

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

_____)	
In the Matter of)	
)	
EVANSTON NORTHWESTERN HEALTHCARE)	
CORPORATION,)	
)	
and)	Docket No. 9315
)	
ENH MEDICAL GROUP, INC.,)	Honorable Stephen J. McGuire
Respondents.)	
_____)	

**DECLARATION OF JOHN PAUL MAXWELL IN SUPPORT OF NON-PARTY
HUMANA, INC.’s MOTION FOR IN CAMERA TREATMENT OF
CERTAIN DESIGNATED HEARING EXHIBITS**

I, John Paul Maxwell, being first duly sworn on oath, declare and state that I am more than 21 years of age; I have personal knowledge of the matters set forth in my declaration; and that, if called as a witness, I could competently testify to the following:

1. I am currently employed by Humana Health Plan, Inc. (“Humana”) as Vice President of Network Management. In this position, my responsibilities include negotiation and administration of contracts with hospitals and other providers in Illinois.

2. I began my employment with Humana in February, 1991 at which time my duties included management of contracting for the Humana Staff Model HMO Network. In 1995, I assumed responsibilities for negotiation and administration of hospital contracts for Humana’s Illinois Plan and have continued these duties to the present day.

3. I submit this declaration in support of Non-Party Humana’s Motion for In Camera Treatment of Certain Designated Hearing Exhibits which were identified by Complaint Counsel and counsel for Respondents as potential trial exhibits. These documents, which consist of contracts with healthcare providers, correspondence regarding the terms of such contracts, and internal documents

and assessments concerning the contracts, were produced by Humana pursuant to subpoena during the investigation stage and during discovery proceedings of the above-captioned matter.

4. I am familiar with and have reviewed the documents for which Humana seeks in camera treatment, which are identified in Exhibit A to my declaration. Each of the documents for which Humana seeks in camera review contain sensitive and confidential information that would result in competitive injury to Humana should it be made public. Each of these documents has been maintained internally by Humana in a confidential manner, only being shared with those individuals requiring knowledge of the information contained within the document. The information was not made available to Humana's competitors or other outside persons. As such, when legally compelled to produce the information under subpoena, the documents were treated as "Confidential Discovery Material" or "Restricted Confidential Discovery Material" in accordance with the terms of the Protective Order Governing Discovery Material entered by Stephen J. McGuire, Chief Administrative Law Judge, on March 24, 2004.

5. By virtue of my current and former positions for Humana, as described above, I am familiar with the type of information contained in the subject documents and affirmatively state that the documents identified in Humana's Motion requesting in camera review, and described in Exhibit A to my declaration, contain commercially sensitive and highly confidential business information relating to the terms of Humana's contracts with providers, fee schedules, and rates paid by Humana to various provider groups for healthcare services. Humana's fee schedules and rate information are vital to Humana's competitive position and business strategy. Further, this highly sensitive, confidential and proprietary information, if disclosed to the public and to competitors of Humana, would cause serious competitive injury to Humana. Disclosure of the subject documents would reveal how Humana evaluates and compensates its various provider groups and determines the rates it pays for healthcare services and the terms on which it contracts for such services, a process that Humana

has expended thousands of hours and many years to develop. Humana's efforts in this regard have allowed it to gain a competitive advantage in the marketplace and better service its members. The public disclosure of any of this critically sensitive information would be highly detrimental to Humana as it would provide both the healthcare providers with whom Humana does or may contract and Humana's competitors with sensitive pricing and contracting terms, causing serious and irreparable harm to Humana and resulting in significant loss of business advantage. Were competitors to know with certainty the pricing and contract terms of Humana's contracts with providers, Humana's competition would gain an unfair advantage at Humana's expense. Moreover, healthcare providers armed with Humana's pricing and contracting information could use it to their advantage in future negotiations with Humana.

6. In sum, the documents and deposition testimony for which Humana seeks *in camera* review are sensitive and material to Humana's business, competitiveness, and profitability. Disclosure of the information contained in these documents will result in loss of business advantage and serious irreparable injury to Humana.

7. I declare, under penalty of perjury, that the above statements are true and correct.

FURTHER AFFIANT SAYETH NOT.

John Paul Maxwell

SUBSCRIBED AND SWORN
to before me this _____ day of
_____, 2004.

Notary Public

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