

WHEREAS, Health Net of New Jersey, Inc. (hereinafter, "Health Net") is a health maintenance organization (hereinafter, "HMO") issued a certificate of authority to operate in New Jersey;

WHEREAS, HMOs in New Jersey are required to comply with N.J.S.A. 26:2J-1 et seq. and N.J.A.C. 8:38, among other statutes and regulations;

WHEREAS, HMOs are and have been required pursuant to N.J.A.C. 8:38-2.6 to obtain the approval of DHSS, as evidenced by a certificate of authority modification, prior to engaging in certain activities, including delegation of certain functions otherwise expected to be performed by the HMO, such as utilization management functions;

WHEREAS, HMOs are and have been required pursuant to N.J.A.C. 8:38-2.7 to provide DHSS with at least 30 days prior notice of any substantial changes in operation, including the delegation of major functions not specified as requiring a certificate of authority modification under N.J.A.C. 8:38-2.6, which change will be deemed approved if notice of disapproval is not issued by the DHSS prior to the end of the 30-day notice period;

WHEREAS, HMOs are and have been required pursuant to N.J.A.C. 8:38-15 to submit both primary and secondary provider agreements for review by the DHSS for prior approval;

WHEREAS, HMOs are and have been required pursuant to N.J.S.A. 26:2J-19a(1) to keep the Department abreast of changes in operation of the HMO;

WHEREAS, Health Net did not submit its contract with a subcontractor, referred to as Paidos, to DHSS or the Department of Banking and Insurance (hereinafter, "DOBI")<sup>1</sup> for review pursuant to repeated requests for the contract made by DHSS or DOBI prior to the issuance of OMC Order 2003-04, so that DHSS (and DOBI) could determine whether prior approval of the contract was required;

WHEREAS, Health Net executed the contract with Paidos without DHSS approval;

WHEREAS, upon receipt of the Paidos contract pursuant to OMC Order 2003-04, the DHSS reviewed the contract and determined that, while the contract is not classified as either a primary or secondary provider contract, it is, nevertheless, a management agreement for the delegation of certain functions by Health Net to Paidos;

WHEREAS, it appears to DHSS that the Paidos contract involves the delegation of a set of utilization management determinations, which should have been approved pursuant to N.J.A.C. 8:38-2.6 prior to execution of the contract;

NOW, THEREFORE, IT IS ORDERED on this 10th day of November, 2004, that:

1. OMC Order 2003-04 shall be amended with respect to the issues addressing the Paidos contract to reflect that the filing should have been submitted pursuant to N.J.A.C. 8:38-2.6, but was not so submitted prior to the issuance of OMC Order 2003-04;
2. OMC Order 2003-04 shall stand as is in all other aspects, including the fines established therein.

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<sup>1</sup> DHSS had a letter of intent signed by Paidos and Physicians Health Services to contract.

Questions regarding this Order should be submitted to Marilyn Dahl, Deputy Commissioner (609-984-3939), or Sylvia Allen-Ware (609-633-0660), Director of the Office of Managed Care.

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MARILYN DAHL  
Deputy Commissioner  
Health Care Quality & Oversight  
New Jersey Department of Health and Senior  
Services

*/s/Marilyn Dahl*