

EXHIBIT C

the HealthChoices program. Keystone 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 Keystone or its subcontractor DentaQuest paid to dental providers, Keystone strongly objects to the disclosure of such documents and information. Keystone considers such documents and information to be confidential, proprietary to Keystone, and Keystone'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, Keystone has kept provider rates confidential. This industry practice is reflected in Section XIV of Keystone's HealthChoices Agreement with DPW, which specifically provides that information such as "Provider rates" that, if disclosed, "would be harmful" to Keystone'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, Keystone never discloses provider rates to anyone outside Keystone. In those instances where Keystone is required to disclose such rates to Pennsylvania agencies with oversight of Keystone, Keystone submits the rates in a confidential manner. For example, Keystone 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. Keystone also takes steps to ensure that internal disclosure of rate information is as limited as possible, and that those Keystone employees with access to the information protect its confidentiality. Keystone provides confidentiality training to its employees to protect all confidential information. Keystone limits access to rate information to senior management and those employees with specific need for the information in the performance of their jobs, such as designated contract negotiators and managers with specific business accountability.

8. Keystone maintains any documents containing rate information in hard copy format. These copies are kept in locked, fireproof file cabinets with access limited to a “need to know” basis.

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

10. The disclosure of Keystone’s and/or DentaQuest’s rate information to Keystone’s competitors, *i.e.*, other HMOs in the HealthChoices program, would substantially harm Keystone’s and DentaQuest’s ability to compete fairly in the market for reasonable contract rates. Armed with Keystone’s and/or DentaQuest’s rate information, Keystone’s and/or DentaQuest’s competitors could undercut Keystone 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 Keystone and DentaQuest, to Keystone’s and DentaQuest’s economic detriment. For these reasons, Keystone’s and/or DentaQuest’s rate information has independent economic value to Keystone and, if disclosed, would have value to Keystone’s competitors.

11. In addition, for these same reasons, the disclosure of Keystone’s rate information would cause substantial harm to Keystone’s competitive position if disclosed.


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

13. Because of Keystone’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 Keystone and DPW is required to disclose them.

14. In addition, any documents containing Keystone's and/or DentaQuest's rates that reflect an individual encounter with a dental provider are confidential treatment records that contain individually identifiable health information. Because disclosure of such documents would reveal private and confidential health information of Keystone's subscribers in the HealthChoices program, such disclosure would harm Keystone's subscribers. For this reason, such disclosure could also harm Keystone by causing it to lose subscribers to the other HMOs participating in the HealthChoices program.

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


William C. Morsell