

Health Headlines

May 16, 2011

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FTC Bars Texas Physician Group From Joint Price Negotiations – On May 10, the Federal Trade Commission (FTC) announced that Southwest Health, an independent practice association representing 900 physicians in the Amarillo, Texas, area agreed to enter in to an FTC Consent Order barring it from jointly negotiating the rates it charges insurance companies. According to the FTC, the proposed Consent Order is designed to prevent the continuance and recurrence of the illegal conduct alleged in the complaint while it allows Southwest Health to engage in “legitimate, joint conduct.” The Southwest Health Consent Order, one of several similar FTC enforcement actions over the past few years, serves as a reminder that the FTC aggressively investigates provider combinations, especially those involving collective negotiations with insurance companies. The FTC’s press release regarding the enforcement action is available by clicking [here](#) and a more detailed discussion of the FTC Consent Order may be read [here](#).

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Blue Cross Announces Intention To Participate In Florida Medicaid Program – News Service of Florida reported that Blue Cross and Blue Shield of Florida announced plans on May 10, 2011, to expand into Florida’s Medicaid market. Blue Cross company spokesperson, John Herbkersman, stated in an email that “as the state’s largest health insurer, BCBSF already serves many of Florida’s residents. An expansion into the state’s Medicaid market allows BCBSF to provide the state’s Medicaid beneficiaries with the same level of service and quality that our members experience every day.”

The announcement closely follows new legislation passed in Florida on May 6, 2011, (Florida HB 7107 & HB 7109) that calls for managed care organizations (either HMOs or provider-service networks) to manage the medical care for the majority of Florida Medicaid beneficiaries, as opposed to beneficiaries receiving care from a provider fee-for-service system. Florida currently has more than 2.9 million residents enrolled in the Medicaid program with about 1.3 million of those beneficiaries enrolled in managed care plans. Under the new legislation, the number of Florida Medicaid members enrolled in managed care plans is projected to at least double. Seniors in need of long-term care will be required to enroll in a managed care plan by October 2013, followed by a broader Medicaid population, including women and children, by October 2014. Republican Governor of Florida, Rick Scott, is expected to sign the bills. Once signed, the legislation must then be approved by the federal government, which funds more than half of Florida’s Medicaid costs.

If approved by the federal government, the Florida legislation provides that the state will be divided into 11 geographical regions with managed care organizations competing for 5-year contracts in each region. Copies of HB 7107 and HB 7109 are available by clicking [here](#) and [here](#). Mr. Herbkersman reported that Blue Cross and Blue Shield of Florida’s plans are in the early stages with issues that are yet undecided, such as when it will seek to enter the Florida Medicaid market.

Reporter, *Jesica M. Eames*, Atlanta, +1 404 572 2821, jeames@kslaw.com.

Court Issues Significant Guidance Concerning When State-Owned Corporations May Constitute Foreign Government “Instrumentalities” Under FCPA – On April 20, 2011, a California federal district judge issued a significant decision on the question of who is a “foreign official” within the meaning of the Foreign Corrupt Practices Act (FCPA). The recent decision held that employees of businesses owned by foreign governments are “foreign officials” for purposes of the FCPA. For a detailed discussion on the decision, *U.S. v. Noriega*, click [here](#).

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King & Spalding Upcoming Roundtable On Medicare Value-Based Purchasing For Hospitals On May 24, 2011 – On Tuesday, May 24, 2011, we will be hosting a new Webinar focused on the final rule implementing the new Value-Based Purchasing program for Medicare-participating hospitals. The Webinar will take place from 1:00 p.m. to 2:30 p.m. Eastern. You can read additional information on the agenda and register to attend the Webinar by clicking [here](#).

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