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June 13, 2024

VIA EMAIL ONLY

Todd Herman, Director of Procurement and Contracts,
Office of Procurement and Contracts
Kansas Department of Administration
900 SW Jackson St., Room 451
Topeka, Kansas 66612
todd.herman@ks.gov

Re: Request for extension of time to protest and stay of all procurement activities regarding the KanCare Medicaid & CHIP Capitated Managed Care contracts.

Dear Director Herman:

As you are familiar, this firm represents Aetna Better Health of Kansas Inc., (“Aetna”) in connection with its protest of the awards relating to Request for Proposal No. EVT0009267 (“RFP”) issued by the Kansas Department of Administration (“DOA” or “Agency”) on behalf of the Kansas Department of Health and Environment (“KDHE”) and the Kansas Department for Aging and Disability Services (“KDADS”). On June 5, 2024, Aetna submitted to you its protest of the decision and award.

Within that protest, it was highlighted that Aetna timely submitted KORA requests to the DOA, KDHE, KDADS, and the Office of the Governor. The requests submitted to the DOA await a substantive response. KDHE and KDADS have responded to our requests with inapplicable cited exemptions largely denying disclosure of responsive records. Aetna is attempting to engage the agencies in continued dialogue about the requests in order to obtain access to the documents that must rightfully and statutorily be produced, and which are imperative to Aetna’s ability to exercise its protest rights. The Office of the Governor has provided rolling responses asserting a lack of responsive records or claimed exemptions to disclosure, but the responses to date have not included any production of records.

As stated in the protest, Aetna cannot fully and fairly exercise its protest rights until such time as it receives the documents and information sought in those KORA requests. For example, Aetna has requested additional information regarding the Agency’s individual or consensus scoring ratings and notes for each of the technical evaluation questions. The goal of this

procurement process is to ensure Kansans have access to reliable and quality healthcare. Without access to the information requested in the KORA requests, the ratings remain inherently unreasonable, arbitrary, and capricious, which certainly does not follow through with the claimed commitment to providing consistent and quality healthcare coverage to the state's most vulnerable citizens. Aetna will be significantly prejudiced if it does not have the opportunity to review all of the documents and information relating to this RFP to determine the basis of the award decision and if there are additional grounds for protest prior to you issuing a decision.

In our email, dated May 31, 2024, Aetna specifically requested an extension of time in which it may supplement its protest until 14 days after all of its KORA requests are fully responded to, as well as a stay on the bid protest decision. Aetna reiterated its request for a stay of all procurement related activities in its bid protest hand delivered and sent to you electronically on June 5, 2024. As of the date of this letter, we have not received a response regarding these requests. By this correspondence, we again reiterate the request of an extension of time to supplement Aetna's protest, and an immediate stay to your decision on the protest and all procurement activities. We ask that a response be provided by end of business on June 14, 2024. Without the assurances of a stay, Aetna will be left with no choice but to seek the requested relief with the district court.

Sincerely,

/s/ Diane L. Bellquist