

EXHIBIT A

BEFORE THE PENNSYLVANIA OFFICE OF OPEN RECORDS

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PUBLIC INTEREST LAW CENTER OF : :
PHILADELPHIA, : :
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Petitioner, : : DOCKET NO. AP 2012-2017
v. : :
 : :
COMMONWEALTH OF PENNSYLVANIA, : :
DEPARTMENT OF PUBLIC WELFARE, : :
 : :
Respondent. : :
-----:

AFFIDAVIT OF DENISE M. CROCE

I, Denise M. Croce, of full age and being duly sworn according to law, depose and state as follows:

1. I am the Chief Executive Officer of Aetna Better Health Inc. (“Aetna”). I have served in this capacity for approximately one month. Prior to this position, I was the Chief Operating Officer for another Medicaid health plan administered by an affiliate of Aetna. I have approximately 28 years of experience in the health care insurance industry.

2. Aetna is a Medicaid Health Maintenance Organization (“HMO”), and has participated in Pennsylvania’s HealthChoices Program since April 1, 2010. Pursuant to that program, Aetna contracts with the Pennsylvania Department of Public Welfare (“DPW”) to arrange for the provision of health care services to Medicaid beneficiaries who enroll in Aetna. Aetna, in turn, has established a health care provider network by contracting with institutional and professional health care providers who actually provide the health care services, including dental services, to Aetna enrollees. For dental services, Aetna subcontracts with DentaQuest, LLC; DentaQuest, in turn, contracts with the dental providers. In addition to Aetna, there are

several other Medicaid HMOs that participate in the HealthChoices program. Aetna competes with these other companies for enrollees in the Medicaid program, as well as for contracts with subcontractors and providers.

3. I am familiar with the October 3, 2012, request pursuant to Pennsylvania's Right-to-Know Law ("RTKL"), by the Public Interest Law Center of Philadelphia ("PILCOP") addressed to DPW, in which PILCOP seeks various records for the period January 1, 2008 until June 30, 2012, including any document that "(a) sets forth the amount for any one or more dental procedure codes that any Medicaid HMO and/or Medicaid Dental Subcontractor pays or has paid to dentists (and/or other providers of dental services) for the provision of dental services to Medicaid recipients in Southeastern Pennsylvania, or (b) otherwise establishes the rate of payment by which any Medicaid HMO and/or Medicaid Dental Subcontractor compensates or has compensated dentists (and/or other providers of dental services) for the provision of dental services to Medicaid recipients in Southeastern Pennsylvania." PILCOP specifically excluded from the request any documents that it had previously requested from DPW in its June 17, 2011, request. It is my understanding that the October 3, 2012 request, unlike the June 17, 2011 request, specifically sought rates that the dental subcontractors paid the dental providers. I am also familiar with DPW's denial of PILCOP's request, dated November 13, 2012. I submit this affidavit in support of DPW's denial in this appeal.

4. To the extent that PILCOP's request can be construed to require the production of documents and information showing the rates that either Aetna or its subcontractor DentaQuest paid to dental providers, Aetna strongly objects to the disclosure of such documents

and information. Aetna considers such documents and information to be confidential, proprietary to Aetna, and Aetna's trade secrets.

5. During my time in the health care insurance industry, it has been standard industry practice to keep confidential any information relating to rates that insurance plans and/or their subcontractors pay to providers. Consistent with this practice, Aetna has kept provider rates confidential. This industry practice is reflected in Section XIV of Aetna's HealthChoices Agreement with DPW, which specifically provides that information such as "Provider rates" that, if disclosed, "would be harmful" to Aetna's "competitive position," is "confidential" and "shall not be disclosed by [DPW]."

6. Other than required reporting to governmental agencies or as required by applicable law, Aetna never discloses provider rates to anyone outside Aetna. In those instances where Aetna is required to disclose such rates to Pennsylvania agencies with oversight of Aetna, Aetna submits the rates in a confidential manner. For example, Aetna submits an annual report to the Pennsylvania Department of Health both electronically and by hard copy. Information related to specific rates is submitted separately from all other required submissions in a sealed envelope to a specific individual, with the information and the envelope stamped "Confidential," to protect the information from public disclosure.

7. Aetna also takes steps to ensure that internal disclosure of provider rate information is as limited as possible, and that those Aetna employees with access to the information protect its confidentiality. Aetna provides confidentiality training to its employees to protect all confidential information.

8. Aetna maintains any documents containing rate information in both hard copy and electronic format. Hard copies of these documents are kept in a secure file cabinet with

access limited to a “need to know” basis. Electronic copies of the documents are maintained in electronic files that are only made available to employees identified as having a business need for the information. Managers review, on a regular basis, the security rights of their staff to electronic folders.

9. In those instances where Aetna uses provider information for the purpose of assisting committees within Aetna in evaluating a provider’s or health plan’s performance, information is presented with aggregate or blinded data to ensure that specific provider information or rates are not disclosed.

10. Aetna has expended substantial time, effort, and expense in developing its rates, in negotiating with DentaQuest, and in protecting the confidentiality of its rate information.

11. The disclosure of Aetna’s and/or DentaQuest’s rate information to Aetna’s competitors, *i.e.*, other HMOs in the HealthChoices program, would substantially harm Aetna’s and DentaQuest’s ability to compete fairly in the market for reasonable contract rates. Armed with Aetna’s and/or DentaQuest’s rate information, Aetna’s and/or DentaQuest’s competitors could undercut Aetna and DentaQuest, causing both companies to suffer lost business. In addition, disclosure of the rate information of other HMOs or subcontractors to the providers could cause the providers to seek higher rates from Aetna and DentaQuest, to Aetna’s and DentaQuest’s economic detriment. For these reasons, Aetna’s and/or DentaQuest’s rate information has independent economic value to Aetna and, if disclosed, would have value to Aetna’s competitors.

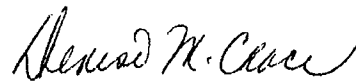
12. In addition, for these same reasons, the disclosure of Aetna’s and/or DentaQuest’s rate information would cause substantial harm to Aetna’s competitive position if disclosed.

13. For all of these reasons, the documents and information sought in the Request have independent economic value to Aetna.

14. Because of Aetna's efforts to maintain the confidentiality of its and DentaQuest's provider rates as described above, it would be very difficult for others to acquire or duplicate those rates by legitimate means. Those rates could only be legitimately acquired by others through the RTKL process, and then only if those rates are not protected as trade secrets or confidential proprietary information of Aetna and DPW is required to disclose them.

15. In addition, any documents containing Aetna's and/or DentaQuest's rates that reflect an individual Aetna member's treatment received from a dental provider are confidential treatment records that contain individually identifiable health information. As required in the HealthChoices program, Dentaquest provides Aetna with detailed electronic reports of each dental service rendered to an Aetna member. These reports, known as "encounter files" contain members' names and identification numbers, listings of the health care services delivered to the member, other confidential personal and medical information relevant to the service, and the rates for the services provided. Because disclosure of such documents would reveal private and confidential health information of Aetna's subscribers in the HealthChoices program, such disclosure would harm Aetna's subscribers. For this reason, such disclosure could also harm Aetna by weakening their Members' trust in Aetna's ability to protect their confidential information as it is required to do under state and federal law.

I understand that the statements made herein are subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.



Denise M. Croce