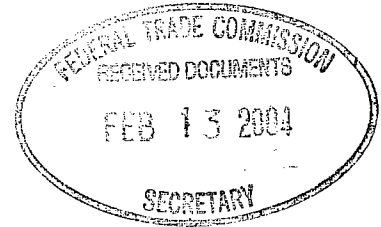


UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
OFFICE OF ADMINISTRATIVE LAW JUDGES



In the Matter of )  
)  
)

North Texas Specialty Physicians, )  
Respondent. )  
)  
)

Docket No. 9312

**ORDER ON MOTION OF NON-PARTY AETNA HEALTH, INC.  
TO LIMIT SUBPOENA *AD TESTIFICANDUM*  
AND ON MOTION OF RESPONDENT TO COMPEL SUBSTITUTION OF  
CORPORATE REPRESENTATIVE FOR DEPOSITION**

**I.**

On January 22, 2004, non-party Aetna Health, Inc. ("Aetna") filed a motion to limit the subpoena *ad testificandum* served upon it by Respondent in this matter ("motion to limit"). Aetna seeks to limit the deposition of its corporate representative which was scheduled for January 28, 2004. Because of technical deficiencies in Aetna's filing, the Office of Administrative Law Judges did not receive Aetna's motion until January 28, 2004.

Respondent North Texas Specialty Physicians ("NTSP") filed its opposition to the motion to quash on January 27, 2004. The deposition of Aetna's corporate representative was held on January 28, 2004.

Following that deposition, Respondent filed a motion to compel substitution of corporate representative for deposition from Aetna ("motion to compel") on February 2, 2004. Aetna filed its opposition to that motion on February 9, 2004.

For the reasons set forth below, Aetna's motion to limit is DENIED in part. Respondent's motion to compel Aetna is GRANTED.

**II.**

Respondent's subpoena *ad testificandum* calls for Aetna to designate one or more persons to testify on Aetna's behalf on eight topics of examination for the period of January 1, 1997 to present. As demonstrated in the pleadings, the corporate representative presented for deposition by Aetna on January 28, 2004 had no knowledge of the topics for the time period prior to 2001.

Respondent has asserted that the time period being investigated in this case by Complaint Counsel is January 1998 to present. Thus, a subpoena *ad testificandum* that calls for a corporate representative to have knowledge of topics from 1998 to present is reasonable.


Aetna objects to the subpoena *ad testificandum* on grounds that it seeks confidential information. Aetna also requests that the scope of examination regarding Aetna's physician contracts, reimbursement rates, and cost comparisons be limited to contracts with, reimbursements rates paid to, and cost and comparisons of NTSP physicians. Respondent asserts that the topics are relevant, not unduly burdensome, and adequately protected by the Protective Order entered in this case.

**III.**

The scope of depositions may include any information relevant and not privileged. See 16 C.F.R. §§ 3.33, 3.31(c). Aetna's motion to limit the subpoena *ad testificandum* is granted to the extent that the corporate representative have knowledge of relevant information from 1998 to present (as opposed to 1997 to present). In all other respects, Aetna's motion to limit is DENIED.

Respondent's motion to compel Aetna to provide a corporate representative who has knowledge of the topics listed in the subpoena *ad testificandum*, as limited above, is GRANTED. Aetna shall provide its corporate representative for deposition within ten days of this Order.

ORDERED:

  
D. Michael Chappell  
Administrative Law Judge

Date: February 13, 2004