UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of	)	
	)	
OSF Healthcare System, a corporation, and	)	Docket No. 9349
	)	**PUBLIC**
	)	
Rockford Health System, a corporation.	)	
	)	

RESPONDENT ROCKFORD HEALTH SYSTEM'S MOTION TO COMPEL AETNA INC. TO PRODUCE DOCUMENTS REQUESTED BY SUBPOENA *DUCES TECUM*

Respondent Rockford Health System ("Respondent" or "RHS") respectfully submits this Motion to Compel Aetna Inc. ("Aetna") to Produce Documents Requested by Subpoena *Duces Tecum*, pursuant to Rule 3.38(a) of the Federal Trade Commission's Rules of Adjudicative Practice and Paragraphs 4 and 5 of the Scheduling Order.

Counsel for Respondent has attempted to confer in good faith with counsel for Aetna in an effort to obtain the requested documents without the Court's intervention. Respondent and Aetna have been unable to reach an agreement, therefore Respondent respectfully moves the Court for an Order requiring the immediate production of documents for the reasons set forth in Respondent's accompanying Memorandum in support of this motion.

Dated: February 6, 2012

Respectfully submitted,

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Attorneys for Respondent Rockford Health System

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of	)	
OSF Healthcare System, a corporation, and	)	Docket No. 9349 **PUBLIC**
Rockford Health System, a corporation.	)	

PROPOSED ORDER

Upon consideration of Respondent's Motion to Compel Aetna Inc. to Produce Documents Requested by Subpoena *Duces Tecum* and any opposition thereto,

IT IS HEREBY ORDERED that Respondent's Motion is GRANTED.

IT IS FURTHER ORDERED that Aetna Inc. shall immediately take all necessary steps toward producing to Respondent all subpoenaed documents responsive to Respondent's subpoena *duces tecum* as soon as possible. The production shall be completed within one (1) week from the issuance of this Order.

D. Michael Chappell
Administrative Law Judge

Date: _____, 2012

CERTIFICATE OF SERVICE

I, Rachael V. Lewis, hereby certify that I served a true and correct copy of the foregoing Motion to Compel Aetna Inc. to Produce Documents Requested by Subpoena *Duces Tecum* and Proposed Order upon the following individuals by hand on February 6, 2012:

Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW, Room 172
Washington, DC 20580

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

I, Rachael V. Lewis, hereby certify that I served a true and correct copy of the foregoing Motion to Compel Aetna Inc. to Produce Documents Requested by Subpoena *Duces Tecum* and Proposed Order upon the following individuals by electronic mail on February 6, 2012:

Anthony Dennis
Law & Regulatory Affairs, RW61
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Jeffrey H. Perry
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Richard Cunningham, Esq.
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Attorneys for Respondent OSF Healthcare System

Dated: February 6, 2012

Rachael Lewis

Rachael V. Lewis
Counsel for Respondent
Rockford Health System

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

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STATEMENT REGARDING MEET AND CONFER PURSUANT TO 16 C.F.R. § 3.22(g)

On February 6, 2012, Respondent's Counsel, Rachael Lewis, left a voicemail for Anthony Dennis, Counsel for Aetna, at approximately 9:00 a.m. EST. Respondent's Counsel also conferred by electronic mail at approximately 11:32 a.m., 1:04 p.m., and 2:22 p.m. EST with Anthony Dennis in an effort in good faith to resolve the outstanding issues raised by Respondent's Motion to Compel Aetna Inc. to Produce Documents Requested by Subpoena *Duces Tecum*. Counsel have been unable to reach an agreement on the outstanding items.

Respondent's Counsel and Counsel for Aetna discussed these issues in correspondence on December 23, 2012, January 17, 2012, January 25, 2012, January 26, 2012, January 30, 2012, January 31, 2012, and February 6, 2012. Additionally, Respondent's Counsel attempted to meet and confer telephonically on January 30, 2012 and February 6, 2012. Respondent's Counsel met with Counsel for Aetna by conference call, including on January 6, 2012. During this call, Rachael Lewis was present on Respondent's behalf and Anthony Dennis was present on Aetna's behalf. In Aetna's January 31, 2012 letter, Counsel for Aetna did not agree to produce documents responsive to several of Respondent's outstanding subpoena requests. As a result of

these communications it was concluded that Respondent and Aetna were at an impasse regarding the issues raised in the foregoing Motion.

Dated: February 6, 2012

Respectfully submitted,

By: Rachael Lewis

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dgpowers@mwe.com
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Attorneys for Respondent Rockford Health System

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of	)	
	)	
OSF Healthcare System, a corporation, and	)	Docket No. 9349
	)	**PUBLIC**
	)	
Rockford Health System, a corporation.	)	
	)	

MEMORANDUM IN SUPPORT OF RESPONDENT ROCKFORD HEALTH SYSTEM'S MOTION TO COMPEL AETNA INC. TO PRODUCE DOCUMENTS REQUESTED BY SUBPOENA *DUCES TECUM*

Respondent Rockford Health System ("Respondent" or "RHS") respectfully submits this Memorandum in Support of its Motion to Compel Aetna Inc. ("Aetna") to Produce Documents Requested by Subpoena *Duces Tecum*, pursuant to Rule 3.38(a) of the Federal Trade Commission's Rules of Adjudicative Practice and Paragraphs 4 and 5 of the Scheduling Order.

FACTUAL BACKGROUND

Respondent served a subpoena *duces tecum* ("Subpoena") in the instant proceeding on Aetna on December 21, 2011. (*See* Exhibit A). The Subpoena is one of several subpoenas *duces tecum* issued by the Commission on Respondent's behalf, pursuant to Rule 3.34(b) of the Commission's Rules of Adjudicative Practice. Respondent's Subpoenas were directed to managed care organizations ("MCOs"), including Aetna, doing business in the Rockford area, including Winnebago, Ogle, and Boone counties in Illinois. The Subpoena calls for certain documents from the period of January 1, 2007 to the present, to be produced for inspection on January 10, 2012.

On January 6, 2012, Respondent's Counsel attempted in good faith to negotiate the scope of the Subpoena requests. Respondent's Counsel agreed to review Aetna's prior production of documents to the FTC before continuing to meet and confer on Respondent's outstanding Subpoena requests. On January 17, 2012, Respondent's counsel informed Aetna that, according to the documents Aetna previously produced to the FTC, Aetna (1) produced some documents to the FTC that are also responsive to Respondent's Subpoena Request Nos. 1-6, 16-19, and 25[1], (2) did not produce any documents to the FTC responsive to Respondent's Subpoena Request Nos. 7-15 and 20-24. (*See* Exhibit B, Jan. 17, 2012 Letter from R. Lewis). On January 25, 2012, Respondent's Counsel requested specific documents that were referenced in the deposition testimony of Ms. Suzanne Hall, a Vice President of Network Management at Aetna (*See* Exhibit C, Jan. 25, 2012 Letter from R. Lewis). The specific documents requested by Respondent's Counsel on January 25 are believed to be responsive to Request Nos. 11, 15, 18, and 19. On January 31, 2012, Aetna finally responded to Respondent's Counsel January 17 and January 25 letters by stating that Aetna "find[s] the latest demands contained in [Respondent Counsel's] January 17th and January 25th letters to be overly broad and unreasonably burdensome." (*See* Exhibit D, Jan. 31, 2012 Letter from A. Dennis). To date, Aetna has produced no documents in response to Respondent's Subpoena Requests.

Among the sixteen outstanding Subpoena Requests are the following examples: 1) Subpoena Request No. 11, which seeks documents related to Aetna's marketability or competitiveness with respect to its health plans in the Rockford area; 2) Subpoena Request No.

[1] Counsel for Aetna represented that Aetna previously produced claims data to the FTC in response to the FTC's Civil Investigative Demand. Aetna stated that this data is also responsive to Respondent's Subpoena Request No. 25. In fact, the data Aetna provided to the FTC does not comply fully with Respondent's Request No. 25 (e.g., the data does not cover up through December 2011 and does not completely cover the entire state of Illinois), but Respondent is not moving to compel production of additional data under this Request.

15, which seeks documents related to competition between health plans in the Rockford area; 3) Subpoena Request No. 18, which seeks documents relating to Aetna's negotiations with providers of general acute care inpatient hospital services in the Rockford area, including Winnebago, Ogle, and Boone counties in Illinois; and 4) Subpoena Request No. 19, which seeks documents relating to pricing models that compare rates for hospital services. (*See* Exhibit A).

Counsel for Aetna stated in its January 31 letter that its "efforts to comply with document and data production demands and accommodate the parties involved have been exhaustive and extensive." However, as noted above, other than providing Respondent's Counsel with a copy of its production to the FTC, Aetna has yet to produce a single document in response to the Respondent Counsel's Subpoena requests. Further, Respondent's Counsel identified specific documents from Ms. Hall's deposition that are believed to be responsive to the Subpoena Requests. It is urgently important that Respondent receives prompt production of these requested documents. Aetna's refusal to comply with the Subpoena, coupled with the impending close of discovery on February 17, 2012, leaves Respondent with no recourse but to seek the Court's intervention at this time.

ARGUMENT

The Commission's Rules of Adjudicative Practice provide that Respondent has the right to "obtain discovery to the extent that it may be reasonably expected to yield information relevant to the allegations in the complaint, to the proposed relief, or to the defenses of any respondent." 16 C.F.R. § 3.31(c)(1); *In re Polypore Int'l, Inc.*, 2009 FTC LEXIS 41, at *8 (Jan. 15, 2009). The Commission has held that the party requesting a subpoena is only required to show that the information sought is "reasonably expected to be 'generally relevant to the issues raised by the pleadings.'" *In re Rambus, Inc.*, 2002 FTC LEXIS 90, at *9 (Nov. 18, 2002) (quoting *In re Kaiser Aluminum & Chem. Corp.*, 1976 FTC LEXIS 68, at *4 (Nov. 12, 1976)).

Therefore, the relevancy of the information sought by a subpoena is determined by "'laying the subpoena along side' the pleadings." *Rambus*, 2002 FTC LEXIS 90, at *9 (quoting *Kaiser*, 1976 FTC LEXIS 68, at *5).

Evaluating Respondent's Subpoena "along side the Complaint" demonstrates that the Subpoena seeks materials reasonably expected to yield information that is relevant, material, and critical to Respondent's defense. For example, to rebut the Commission's allegation that the Acquisition will "increase Respondent's ability and incentive to unilaterally demand higher reimbursement rates from commercial health plans" (Compl. ¶ 40), Respondent requires information concerning MCOs' negotiations with providers, as well as and information concerning MCOs' pricing models that compare contract rates in the relevant area. (*See* Subpoena Request Nos. 18-19 (Exhibit A)). To rebut the Commissions allegation that the acquisition will adversely affect competition for inclusion in each health plan's provider network (Compl ¶¶ 43-45), Respondent requires information concerning MCOs' health plans, including documents relating to Aetna's evaluation of its marketability or competitiveness of its health plans' provider networks in the Rockford area. (*See* Subpoena Request No. 11 (Exhibit A)).

Indeed, the Subpoena seeks documents that are reasonably expected to yield relevant information, as the requests are tailored to seek only documents that are relevant to the factual issues raised by the allegations in the Commission's Complaint. Therefore, Respondent seeks the immediate production of Aetna's responsive documents as they are pertinent to Respondent's defense in this matter. Without the requested documents, Respondent will not have ample opportunity to "develop those facts which are essential" to their defense. *In re Gen. Foods.*, No. 9085, 1978 FTC LEXIS 412, at *6 (April 18, 1978).

Aetna's assertion that the Subpoena imposes an undue burden lacks both factual and legal support and is undermined by Aetna's failure to produce documents responsive to at least sixteen Subpoena Requests. A non-party's allegation that a subpoena imposes a burden is "insufficient to carry its burden of showing why the requested discovery should be denied." *Polypore*, 2009 FTC LEXIS 41, at *10. Indeed, "'[t]he burden of showing that the request is unreasonable is on the subpoenaed party.'" *Polypore*, 2009 FTC LEXIS 41, at *9 (quoting *FTC v. Dresser Indus.*, 1977 U.S. Dist. LEXIS 16178, at *13 (D.D.C. April 26, 1977)). This is a heavy burden – one that "is not easily met where, as here, the agency inquiry is pursuant to a lawful purpose." *Polypore*, 2009 FTC LEXIS 41, at *9 (quoting *FTC v. Dresser Indus.*, 1977 U.S. Dist. LEXIS 16178, at *13 (D.D.C. April 26, 1977) (enforcing non-party subpoena served by respondent) (internal quotations omitted)); *see also Rambus*, 2002 FTC LEXIS 90, at *9 (non-party "bears the burden to show that compliance would seriously disrupt its business operations"); *In re Flowers Indus., Inc.*, 1982 FTC LEXIS 96, at *15 (March 19, 1982) ("a recipient of a subpoena duces tecum issued in an FTC adjudicative proceeding who resists compliance therewith bears a heavy burden. That burden is no less because the subpoena is directed at a non-party."); *In re Kaiser Aluminum & Chem. Corp.*, 1976 FTC LEXIS 68, at *19-20 (Nov. 12, 1976) ("Even where a subpoenaed third party adequately demonstrates that compliance with a subpoena will impose a substantial degree of burden, inconvenience, and cost, that will not excuse producing information that appears generally relevant to the issues in the proceeding.").

In light of Respondent's efforts to resolve these disputes, and in consideration of the fast approaching discovery deadline, it is essential that Respondent immediately receives the requested materials to proceed with the noticed deposition and meet the current discovery deadline.

CONCLUSION

For all of the foregoing reasons, Respondent respectfully requests that the Court grant its Motion and issue an Order requiring Aetna's immediate production of documents.

Dated: February 6, 2012

Respectfully submitted,

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jcamden@mwe.com

Attorneys for Respondent Rockford Health System

CERTIFICATE OF SERVICE

I, Rachael V. Lewis, hereby certify that I served a true and correct copy of the foregoing Memorandum in Support of Respondent Rockford Health System Motion to Compel Aetna Inc. to Produce Documents Requested by Subpoena *Duces Tecum* upon the following individuals by hand on February 6, 2012:

Donald S. Clark
Secretary
Federal Trade Commission
600 Pennsylvania Avenue, NW, Room 172
Washington, DC 20580

The Honorable D. Michael Chappell
Administrative Law Judge
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

I, Rachael V. Lewis, hereby certify that I served a true and correct copy of the foregoing Memorandum in Support of Respondent Rockford Health System Motion to Compel Aetna Inc. to Produce Documents Requested by Subpoena *Duces Tecum* upon the following individuals by electronic mail on February 6, 2012:

Anthony Dennis
Law & Regulatory Affairs, RW61
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DennisAJ@aetna.com

Counsel for Aetna Inc.

Matthew J. Reilly
Jeffrey H. Perry
Kenneth W. Field
Richard Cunningham, Esq.
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Attorneys for Respondent OSF Healthcare System

Dated: February 6, 2012

Rachael Lewis

Rachael V. Lewis
Counsel for Respondent
Rockford Health System

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of	)	
	)	
OSF Healthcare System, a corporation, and	)	Docket No. 9349
	)	**PUBLIC**
	)	
Rockford Health System, a corporation.	)	
	)	

EXHIBIT A

SUBPOENA DUCES TECUM

Provided by the Secretary of the Federal Trade Commission, and Issued Pursuant to Commission Rule 3.34(b), 16 C.F.R. § 3.34(b)(2010)

1. TO

Aetna, Inc.
c/o Anthony Dennis, Esq.
Law & Regulatory Affairs RW61
151 Farmington Avenue
Hartford, CT 06156

2. FROM

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

This subpoena requires you to produce and permit inspection and copying of designated books, documents (as defined in Rule 3.34(b)), or tangible things, at the date and time specified in Item 5, and at the request of Counsel listed in Item 9, in the proceeding described in Item 6.

3. PLACE OF PRODUCTION

McDermott Will & Emery LLP
600 13th Street, N.W.
Washington, D.C. 20005

4. MATERIAL WILL BE PRODUCED TO

Rachael Lewis, McDermott Will & Emery LLP

5. DATE AND TIME OF PRODUCTION

January 10, 2012 at 9:00 am

6. SUBJECT OF PROCEEDING

In the Matter of OSF Healthcare System and Rockford Health System, Docket No. 9349

7. MATERIAL TO BE PRODUCED

See Schedule A

8. ADMINISTRATIVE LAW JUDGE

Honorable D. Michael Chappell
Chief Administrative Law Judge

Federal Trade Commission
Washington, D.C. 20580

9. COUNSEL AND PARTY ISSUING SUBPOENA

Rachael Lewis
McDermott Will & Emery, LLP
202-756-8709
Counsel for Respondent Rockford Health System

DATE SIGNED

12/21/2011

SIGNATURE OF COUNSEL ISSUING SUBPOENA

R Lewis

GENERAL INSTRUCTIONS

APPEARANCE

The delivery of this subpoena to you by any method prescribed by the Commission's Rules of Practice is legal service and may subject you to a penalty imposed by law for failure to comply.

MOTION TO LIMIT OR QUASH

The Commission's Rules of Practice require that any motion to limit or quash this subpoena must comply with Commission Rule 3.34(c), 16 C.F.R. § 3.34(c), and in particular must be filed within the earlier of 10 days after service or the time for compliance. The original and ten copies of the petition must be filed before the Administrative Law Judge and with the Secretary of the Commission, accompanied by an affidavit of service of the document upon counsel listed in Item 9, and upon all other parties prescribed by the Rules of Practice.

TRAVEL EXPENSES

The Commission's Rules of Practice require that fees and mileage be paid by the party that requested your appearance. You should present your claim to counsel listed in Item 9 for payment. If you are permanently or temporarily living somewhere other than the address on this subpoena and it would require excessive travel for you to appear, you must get prior approval from counsel listed in Item 9.

This subpoena does not require approval by OMB under the Paperwork Reduction Act of 1980.

RETURN OF SERVICE

I hereby certify that a duplicate original of the within subpoena was duly served: (check the method used)

( ) *in person.*

(•) *by registered mail.*

( ) *by leaving copy at principal office or place of business, to wit:*

on the person named herein on:

December 21, 2011

(Month, day, and year)

James Camden

(Name of person making service)

Associate, McDermott Will & Emery LLP

(Official title)

SCHEDULE A

DEFINITIONS

1. "Communication" means any transmission or exchange of information of any kind between individuals or companies in any manner, whether verbal, written, electronic, or otherwise, whether direct or through an intermediary.

2. "Computer files" includes information stored in, or accessible through, computer or other information retrieval systems. Thus, you should produce documents that exist in machine-readable form, including documents stored in personal computers, portable computers, work stations, minicomputers, mainframes, servers, archive disks and tapes, and other forms of offline storage, whether on or off company premises.

3. "Document" or "documents" shall mean all materials and electronically stored information, excluding invoices and bills of lading, that are subject to discovery under Subpart D of the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings, 16 C.F.R. §§ 3.31-3.39, all non-identical copies of those materials and electronically stored information, and identical copies of those materials and electronically stored information that were sent from, delivered to, or maintained by, different person(s).

4. "Health plan" means any health maintenance organization, preferred provider arrangement or organization, managed healthcare plan of any kind, self-insured health benefit plan, other employer or union health benefit plan, Medicare, Medicaid, TRICARE, or private or governmental healthcare plan or insurance of any kind.

5. "Hospital" means a facility that provides Relevant Services.

6. "Physician organization" means a bona fide, integrated firm in which physicians practice medicine together as partners, shareholders, owners or employers, or in which only one physician practices medicine, such as a physician group.

7. "RHS" shall refer to Rockford Health System, its subsidiaries, affiliates, partnerships and joint ventures.

8. "Relating to" means in whole or in part constituting, containing, concerning, discussing, describing, analyzing, identifying, stating, evaluating, recommending, setting forth, or supporting.

9. "Relevant Area" means Winnebago, Ogle, and Boone Counties in Illinois.

10. "Relevant Hospitals" means all hospitals located in the Relevant Area.

11. "Relevant Services" means (1) general acute care inpatient hospital services (*e.g.*, the provision of all inpatient hospital services for medical diagnosis, treatment, and care of physically injured or sick persons with short-term or episodic health problems or infirmities, excluding the treatment of mental illness or substance abuse, or long-term services such as skilled nursing care), and (2) primary care physician services (*e.g.*, services provided by physicians practicing in internal medicine, family practice, and general practice, excluding services provided by pediatricians, obstetricians, and gynecologists).

12. "Relevant Transaction" means the transaction pursuant to which Rockford Health System will be integrated into the healthcare system of OSF Healthcare System ("OSF").

13. "OSF" shall refer to OSF Healthcare System and its subsidiaries, affiliates, partnerships, and joint ventures.

14. "You" or "Your" shall refer to the party on whom this Subpoena is served or any other person acting under the party's direction or control and all persons acting or purporting to act on its behalf, including its officers, directors, employees, agents, and attorneys.

15. The use of the singular shall be deemed to include the plural and vice versa. The terms "and" and "or" have both conjunctive and disjunctive meanings. The terms "each," "any," and "all" mean "each and every." The past tense form shall be construed to include the present tense, and vice versa, whenever such a dual construction will serve to bring within the scope of any of these requests any documents or information that would otherwise not be within their scope.

INSTRUCTIONS

1. The document requests are intended to cover all documents in your possession, custody, or control, regardless of where they are located or who may actually have physical possession of them.

2. Documents and things shall be produced as they are kept in the ordinary course of business. Documents produced, regardless of format or form and regardless of whether submitted in hard copy or electronic format, shall be produced in complete form, un-redacted unless privileged, and in the order in which they appear in your files. Documents shall not be shuffled or rearranged. All documents shall identify the files from which they are being produced. All documents shall be produced in color, where necessary to interpret the document. All documents shall be marked on each page with corporate identification and consecutive document control numbers.

3. Documents shall be accompanied by an affidavit of an individual competent to testify that any copies are true, correct and complete copies of the original documents.

4. Documents shall be accompanied by an index that identifies: (i) the name of each person from whom responsive documents are submitted; and (ii) the corresponding consecutive document control number(s) used to identify that person's documents, and if submitted in paper form, the box number containing such documents. If the index exists as a computer file(s), provide the index both as a printed hard copy and in machine-readable form (provided that RHS representatives determine prior to submission that the machine-readable form is in a format that allows RHS to use the computer files).

5. These requests shall be deemed to be continuing and to require supplementation, pursuant to the Federal Trade Commission's Rules of Practice for Adjudicative Proceedings, 16 C.F.R. §3.31(e).

6. Unless otherwise indicated, these requests cover the time period of January 1, 2007 to the present.

7. Identify the code definitions used in response to Request 25 (e.g., DRG or MS-DRG and version number), including the dates on which you implemented changes to those code definitions. If you use a proprietary procedure coding system, please provide a master list of those codes with a brief description of each and its associated weight value if used for billing.

8. To protect a patient's or individual's privacy, you shall mask any sensitive personally identifiable information, or sensitive health information, including but not limited to, an individual's social security number, medical records, or other individually identifiable health information.

9. Unless otherwise indicated, you are not required to produce documents that you already provided to the Federal Trade Commission in response to a Civil Investigative Demand or Subpoena *Duces Tecum* related to the Relevant Transaction or that you have already provided

to the issuer of this subpoena in response to a subpoena issued in the related case before the Northern District of Illinois, *Federal Trade Commission v. OSF Healthcare System and Rockford Health System*, Case No. 3:11-cv-50344.

10. Documents stored in electronic or hard copy format shall be submitted in electronic format provided that such copies are true, correct, and complete copies of the original documents:

(a) Submit Microsoft Access, Excel, and PowerPoint in native format with extracted text and metadata;

(b) Submit all other documents in image format with extracted text and metadata; and

(c) Submit all hard copy documents in image format accompanied by OCR.

11. For each document, submitted in electronic format, include the following metadata fields and information:

(a) For loose documents stored in electronic format other than email: beginning Bates or document identification number, ending Bates or document identification number, page count, custodian, creation date and time, modification date and time, last accessed date and time, size, location or path file name, and MD5 or SHA Hash value;

(b) For emails: beginning Bates or document identification number, ending Bates or document identification number, page count, custodian, to, from, CC, BCC, subject, date and time sent, Outlook Message ID (if applicable), child records (the beginning Bates or document identification number of attachments delimited by a semicolon);

(c) For email attachments: beginning Bates or document identification number, ending Bates or document identification number, page count, custodian, creation date

and time, modification date and time, last accessed date and time, size, location or path file name, parent record (beginning Bates or document identification number of parent email), and MD5 or SHA Hash value; and

(d) For hard copy documents: beginning Bates or document identification number, ending Bates or document identification number, page count, and custodian.

12. Submit electronic files and images as follows:

(a) For productions over 10 gigabytes, use IDE and EIDE hard disk drives, formatted in Microsoft Windows-compatible, uncompressed data in USB 2.0 external enclosures;

(b) For productions under 10 gigabytes, CD-R, CD-ROM and DVD-ROM for Windows-compatible personal computers, and USB 2.0 Flash Drives are also acceptable storage formats; and

(c) All documents produced in electronic format shall be scanned for and free of viruses.

13. If you withhold from production any document responsive to these requests based on a claim of privilege, identify: (1) the type of document (letter, memo, e-mail, etc.); (2) the document's authors or creators; (3) the document's addressees and recipients; (4) the document's general subject matter; (5) all persons to whom the document or any portion of it has already been revealed; (6) the source of the document; (7) the date of the document; and (8) the basis for withholding the document.

14. If you have reason to believe that documents responsive to a particular request once existed but no longer exist for reasons other than the ordinary course of business or the implementation of your document retention policy, state the circumstances under which they

were lost or destroyed, describe the documents to the fullest extent possible, state the request(s) to which they are responsive, and identify persons having knowledge of the content of such documents.

15. The official responsible for preparing the subpoena response shall appear with the documents on the return date. However, you may comply with this subpoena by making full return of all documents or exhibits specified in this subpoena to RHS counsel at the following address: Rachael Lewis, McDermott Will & Emery LLP, 600 13th Street, NW, Washington, D.C. 20005.

DOCUMENT REQUESTS

1. Documents relating to your communications with the Federal Trade Commission or the Illinois Attorney General's office regarding the Relevant Transaction, including but not limited to correspondence, interview notes, negotiations regarding the production of documents voluntarily or in response to any Civil Investigative Demand or Subpoena *Duces Tecum*, or factual proffers or declarations, including drafts.

2. Documents sufficient to show, for each year, your overall financial performance and your financial performance relating to your sale or administration of health plans in the Relevant Area, including but not limited to documents reporting overall revenues and profits, and documents showing revenues and profits derived from health plan premiums and fees for administrative services only ("ASO") agreements.

3. Separately for each year from January 1, 2001 to the present, your provider directories, or documents sufficient to identify each hospital, outpatient facility, and primary care physician in your network of providers available to your members residing in the Relevant Area.

4. Documents sufficient to identify your in-network providers of the Relevant Services in: the Quad Cities (Moline and Rock Island, Illinois, and Davenport and Bettendorf, Iowa); Champaign-Urbana, Illinois; Springfield, Illinois; and Bloomington-Normal, Illinois.

5. Documents identifying each of your employer customers based or operating in the Relevant Area with memberships exceeding fifty (50) employees, and for each employer customer, the health plans offered, services provided, and the hospitals and primary care physicians (e.g., physicians practicing in internal medicine, family practice, and general practice) included in those health plans' provider networks.

6. Documents sufficient to show the number of covered lives or members in each health plan product you offered in the Relevant Area from January 1, 2001 to the present.

7. Documents, including all member surveys, studies, or analyses of any type, that assess for the Relevant Area:

a. member preferences regarding health plan provider network composition, including preferences regarding single- or multiple-hospital networks and hospitals located outside the Relevant Area;

b. member willingness to travel for care; and

c. member perceptions of the relative quality of care provided by hospitals.

8. Documents relating to your consideration of or plan to offer new or different health plan products in the Relevant Area that include the Relevant Services, including products comprised of a different provider network.

9. Documents sufficient to show how you choose which physicians to include in your networks to provide Relevant Services in the Relevant Area, including physicians not located in the Relevant Area.

10. Documents sufficient to show how you choose which hospitals to include in your networks to provide Relevant Services in the Relevant Area, including hospitals not located in the Relevant Area.

11. Documents relating to your evaluation of the marketability and competitiveness of your health plans' provider networks in the Relevant Area, including evaluations of the level and type of services provided, quality of care, hospital accreditation and geographic location of your network providers.

12. Documents relating to any communications between individuals responsible for managing your hospital and physician networks and individuals in your sales group regarding your health plan networks in the Relevant Area, including but not limited to discussions regarding member or employer feedback, marketability or quality of the network, proposed or desired changes to the provider network, and product pricing.

13. Documents relating to how reimbursement rate changes for Relevant Services impact the healthcare costs, rates or premiums of employers, including self-insured employers.

14. Documents relating to any studies, discussions, or analyses of the marketability, commercial appeal, viability of, or your ability to offer, a provider network in the Relevant Area for the Relevant Services that only includes one hospital system located in the Relevant Area, including but not limited to analyses of desired hospital charge discounts for single-hospital networks, projected employer premium rates, and the relative strengths of the different Rockford hospitals as the provider in a single-hospital network.

15. Documents, including any studies or analyses, relating to competition between health plans in the Relevant Area for employers or health plan members from January 1, 2001 to the present, including but not limited to documents assessing the impact of offering a single-

hospital network, documents relating to refusals by potential customers to switch to your network, and documents relating to efforts to expand your health plans' provider network during this time period.

16. Documents sufficient to show that having a second hospital in your provider network in the Relevant Area has improved your ability to negotiate desired contract terms with Rockford Health System.

17. Documents sufficient to identify who negotiates or is involved in the negotiation of provider contracts with hospitals and primary care physicians for your health plans offered in the Relevant Area from January 1, 2005 to the present.

18. Documents relating to your negotiations with providers of the Relevant Services in the Relevant Area from January 1, 2005 to the present, including but not limited to documents relating to contract proposals, drafts, and communications between you and providers of Relevant Services in the Relevant Area; documents identifying key or "must-have" hospitals, outpatient facilities, or primary care physicians in the Relevant Area; documents analyzing the geographic coverage of providers; documents, information, and data relied upon during contract negotiations (such as quality measures, member utilization patterns, and employer or member feedback regarding your provider network or product offerings); documents relied upon to determine whether proposed reimbursement rates are comparable to those you pay to other providers of Relevant Services in the Relevant Area; documents reflecting whether to include or exclude any hospital or hospital system, or physician or physician organization in your provider network, communications regarding any provider's desire to exclude any other providers from a health plan; and copies of the final provider contracts, including any amendments or modifications, for Relevant Services in the Relevant Area.

19. Documents relating to pricing models that compare the rates of the Relevant Hospitals for Relevant Services and outpatient services to any hospital or provider in the Relevant Area or in Illinois, including documents that you use to determine how actual or proposed contracts with the Relevant Hospitals compare to each other and how those contracts compare to contracts they have with other insurance carriers.

20. Documents relating to the cost-to-charge ratio for Relevant Services for any hospital in Illinois, including the Relevant Hospitals.

21. Documents relating to financially incentivizing your health plan members to seek Relevant Services at lower cost providers within the State of Illinois, including any plans or programs encouraging health plan members' physicians to use lower cost hospitals, and any other programs that you use to incentivize consumers or members to seek Relevant Services at lower cost providers.

22. Documents relating to the Relevant Transaction, including any studies, discussions, or analyses of the Relevant Transaction's impact on your health plan business, on your health plan rates for the Relevant Services, or on your continuation of business operations in the Relevant Area.

23. Documents relating to any studies, discussions, or analyses of the Relevant Transaction's impact on your members in the Relevant Area, including but not limited to the Relevant Transaction's impact on premiums, administrative service fees, or health care costs.

24. Documents relating to any rules or procedures you apply to providers in the Relevant Area to determine whether a patient receiving Relevant Services may be classified as an inpatient or outpatient patient for reimbursement purposes.

25. Submit (in electronic, machine readable format), for each year from January 1, 2007 to the present, for any inpatient admission for any patient residing in the State of Illinois:

a. the identity of the hospital, healthcare facility, or physician practice at which the patient was treated, including the owner of the hospital, healthcare facility, or physician practice, the address of the hospital, healthcare facility, or physician practice, including 5-digit ZIP code, and any hospital, healthcare facility, or physician practice identification number used for reimbursement purposes;

b. a unique patient identifier, different from that for other patients and the same as that for different admissions, discharges, or other treatment episodes for the same patient (to protect patient privacy, you shall mask personal identifying information, such as the patient's name or Social Security number, by substituting a unique patient identifier); if you are providing data in multiple records for the inpatient admission, a unique identifier for the admission or visit shall also be included in each record associated with the admission or visit

c. the patient's residence 5-digit ZIP code;

d. the patient's age (in years), gender, and race;

e. whether the treatment episode was inpatient; if inpatient, the date of admission and date of discharge;

f. the primary associated DRG, MDC, and primary and secondary and ICD9 diagnosis and procedure codes;

g. whether the treatment provided was for an emergency;

h. the source of the patient referral (such as by referral from another hospital, or by a physician who does not admit the patient);

i. the specific name of the entity and type of health plan (such as HMO, POS, PPO, etc.) that was the principal source of payment and including identifiers for the customer group (e.g., small group, large group), customer name, and whether the customer group was self-insured;

j. for each product listed in Request 25(i), identify whether this product is offered through a managed care contract with Medicare, Medicaid, or other public health insurance program;

k. whether the hospital, healthcare facility, or physician practice identified in response to Request 25(a) was a participating provider under the patient's health plan and, if the patient's health plan had different tiers of participating providers, which tier the hospital, healthcare facility, or physician practice was in;

l. whether there was a capitation arrangement with a health plan covering the patient and, if so, identify the arrangement;

m. the billed charges of the hospital, healthcare facility, or physician practice, allowed charges under the patient's health plan, the amount of charges actually paid by the health plan, whether the amount of charges actually paid by the health plan includes any adjustments under any stop-loss provisions, and any additional amounts paid by the patient;

n. any breakdown of the hospital's, healthcare facility's, or physician practice's charges by any categories of hospital services rendered to the patient (such as medical/surgical, obstetrics, pediatrics, or ICU) for which you provide reimbursement to the hospital, healthcare facility, or physician practice at different per diem or other rates;

o. the identity of the patient's admitting physician and, if different, the identify of the treating physician;

p. the amount of any reimbursement by you to any physicians, separately from any reimbursement to the hospital, healthcare facility, or physician practice for any physician services associated with admission or treatment, or for any services associated with covered treatments or diagnoses identified in Request 25(m); and

q. the patient's status (*e.g.*, normal discharge, deceased, transferred to another hospital, etc.) upon discharge.

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
OFFICE OF ADMINISTRATIVE LAW JUDGES

In the Matter of	)	
OSF Healthcare System a corporation, and	)	DOCKET NO. 9349
Rockford Health System a corporation, Respondents.	)	

PROTECTIVE ORDER GOVERNING DISCOVERY MATERIAL

Commission Rule 3.31(d) states: "In order to protect the parties and third parties against improper use and disclosure of confidential information, the Administrative Law Judge shall issue a protective order as set forth in the appendix to this section." 16 C.F.R. § 3.31(d). Pursuant to Commission Rule 3.31(d), the protective order set forth in the appendix to that section is attached verbatim as Attachment A and is hereby issued.

ORDERED:

D. Michael Chappell
Chief Administrative Law Judge

Date: November 18, 2011

ATTACHMENT A

For the purpose of protecting the interests of the parties and third parties in the above-captioned matter against improper use and disclosure of confidential information submitted or produced in connection with this matter:

IT IS HEREBY ORDERED THAT this Protective Order Governing Confidential Material ("Protective Order") shall govern the handling of all Discovery Material, as hereafter defined.

1. As used in this Order, "confidential material" shall refer to any document or portion thereof that contains privileged, competitively sensitive information, or sensitive personal information. "Sensitive personal information" shall refer to, but shall not be limited to, an individual's Social Security number, taxpayer identification number, financial account number, credit card or debit card number, driver's license number, state-issued identification number, passport number, date of birth (other than year), and any sensitive health information identifiable by individual, such as an individual's medical records. "Document" shall refer to any discoverable writing, recording, transcript of oral testimony, or electronically stored information in the possession of a party or a third party. "Commission" shall refer to the Federal Trade Commission ("FTC"), or any of its employees, agents, attorneys, and all other persons acting on its behalf, excluding persons retained as consultants or experts for purposes of this proceeding.

2. Any document or portion thereof submitted by a respondent or a third party during a Federal Trade Commission investigation or during the course of this proceeding that is entitled to confidentiality under the Federal Trade Commission Act, or any regulation, interpretation, or precedent concerning documents in the possession of the Commission, as well as any information taken from any portion of such document, shall be treated as confidential material for purposes of this Order. The identity of a third party submitting such confidential material shall also be treated as confidential material for the purposes of this Order where the submitter has requested such confidential treatment.

3. The parties and any third parties, in complying with informal discovery requests, disclosure requirements, or discovery demands in this proceeding may designate any responsive document or portion thereof as confidential material, including documents obtained by them from third parties pursuant to discovery or as otherwise obtained.

4. The parties, in conducting discovery from third parties, shall provide to each third party a copy of this Order so as to inform each such third party of his, her, or its rights herein.

5. A designation of confidentiality shall constitute a representation in good faith and after careful determination that the material is not reasonably believed to be already in the public domain and that counsel believes the material so designated constitutes confidential material as defined in Paragraph 1 of this Order.

6. Material may be designated as confidential by placing on or affixing to the document containing such material (in such manner as will not interfere with the legibility thereof), or if an entire folder or box of documents is confidential by placing or affixing to that folder or box, the designation "CONFIDENTIAL–FTC Docket No. 9349" or any other appropriate notice that identifies this proceeding, together with an indication of the portion or portions of the document considered to be confidential material. Confidential information contained in electronic documents may also be designated as confidential by placing the designation "CONFIDENTIAL–FTC Docket No. 9349 or any other appropriate notice that identifies this proceeding, on the face of the CD or DVD or other medium on which the document is produced. Masked or otherwise redacted copies of documents may be produced where the portions deleted contain privileged matter, provided that the copy produced shall indicate at the appropriate point that portions have been deleted and the reasons therefor.

7. Confidential material shall be disclosed only to: (a) the Administrative Law Judge presiding over this proceeding, personnel assisting the Administrative Law Judge, the Commission and its employees, and personnel retained by the Commission as experts or consultants for this proceeding; (b) judges and other court personnel of any court having jurisdiction over any appellate proceedings involving this matter; (c) outside counsel of record for any respondent, their associated attorneys and other employees of their law firm(s), provided they are not employees of a respondent; (d) anyone retained to assist outside counsel in the preparation or hearing of this proceeding including consultants, provided they are not affiliated in any way with a respondent and have signed an agreement to abide by the terms of the protective order; and (e) any witness or deponent who may have authored or received the information in question.

8. Disclosure of confidential material to any person described in Paragraph 7 of this Order shall be only for the purposes of the preparation and hearing of this proceeding, or any appeal therefrom, and for no other purpose whatsoever, provided, however, that the Commission may, subject to taking appropriate steps to preserve the confidentiality of such material, use or disclose confidential material as provided by its Rules of Practice; sections 6(f) and 21 of the Federal Trade Commission Act; or any other legal obligation imposed upon the Commission.

9. In the event that any confidential material is contained in any pleading, motion, exhibit or other paper filed or to be filed with the Secretary of the Commission, the Secretary shall be so informed by the Party filing such papers, and such papers shall be filed *in camera*. To the extent that such material was originally submitted by a third party, the party including the materials in its papers shall immediately notify the submitter of such inclusion. Confidential material contained in the papers shall continue to have *in camera* treatment until further order of the Administrative Law Judge, provided, however, that such papers may be furnished to persons or entities who may receive confidential material pursuant to Paragraphs 7 or 8. Upon or after filing any paper containing confidential material, the filing party shall file on the public record a duplicate copy of the paper that does not reveal confidential material. Further, if the protection for any such material expires, a party may file on the public record a duplicate copy which also contains the formerly protected material.

10. If counsel plans to introduce into evidence at the hearing any document or transcript containing confidential material produced by another party or by a third party, they shall provide advance notice to the other party or third party for purposes of allowing that party to seek an order that the document or transcript be granted *in camera* treatment. If that party wishes *in camera* treatment for the document or transcript, the party shall file an appropriate motion with the Administrative Law Judge within 5 days after it receives such notice. Except where such an order is granted, all documents and transcripts shall be part of the public record. Where *in camera* treatment is granted, a duplicate copy of such document or transcript with the confidential material deleted therefrom may be placed on the public record.

11. If any party receives a discovery request in any investigation or in any other proceeding or matter that may require the disclosure of confidential material submitted by another party or third party, the recipient of the discovery request shall promptly notify the submitter of receipt of such request. Unless a shorter time is mandated by an order of a court, such notification shall be in writing and be received by the submitter at least 10 business days before production, and shall include a copy of this Protective Order and a cover letter that will apprise the submitter of its rights hereunder. Nothing herein shall be construed as requiring the recipient of the discovery request or anyone else covered by this Order to challenge or appeal any order requiring production of confidential material, to subject itself to any penalties for non-compliance with any such order, or to seek any relief from the Administrative Law Judge or the Commission. The recipient shall not oppose the submitter's efforts to challenge the disclosure of confidential material. In addition, nothing herein shall limit the applicability of Rule 4.11(e) of the Commission's Rules of Practice, 16 CFR 4.11(e), to discovery requests in another proceeding that are directed to the Commission.

12. At the time that any consultant or other person retained to assist counsel in the preparation of this action concludes participation in the action, such person shall return to counsel all copies of documents or portions thereof designated confidential that are in the possession of such person, together with all notes, memoranda or other papers containing confidential information. At the conclusion of this proceeding, including the exhaustion of judicial review, the parties shall return documents obtained in this action to their submitters, provided, however, that the Commission's obligation to return documents shall be governed by the provisions of Rule 4.12 of the Rules of Practice, 16 CFR 4.12.

13. The provisions of this Protective Order, insofar as they restrict the communication and use of confidential discovery material, shall, without written permission of the submitter or further order of the Commission, continue to be binding after the conclusion of this proceeding.

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of	)	
OSF Healthcare System, a corporation, and	)	Docket No. 9349 **PUBLIC**
Rockford Health System, a corporation.	)	

EXHIBIT B

McDermott
Will&Emery

Boston Brussels Chicago Düsseldorf Houston London Los Angeles Miami Milan
Munich New York Orange County Paris Rome Silicon Valley Washington, D.C.
Strategic alliance with MWE China Law Offices (Shanghai)

Rachael V. Lewis
Associate
rlewis@mwe.com
202-756-8709

January 17, 2012

VIA E-MAIL

Anthony J. Dennis
Law & Regulatory Affairs
151 Farmington Avenue, RW61
Hartford, CT 06156

Re: Federal Trade Commission v. OSF Healthcare System and Rockford Health System, 3:11-cv-50344 (N.D. IL)

Dear Tony:

During our January 6, 2012 call, I agreed that I would first review Aetna's production of documents to the Federal Trade Commission ("FTC") in response to the FTC's Civil Investigative Demand ("CID") before continuing the meet and confer process related to Rockford Health System's ("RHS") document requests served on Aetna. Aetna did not produce any documents in response to Request Nos. 7-15, 20-21, and 23 from our review of Aetna's production of documents to the FTC. Please produce documents responsive to RHS' document requests or confirm that Aetna does not have responsive documents by January 20th. If Aetna is unable to produce certain documents by January 20th, please let us know what date Aetna intends to produce those particular documents.

Request No. 1 (Communications with FTC and Illinois AG regarding Relevant Transaction)

I understand that Aetna produced documents responsive to No. 1 to the FTC in response to the FTC's CID.

Request No. 2 (Overall and Relevant Area Financial Performance)

I understand that Aetna produced documents responsive to No. 2 to the FTC in response to the FTC's CID.

Request No. 3 (Provider Directories)

I understand that Aetna produced documents responsive to No. 3 to the FTC in response to the FTC's CID.

Request No. 4 (In-Network Providers in Identified Illinois and Iowa Areas)

I understand that Aetna produced documents responsive to No. 4 to the FTC in response to the FTC's CID.

Request No. 5 (Large Employers in Relevant Area)

I understand that Aetna produced documents responsive to No. 5 to the FTC in response to the FTC's CID.

Request No. 6 (Covered Lives or Members in Each Health Plan in Relevant Area)

I understand that Aetna produced documents responsive to No. 6 to the FTC in response to the FTC's CID.

Request No. 7 (Member Surveys, Studies, or Analysis)

Please produce documents responsive to Request No. 7 or confirm that Aetna does not have responsive documents by January 20, 2012.

Request No. 8 (New Health Plan Products in Relevant Area)

Please produce documents responsive to Request No. 8 or confirm that Aetna does not have responsive documents by January 20, 2012.

Request No. 9 and 10 (Choosing Physicians and Hospitals for Networks in Relevant Area)

Please produce documents responsive to Request Nos. 9 and 10 or confirm that Aetna does not have responsive documents by January 20, 2012.

Request No. 11 (Evaluation of Health Plans in Relevant Area)

Please produce documents responsive to Request No. 11 or confirm that Aetna does not have responsive documents by January 20, 2012.

Request No. 12 (Internal Communications Regarding Health Plans in Relevant Area)

Please produce documents responsive to Request No. 12 or confirm that Aetna does not have responsive documents by January 20, 2012.

Request No. 13 (Impact of Reimbursement Rates)

Please produce documents responsive to Request No. 13 or confirm that Aetna does not have responsive documents by January 20, 2012.

Request No. 14 (Potential of One Hospital Provider Network in Relevant Area)

Please produce documents responsive to Request No. 14 or confirm that Aetna does not have responsive documents by January 20, 2012.

Request No. 15 (Competition Between Health Plans in Relevant Area)

Please produce documents responsive to Request No. 15 or confirm that Aetna does not have responsive documents by January 20, 2012.

Request No. 16 (Impact of Second Hospital in Provider Network in Relevant Area)

I understand that Aetna produced documents responsive to No. 16 to the FTC in response to the FTC's CID.

Request No. 17 (Individuals Responsible for Negotiating Provider Contracts)

I understand that Aetna produced documents responsive to No. 17 to the FTC in response to the FTC's CID.

Request No. 18 (Negotiations with Providers)

I understand that Aetna produced documents responsive to No. 18 to the FTC in response to the FTC's CID.

Request No. 19 (Pricing Models)

I understand that Aetna produced documents responsive to No. 19 to the FTC in response to the FTC's CID.

Request No. 20 (Cost-to-Charge for Relevant Services for Hospitals in Illinois)

Please produce documents responsive to Request No. 20 or confirm that Aetna does not have responsive documents by January 20, 2012.

Request No. 21 (Financial Incentives to Seek Lower Cost Providers)

Please produce documents responsive to Request No. 21 or confirm that Aetna does not have responsive documents by January 20, 2012.

Request No. 22 (Impact of the Relevant Transaction on Aetna's Business)

I understand that Aetna produced documents responsive to No. 22 to the FTC in response to the FTC's CID.

Request No. 23 (Impact of the Relevant Transaction on Members)

Please produce documents responsive to Request No. 23 or confirm that Aetna does not have responsive documents by January 20, 2012.

Request No. 24 (Rules for Determining Inpatient and Outpatient Status)

I understand that Aetna produced documents responsive to Request No. 24 to the FTC in response to the FTC's CID.

Request No. 25 (Claims Data)

I understand that Aetna produced data responsive to No. 25 to the FTC in response to the FTC's CID.

Sincerely,

Rachael V. Lewis

DM_US 31490213-1.046498.0021

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of	)	
OSF Healthcare System, a corporation, and	)	Docket No. 9349 **PUBLIC**
Rockford Health System, a corporation.	)	

EXHIBIT C

McDermott
Will&Emery

Boston Brussels Chicago Düsseldorf Houston London Los Angeles Miami Milan
Munich New York Orange County Paris Rome Silicon Valley Washington, D.C.
Strategic alliance with MWE China Law Offices (Shanghai)

Rachael V. Lewis
Associate
rlewis@mwe.com
202-756-8709

January 25, 2012

VIA E-MAIL

Anthony J. Dennis
Aetna, Inc.
Law & Regulatory Affairs
151 Farmington Avenue, RW61
Hartford, CT 06156

Re: Federal Trade Commission v. OSF Healthcare System and Rockford Health System, 3:11-cv-50344 (N.D. IL)
In the Matter of OSF Healthcare System and Rockford Health System, Docket No. 9349

Dear Tony:

I have not received a response to our letter dated January 17, 2012. Please let us know when you intend to respond.

In addition, we identified a few categories of documents from Ms. Hall's deposition that are responsive to the discovery requests including Hewitt's pricing analysis (Hall Tr. 35:13-19; 63:22-64:7; 146:14-18), analysis by the Medical Economics team (Hall Tr. 35:23-36:22, 61:4-62:7, 70:6-13), and the disruption analysis (Hall Tr. 65:15-66:19). We ask that Aetna produce these documents by January 30, 2012.

Please let me know if you have any questions or would like to discuss further.

Sincerely,

Rachael V. Lewis

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

In the Matter of	)	
OSF Healthcare System, a corporation, and	)	Docket No. 9349 **PUBLIC**
Rockford Health System, a corporation.	)	

EXHIBIT D

aetna℠

Anthony J. Dennis
Counsel

Law & Regulatory Affairs
151 Farmington Avenue, RW61
Hartford, CT 06156
(860) 273-5668 p
(860) 754-9468 f
DennisAJ@aetna.com

January 31, 2012

Ms. Rachael V. Lewis, Esq.
McDermott Will & Emery LLP
600 13th Street NW
Washington, DC 20005

RE: Federal Trade Commission v. OSF Healthcare System and Rockford Health System

Dear Rachael,

I am responding to your letters dated January 17 and January 25, 2012 concerning the above-captioned matter.

Aetna has conducted a reasonable and diligent inquiry and search in complying with the FTC's Civil Investigative Demand ("CID") issued to Aetna in this matter.

Aetna's efforts to comply with document and data production demands and to accommodate the parties involved have been exhaustive and extensive.

As you acknowledge, at an earlier point I had voluntarily provided you with a complete copy of Aetna's entire production to the FTC. During our January 6th telephone conversation, I also verbalized my objection to your client's own subpoena to Aetna in this matter, stating that it was overly broad and unreasonably burdensome. I would also note that we made ourselves available for extensive questioning in the deposition recently taken at your Chicago offices.

We find the latest demands contained in your January 17th and January 25th letters to be overly broad and unreasonably burdensome.

Please do not hesitate to contact me if you would like to discuss this matter further.

Respectfully yours,

Anthony J. Dennis/MAH, EA

Anthony J. Dennis