

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (Agreement) is entered into among the United States of America, acting through the United States Department of Justice and on behalf of the Office of Personnel Management (OPM), which administers the Federal Employees Health Benefits Program (FEHBP) (collectively the "United States"); RightCHOICE Managed Care, Inc., d/b/a Blue Cross Blue Shield of Missouri ("RightCHOICE"); and Ronald Ekstrand (hereafter referred to as "the Parties"), through their authorized representatives.

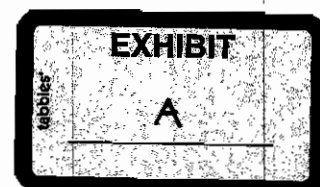
II. PREAMBLE

As a preamble to this Agreement, the Parties agree to the following:

A. Defendant RightCHOICE is a Delaware corporation with its principal place of business in Missouri. On January 31, 2002, RightCHOICE merged into WellPoint Health Networks, Inc. and continued to operate as RightCHOICE.

The Blue Cross and Blue Shield Association (BCBSA) owns the Blue Cross and the Blue Shield service marks and licenses these service marks to health care companies to operate as Blue Cross and/or Blue Shield plans. Since the 1960s, BCBSA has contracted with OPM to provide a comprehensive government-wide service benefit plan under the Federal Employees Health Benefits Act (FEHBA), 5 U.S.C. §§ 8901-8914. This plan is known as the Service Benefit Plan (SBP) and is sometimes referred to as the Federal Employee Program. Services under this contract are provided by local Blue Cross and/or Blue Shield plans, including RightCHOICE, that participate in the SBP. BCBSA acts as the agent of the local plans in executing and administering the SBP contract.

B. Ronald Ekstrand (the "Relator") is a resident of Missouri and a former employee of RightCHOICE. On July 1, 2004, Relator filed under seal a qui tam action in the United States



District Court for the Eastern District of Missouri captioned United States of America ex rel. Ronald Ekstrand v. WellPoint Health Networks, Inc. (hereinafter "the Civil Action").

C. The United States contends that RightCHOICE submitted or caused to be submitted claims for payment to OPM under the Federal Employees Health Benefits Program (FEHBP) established under the FEHBA, 5 U.S.C. §§ 8901-8914.

D. The United States contends that it has certain civil claims, as specified in Paragraph 2, below, against RightCHOICE for engaging in the following conduct during the period from January 1, 1999 to March 25, 2002 (hereafter the "Covered Conduct"):

In connection with providing health care benefits to federal employees and annuitants and their dependents under the name of RightCHOICE or under the name of Blue Cross Blue Shield of Missouri, and, specifically, in connection with compensating a preferred provider network of physicians known as "Alliance," through which such health care benefits were provided: paying higher fees to Alliance physicians for serving patients insured through the SBP than these same physicians were reimbursed for providing the same types of services to patients insured through various other health plans, and passing on these higher rates to OPM as purportedly "reasonable" costs to the SBP when, in fact, these costs were not reasonable.

E. OPM also contends that it has certain administrative claims against RightCHOICE pursuant to 5 U.S.C. § 8902(e) and 5 C.F.R. Part 890.

F. RightCHOICE expressly denies any liability for the Covered Conduct as specified in paragraphs D & E above, and states that the fees paid were reasonable and competitive with the fees paid by other health plans in the same market and were in full compliance with federal regulation and OPM guidance.

G. This Agreement is neither an admission of liability by RightCHOICE nor a concession by the United States that its claims are not well-founded.

H. To avoid the delay, uncertainty, inconvenience, and expense of protracted litigation of the above claims, the Parties reach a full and final settlement pursuant to the Terms and Conditions below.

### III. TERMS AND CONDITIONS

1. RightCHOICE agrees to pay to the United States Nine Hundred and Seventy-Five Thousand dollars (\$975,000.00) (the "Settlement Amount"). The United States agrees to pay seventeen percent (17%) of the Settlement Amount to Relator. RightCHOICE further agrees to pay Relator \$50,000 for expenses and attorney's fees and costs. The foregoing payments shall be made as follows:

a. RightCHOICE agrees to pay the full Settlement Amount to the United States by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office for the Eastern District of Missouri. RightCHOICE agrees to make this electronic funds transfer no later than the Effective Date of this Agreement.

b. Contingent upon the United States receiving the Settlement Amount from RightCHOICE and as soon as feasible after receipt, the United States agrees to pay seventeen percent (17%) of the Settlement Amount to Relator by electronic funds transfer.

c. Within three (3) days of the Effective Date of this Agreement, RightCHOICE agrees to make the above-referenced payment of \$50,000 to Relator's counsel by electronic funds transfer made payable to Green Jacobson & Butsch, P.C.

2. Subject to the exceptions in Paragraph 4 below, in consideration of the obligations of RightCHOICE set forth in this Agreement, conditioned upon RightCHOICE's full payment of the Settlement Amount, the United States (on behalf of itself, its officers, agents, agencies, and departments) agrees to release RightCHOICE, together with its current and former parent corporations; each of its direct and indirect subsidiaries; brother or sister corporations; divisions and affiliates; current or former officers, directors, and employees; and the successors and assigns of any of them from any civil or administrative monetary claim the United States has or may have under the False Claims Act, 31 U.S.C. §§ 3729-3733; the Civil Monetary Penalties Law, 42 U.S.C. § 1320a-7a; the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801-3812; breach of contract; and the common law theories of payment by mistake, unjust enrichment, and fraud for the Covered Conduct.

3. In consideration of the obligations of RightCHOICE set forth in this Agreement, conditioned upon RightCHOICE's full payment of the Settlement Amount, OPM, after consideration of the factors identified in 48 C.F.R. §§9.406-1 and 9.406-2, agrees that it will not debar or suspend (as set forth in 48 C.F.R. Subparts 9.4) RightCHOICE, each of its predecessors, direct and indirect subsidiaries, divisions, current or former owners and affiliates, and the successors and assigns of any of them, from contracting with the United States based upon the Covered Conduct, except as otherwise specifically reserved below. OPM further agrees that any and all applications, bids and/or proposals received by OPM from RightCHOICE, its present and future subsidiaries, related business entities, agents, or any entity with which RightCHOICE may merge or acquire will be considered in accordance with the Federal Acquisition Regulation ("FAR"), 48 C.F.R. Chapter 1, and any other applicable procurement

statutes or regulations. Any such application, bid and/or proposal submitted by RightCHOICE shall be considered using the same criteria applied to other contractors. The Parties recognize that OPM has a responsibility to contract and maintain business relationships with individuals and entities that engage in sound management and business practices. Nothing in this Paragraph precludes OPM from taking action against entities or persons, or for conduct and practices, for which claims have been reserved in Paragraph 4, below.

4. Notwithstanding any term of this Agreement, specifically reserved and excluded from the scope and terms of this Agreement as to any entity or person (including RightCHOICE and the Relator) are the following:

- a. Any civil, criminal, or administrative liability arising under Title 26, U.S. Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Except as explicitly stated in this Agreement, any administrative liability, including mandatory exclusion from Federal health care programs;
- d. Any liability to the United States (or its agencies) for any conduct other than the Covered Conduct;
- e. Any liability based upon such obligations as are created by this Agreement;
- f. Any liability for express or implied warranty claims or other claims for defective or deficient products or services, including quality of goods and services; and
- g. Any liability for failure to deliver goods or services due.

5. Relator and his heirs, successors, attorneys, agents, and assigns agree not

to object to this Agreement and agree and confirm that this Agreement is fair, adequate, and reasonable under all the circumstances, pursuant to 31 U.S.C. § 3730(c)(2)(B) and, conditioned upon receipt of Relator's share, Relator, for himself individually, and for his heirs, successors, agents, and assigns, fully and finally releases, waives, and forever discharges the United States, its officers, agents, and employees, from any claim arising from or relating to 31 U.S.C. § 3730; from any claims arising from the filing of the Civil Action; from any other claims for a share of the Settlement Amount; and in full settlement of any claims Relator may have under this Agreement. This Agreement does not resolve or in any manner affect any claims the United States has or may have against Relator arising under Title 26, U.S. Code (Internal Revenue Code), or any claims arising under this Agreement.

6. Conditioned upon receipt of the payment described in Paragraph III.1.b., Relator, for himself, and for his heirs, successors, attorneys, agents, and assigns, agrees to release RightCHOICE, its successors and assigns, directors, officers, agents, and employees, from any liability to Relator arising from the filing of the Civil Action, from any allegations or claims alleged therein or related to the Covered Conduct, or under 31 U.S.C. § 37370(d) for expenses or attorney's fees and costs. Contemporaneously with this Agreement, a separate agreement is being entered among RightCHOICE, the Relator, Kara L. Ekstrand (the wife of the Relator), and the law firm of Green Jacobson & Butsch, P.C., the firm that has represented the Relator in connection with the Civil Action; that separate agreement contains additional releases provided to RightCHOICE.

7. RightCHOICE agrees to release Relator from any liability to RightCHOICE arising from the filing and prosecution of the Civil Action.

8. RightCHOICE waives and shall not assert any defenses RightCHOICE may have to any criminal prosecution or administrative action relating to the Covered Conduct, which defenses may be based in whole or in part on a contention that, under the Double Jeopardy Clause in the Fifth Amendment of the Constitution, or under the Excessive Fines Clause in the Eighth Amendment of the Constitution, this Agreement bars a remedy sought in such criminal prosecution or administrative action. Nothing in this Paragraph or any other provision of this Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of the Internal Revenue laws, Title 26 of the United States Code.

9. RightCHOICE fully and finally releases the United States, its agencies, employees, servants, and agents from any claims (including attorney's fees, costs, and expenses of every kind and however denominated) that RightCHOICE has asserted, could have asserted, or may assert in the future against the United States, its agencies, employees, servants, and agents, related to the Covered Conduct and the United States' investigation and prosecution thereof.

10. The Settlement Amount shall not be decreased as a result of the denial of claims for payment now being withheld from payment, if any, by the FEHBP related to the Covered Conduct; and RightCHOICE agrees not to resubmit to the FEHBP, previously denied claims, if any, related to the Covered Conduct or otherwise seek an audit adjustment for those claims, and agrees not to appeal any such denials of claims or audit adjustment.

11. RightCHOICE agrees to the following:

a. Unallowable Costs Defined: That all costs (as defined in the Federal Acquisition Regulation, 48 C.F.R. § 31.205-47; and in Titles XVIII and XIX of the

Social Security Act, 42 U.S.C. §§ 1395-1395ggg and 1396-1396v; and in the regulations and official program directives promulgated thereunder) incurred by or on behalf of RightCHOICE, its present or former officers, directors, employees, shareholders, and agents, in connection with the following, shall be "unallowable costs" on government contracts and under the Medicare Program, Medicaid Program, TRICARE Program, and Federal Employees Health Benefits Program (FEHBP):

- (1) the matters covered by this Agreement;
- (2) the United States' audit(s) and civil and any criminal investigation(s) of the matters covered by this Agreement;
- (3) RightCHOICE's investigation, defense, and corrective actions, if any, undertaken in response to the United States' audit(s) and civil investigation(s) in connection with the matters covered by this Agreement (including attorney's fees);
- (4) the negotiation and performance of this Agreement; and
- (5) the payment RightCHOICE makes to the United States pursuant to this Agreement, including any costs and attorney's fees. (All costs described or set forth in this Paragraph 11.a. are hereafter "unallowable costs.")

b. Future Treatment of Unallowable Costs: These unallowable costs shall be separately determined and accounted for by RightCHOICE and RightCHOICE shall not charge such unallowable costs directly or indirectly to any contracts with the United States or any State Medicaid program, or seek payment for such unallowable costs through any cost report, cost statement, information statement, or payment request submitted by RightCHOICE or any of its subsidiaries or affiliates to the Medicare, Medicaid, TRICARE, or the FEHBP.



c. Treatment of Unallowable Costs Previously Submitted for

Payment: RightCHOICE further agrees that within 90 days of the Effective Date of this Agreement, it shall identify to applicable Medicare and TRICARE fiscal intermediaries, carriers, and/or contractors, and Medicaid and FEHBP fiscal agents, any unallowable costs (as defined in this Paragraph) included in payments previously sought from the United States, or any State Medicaid program, including, but not limited to, payments sought in any cost reports, cost statements, information reports, or payment requests already submitted by RightCHOICE or any of its subsidiaries or affiliates, and shall request, and agree, that such cost reports, cost statements, information reports, or payment requests, even if already settled, be adjusted to account for the effect of the inclusion of the unallowable costs. RightCHOICE agrees that the United States, at a minimum, shall be entitled to recoup from RightCHOICE any overpayment plus applicable interest and penalties as a result of the inclusion of such unallowable costs on previously-submitted cost reports, information reports, cost statements, or requests for payment.

Any payments due after the adjustments have been made shall be paid to the United States pursuant to the direction of the Department of Justice and/or the affected agencies. The United States reserves its rights to disagree with any calculations submitted by RightCHOICE or any of its subsidiaries or affiliates on the effect of inclusion of unallowable costs (as defined in this Paragraph) on RightCHOICE or any of its subsidiaries or affiliates' cost reports, cost statements, or information reports.

d. Nothing in this Agreement shall constitute a waiver of the rights of the United States to audit, examine or reexamine RightCHOICE's books and records to

determine that no unallowable costs have been claimed in accordance with the provisions of this Paragraph.

12. This Agreement is intended to be for the benefit of the Parties only. The Parties do not release any claims against any other person or entity, except to the extent provided for in Paragraphs 6 and 13 below.

13. RightCHOICE waives and shall not seek payment for any of the health care billings covered by this Agreement from any health care beneficiaries or their parents, sponsors, legally responsible individuals, or third party payors based upon the claims defined as Covered Conduct.

14. Except as expressly provided to the contrary in this Agreement, each Party shall bear its own legal and other costs incurred in connection with this matter, including the preparation and performance of this Agreement.

15. RightCHOICE represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

16. Relator represents that this Agreement is freely and voluntarily entered into without any degree of duress or compulsion whatsoever.

17. This Agreement is governed by the laws of the United States. The Parties agree that the exclusive jurisdiction and venue for any dispute arising between and among the Parties under this Agreement is the United States District Court for the Eastern District of Missouri.

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18. This Agreement constitutes the complete agreement between the Parties. This Agreement may not be amended except by written consent of the Parties.

19. Upon receipt of the Settlement Amount, as described in Paragraph 1 above, the United States and Relator shall promptly sign and file in the Civil Action a Notice of Intervention and a Joint Stipulation of Dismissal with prejudice of the pending action against RightCHOICE pursuant to the terms of the Agreement.

20. The individuals signing this Agreement on behalf of RightCHOICE represent and warrant that they are authorized by RightCHOICE to execute this Agreement. The individual signing this Agreement on behalf of Relator represents and warrants that he is authorized by Relator to execute this Agreement. The United States signatories represent that they are signing this Agreement in their official capacities and that they are authorized to execute this Agreement.

21. This Agreement may be executed in counterparts, each of which constitutes an original and all of which constitute one and the same Agreement.

22. This Agreement is binding on RightCHOICE's successors, transferees, heirs, and assigns.

23. This Agreement is binding on Relator's successors, transferees, heirs, and assigns.

24. All parties consent to the United States' disclosure of this Agreement, and information about this Agreement, to the public.

25. This Agreement is effective on the date of signature of the last signatory to the Agreement (Effective Date of this Agreement). Facsimiles of signatures shall constitute acceptable, binding signatures for purposes of this Agreement.

[SIGNATURE BLOCKS ON FOLLOWING PAGES]

THE UNITED STATES OF AMERICA

DATED: 1/29/07

BY: Daniel A. Spiro

MICHAEL F. HERTZ  
JOYCE R. BRANDA  
DANIEL A. SPIRO  
Civil Division  
U.S. Department of Justice  
and  
Suzanne J. Moore  
Assistant United States Attorney  
Eastern District of Missouri

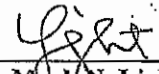
DATED: 6-22-2007

BY: Kathleen McGettigan

KATHLEEN McGETTIGAN  
Deputy Associate Director  
Center for Retirement and  
Insurance Services  
United States Office of  
Personnel Management

**DEFENDANT RIGHTCHOICE MANAGED CARE, INC.**

DATED: 26 January 2007

BY:   
Mark N. Light  
Lewis, Rice & Fingersh, L.C.  
and  
Kathryn Bucher  
Wiley Rein & Fielding LLP

DATED: \_\_\_\_\_

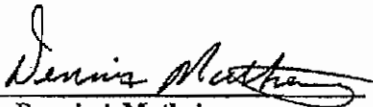
BY: \_\_\_\_\_  
Dennis A Matheis  
President and Chief Executive  
Officer  
RightCHOICE Managed Care,  
Inc.

**DEFENDANT RIGHTCHOICE MANAGED CARE, INC.**

DATED: \_\_\_\_\_

BY: \_\_\_\_\_  
Mark N. Light  
Lewis, Rice & Fingersh, L.C.  
and  
Kathryn Bucher  
Wiley Rein & Fielding LLP

DATED: 1-26-07

BY:   
Dennis A Matheis  
President and Chief Executive  
Officer  
RightCHOICE Managed Care,  
Inc.

RELATOR EKSTRAND

DATED: 1/26/07

BY: Ronald Ekstrand  
Ronald Ekstrand

DATED: 1/26/07

BY: Fernando Bermudez  
Martin M. Green  
Fernando Bermudez  
GREEN JACOBSON & BUTSCH, P.C.