

Board of Governors of the Federal Reserve System, October 29, 1996.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 96-28130 Filed 11-1-96; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL TRADE COMMISSION

[File No. 911-0008]

Montana Associated Physicians, Inc.; Billings Physician Hospital Alliance, Inc.; Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair or deceptive acts or practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would prohibit, among other things, two organizations of Billings, Montana physicians from negotiating or refusing to deal with third-party payers; determining the terms upon which physicians deal with such payers; or fixing the fees charged for any physicians's services. The agreement settles allegations that the respondents obstructed the entry of managed care plans into Billings, agreed on prices that they would accept from third-party payers, and otherwise acted to thwart cost-containment measures. According to the Commission, these actions resulted in higher prices and fewer health care choices for patients of Billings physicians.

DATES: Comments must be received on or before January 3, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., N.W., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Mark Whitener, Federal Trade Commission, H-374, 6th and Pennsylvania Ave, NW, Washington, DC 20582. (202) 326-2845. Robert F. Leibenluft, Federal Trade Commission, S-3115, 6th and Pennsylvania Ave, NW, Washington, DC 20582. (202) 326-2756.

SUPPLEMENTARY INFORMATION: Pursuant to Section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and Section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60)

days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the FTC Home page, on the World Wide Web, at "<http://www.ftc.gov/os/actions/htm>." A paper copy can be obtained from the FTC Public Reference Room, Room H-130, Sixth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580, either in person or by calling (202) 326-3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with Section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii)).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has agreed to accept, subject to final approval, a proposed consent order settling charges that Montana Associated Physicians, Inc. ("MAPI") and the Billings Physician Hospital Alliance, Inc. ("BPHA") violated Section 5 of the Federal Trade Commission Act.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The purpose of this analysis is to facilitate public comment on the agreement. The analysis is not intended to constitute an official interpretation of either the proposed complaint or the proposed consent order, or to modify their terms in any way.

The proposed consent order has been entered into for settlement purposes only and does not constitute an admission by MAPI or BPHA that the law has been violated as alleged in the complaint.

The Complaint

The complaint charges that MAPI restrained competition among physicians in the area of Billings, Montana, by, among other things, combining or conspiring with its respective physician members or acting as a combination of its physician members to fix the terms under which they would deal with third-party payers, and to conduct boycotts and other

resistance to cost-containment efforts. The complaint further charges that MAPI was extensively involved in BPHA's formation, had the power to affect and control BPHA's dealings with third-party payers seeking contracts for physician services, and that BPHA carried on MAPI's anticompetitive conduct. The allegations set forth in the Commission's complaint are summarized below.

MAPI is an association of approximately 115 physicians in over 30 independent practices. These physicians constitute approximately 43% of all physicians in Billings, Montana. Most of the other physicians in Billings are part of a multispecialty physician group practice. MAPI's members constitute over 80 percent of all "independent" Billings physicians, that is, those who are not part of the multispecialty physician practice or employed by a hospital. Third-party payers seeking to contract with a Billings physician panel constituting a range of physician services must either contract with the multispecialty physician practice or with many MAPI members.

The complaint charges that MAPI was formed in 1987 in substantial part to be a vehicle for its members to deal collectively with managed care plans. At that time, there were no health maintenance organizations (HMOs) or preferred provider organizations (PPOs) operating in Billings, but physicians there were concerned that such plans would soon attempt to enter Billings, and that competitive pressure could force physicians to deal with such plans at reduced prices or on other than usual fee-for-service terms. The purpose of engaging in collective dealings through MAPI was to obtain greater bargaining power with third-party payers by presenting a united front, and thereby to resist competitive pressures to discount fees and to avoid accepting reimbursement on other than the traditional fee-for-service basis.

In 1987, MAPI began negotiating with third-party payers on behalf of its members. Members of MAPI who were approached by managed care plans told the plans to deal with MAPI. When HMO Montana, an HMO owned and operated by Blue Cross/Blue Shield of Montana, sought to contract with MAPI physicians, MAPI rejected all contracts proposed by the HMO. No member of MAPI entered into a contract with HMO Montana until 1993, after MAPI became aware of the Commission's investigation. When another health plan sought to establish the first PPO program in Billings, MAPI offered a contract to the health plan that provided

for physicians to be paid their usual fees with no discounts, and represented to the health plan that this was what MAPI's members would accept. When the health plan subsequently sought to collect current fee information from MAPI members in order to devise a proposed physician fee schedule, MAPI urged its members to submit prices higher than they were currently charging in order to inflate the fees the health plan developed for the schedule.

In addition, MAPI gathered detailed fee information from its members, enabling MAPI to determine for most physician services the prevailing fees and the maximum reimbursement allowed by Blue Cross/Blue Shield of Montana. Using this information, MAPI advised certain physicians to raise their fees, and some fees were raised in accordance with these recommendations.

In 1991, MAPI joined with Saint Vincent Hospital and Health Center in Billings to form BPHA, a physician-hospital organization. Almost all of MAPI's members joined BPHA, making MAPI members a substantial majority of BPHA's physician membership. BPHA's structure and governance gave MAPI substantial control over BPHA dealings with third-party payers regarding physician contracting, and thus allowed MAPI to continue to exercise the collective power of its physician members in BPHA's dealings with third-party payers seeking contracts.

Through BPHA's Physician Agreements, MAPI was designated as the agent of almost all BPHA physicians who were MAPI members with respect to their membership in BPHA. This agency designation gave MAPI the authority to accept or reject all contracts negotiated by BPHA with third-party payers, as well as the power to elect and remove physician members of BPHA's Board of Directors. In addition, BPHA's structure gave its physician members (most of whom were MAPI members) the ability to control BPHA's pricing and other terms of contracts for physician services.

By virtue of this structure, MAPI was able to carry on its unlawful activities through BPHA. Though payers sought to contract with BPHA for physician services, and did contract with Saint Vincent directly for hospital services, BPHA did not enter into any contract for physician services until nearly two years after its creation, after the time BPHA and MAPI became aware of the Commission's investigation.

Although MAPI and BPHA did not explicitly bar their members from dealing with managed care plans individually or on terms other than ones

endorsed by MAPI or BPHA, these physicians largely dealt with such plans exclusively through MAPI and BPHA. Physician members and officials of MAPI and BPHA directed payers to deal with MAPI and BPHA rather than with individual physicians. Few physicians who were members of MAPI or BPHA participated in any managed care plans.

Neither the physician members of MAPI, nor the physician members of BPHA, have integrated their practices in any economically significant way, nor have they created efficiencies sufficient to justify their acts or practices described above.

The complaint charges that the conduct of MAPI and BPHA has injured consumers by restraining competition among physicians, fixing or increasing prices for physician services, and depriving third-party payers and patients of the benefits of competition among physicians.

The Proposed Consent Order

The proposed consent order would prohibit MAPI and BPHA from engaging in any agreement with physicians to (1) negotiate or refuse to deal with any third-party payer; (2) determine the terms upon which physicians deal with such payers; or (3) fix the fees charged for any physician's services. In addition, under Part III of the proposed consent order, MAPI is prohibited from: (1) advising physicians to raise, maintain, or otherwise adjust the fees charged for their medical services; (2) encouraging adherence to any fee schedule for physicians' services; and (3) encouraging any person to engage in any action prohibited by the order.

Notwithstanding these provisions, however, the proposed consent order would not prevent MAPI and BPHA from operating, or participating in, a legitimate joint venture. First, MAPI and BPHA respectively, if they are operating through a "risk-sharing joint venture," may enter into agreements with physicians regarding terms of dealing with third-party payers, provided that the physicians participating in the venture remain free to deal individually with third-party payers. A "risk-sharing joint venture," for purposes of this order, is one in which physicians who would otherwise be competitors share a substantial risk of loss from their participation in the venture.

The order's proviso permitting MAPI and BPHA to engage in joint dealing through "risk-sharing joint ventures" extends only to those that are "non-exclusive," that is, those in which the participating physicians are available to contract with payers outside the venture. Although exclusive physician

networks are not necessarily anticompetitive, they can impair competition, particularly when they include a large portion of the physicians in a market. Given the large share of the physicians in Billings that participated in MAPI and BPHA, along with evidence that as part of the challenged conduct these physicians largely refused to deal with managed care plans outside of MAPI or BPHA, the proviso does not permit exclusive risk-sharing ventures.

The proposed order allows MAPI and BPHA to operate or participate in joint ventures that involve collective price setting by competing physicians, even if those physicians do not share substantial financial risk as defined in the order, provided that they first receive the prior approval of the Commission. The order uses a prior approval provision because it is not feasible to define in an order all of the types of procompetitive joint ventures that MAPI or BPHA might seek to operate. The prior approval mechanism will allow the Commission to evaluate a specific proposal and assess its likely competitive impact. Allowing MAPI and BPHA the opportunity to seek prior approval of non-risk-sharing joint ventures will help to ensure that they are able to respond to dynamic changes in health care markets in ways that promote competition, while guarding against the recurrence of acts and practices that have restrained competition and consumer choice.

In addition, the proposed order contains a provision designed to make it clear that BPHA, as a physician-hospital organization, can take actions to facilitate contracting between its physician members and third-party payers that do not create or facilitate the kind of agreements that the order prohibits. The provision sets forth the aspects of a "messenger model" that would not run afoul of the order. The messenger model used here is remedial, and tailored to particular facts and circumstances.

The proposed order would also specifically permit BPHA to keep in effect contracts with third-party payers that were in effect on September 30, 1994, in order to avoid any disruption that might result from applying the order's prohibitions to those existing contractual arrangements.

Part V of the proposed order would require MAPI and BPHA to publish and distribute copies of the order and accompanying complaint. Parts VI and VII of the order impose certain reporting requirements in order to assist the Commission in monitoring compliance with the order.

The proposed consent order would terminate 20 years after the date it is issued.

Donald S. Clark,
Secretary.

Concurring Statement of Commissioner
Mary L. Azcuenaga in Montana
Associated Physicians, Inc.

[File No. 911-0008]

I concur in the decision to issue the complaint and accept the order for public comment and write separately to emphasize two points. First, the complaint and order do not directly challenge the organization and conduct of the Billings Physician Hospital Alliance, Inc., as a physician hospital organization (PHO), and in my view, this order should cast no shadow on the activities of PHO's. Second, although I concur in the unusual and complicated fencing-in relief in the particular circumstances of this case, in my view, this negotiated order is not, and should not be viewed as, a guide for what a PHO can and cannot do.

[FR Doc. 96-28277 Filed 11-1-96; 8:45 am]

BILLING CODE 6750-01-M

GENERAL SERVICES ADMINISTRATION

Federal Acquisition Policy Division, FAR Secretariat Stocking Change of a Standard Form

AGENCY: General Services
Administration.

ACTION: Notice.

SUMMARY: The General Services Administration/FAR Secretariat is changing the stocking of the following Standard form because of low user demand: SF 25B, Continuation Sheet for SF 24, 25, and 25A.

Since this form is now authorized for local reproduction, you can obtain the updated camera copy in two ways:

On the internet. Address: <http://www.gsa.gov/forms>; or;

From CARM, Attn.: Barbara Williams,
(202) 501-0581.

FOR FURTHER INFORMATION CONTACT: FAR Secretariat, (202) 501-4755.

DATES: EFFECTIVE NOVEMBER 4, 1996.

Dated October 8, 1996.

Theodore D. Freed,
Standard and Optional Forms Management
Officer.

[FR Doc. 96-28188 Filed 11-1-96; 8:45 am]

BILLING CODE 6820-34-M

Revision and Stocking Changes of Standard Forms

AGENCY: Public Building Service,
General Services Administration.

ACTION: Notice.

SUMMARY: The General Services Administration is changing the stocking requirement of SF 118, Report of Excess Real Property, SF 118A, Buildings, Structures, Utilities, and Miscellaneous Facilities (Schedule A—Supplement to Report of Excess), SF 118B, Land (Schedule B—Supplement to Report of Excess Real Property) and SF 118C, Related Personal Property (Schedule C—Supplement to Report of Excess Real Property). These forms are revised to include metric measurements and authorized for local reproduction. Since these forms are authorized for local reproduction, you can obtain the updated camera copy in two ways.

On the Internet. Address: <http://www.gsa.gov/forms>; or;

www.gsa.gov/forms; or;

From CARM, Attn.: Barbara Williams,
(202) 501-0581.

FOR FURTHER INFORMATION CONTACT:

Ronald Rice, (202) 501-0074. This contact is for information on completing the form only.

DATES: Effective November 4, 1996.

Dated: October 24, 1996.

Barbara M. Williams,
Deputy Standard and Optional Forms
Management Officer.

[FR Doc. 96-28166 Filed 11-1-96; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Detailed Case Data Component (DCDC) of the National Child Abuse and Neglect Data System.

OMB No.: 0980-0256.

Description: The Detailed Case Data Component of the National Child Abuse and Neglect Data System compiles automated case-level data on child maltreatment investigated by State child protective services agencies. Data are collected on reports of abuse and neglect, characteristics of victims, risk factors associated with victims and their families, and the development of policies and programs relating the child abuse and neglect at the National, State and local levels.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
DCDC	56	1	110	6,160
Estimated Total Annual Burden Hours:				6,160

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services,

Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including

whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to