

July 24, 2003

VIA FEDERAL EXPRESS

Donald S. Clark
Office of the Secretary
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580

RE: FTC/DOJ Hearings on Health Care and Competition Law and Policy

Dear Mr. Clark:

A number of facts have been brought to my attention by Independence Blue Cross (“IBC”) subsequent to my testimony of May 7, 2003 before the FTC/DOJ joint hearings on Health Care and Competition Law and Policy, specifically on the topic of Most Favored Nations Clauses (“MFNs”). The official transcript of my testimony appeared on the FTC website on Friday, July 11, 2003.

My testimony focused on three areas: the core problems with MFNs, specifically in the Philadelphia and Pittsburgh markets; the harmful anticompetitive effects of MFNs in these markets; and, suggested solutions and remedies from the FTC and DOJ’s standpoint. In this testimony I unintentionally misrepresented the business practices of Independence Blue Cross (“IBC”). IBC has advised me that it neither currently nor, in the past employed MFNs in its hospital agreements. Rather, according to IBC, it used a provision entitled “Prudent Buyer” during a period in the early to mid ‘90’s. That provision apparently ensured that if IBC had the largest patient volume with a particular hospital, then IBC would pay an average hospital payment rate that was no higher than smaller private health plans were paying. IBC has advised me that, in its view, its Prudent Buyer Provision did not meet the definition of MFN clauses that I described in my testimony; accordingly, in IBC’s view, the core premise of my testimony and my conclusions relative to IBC were inaccurate.

It was never my intention to mislead the Commission in any respect or to misrepresent the business practices of Independence Blue Cross. Because I was informed that my testimony could not be withdrawn in its entirety, the purpose of this letter is to set the record straight. Accordingly, I request that this letter, along with my apologies to you, the Commission and Independence Blue Cross, be included in the record with my testimony and that my testimony be deemed withdrawn to the extent that it is inaccurate or misleading, or to the extent that it misrepresents in any way the business practices of IBC or any other healthcare insurer. Again, because my core premise was inaccurate, I

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also wish to respectfully withdraw the “solutions” and “remedies” I suggested to the Commission at the end of my testimony.

I thank you for your consideration and indulgence in this matter.

Very truly yours,

/s/

Robert M. McNair, Jr.

RMM/et