Coppersmith Schermer & Brockelman PLC

Andrew S. Gordon
(602) 381-5460
agordon@csblaw.com

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Hand Delivered

Michael Veit
Contracts and Purchasing Administrator
Arizona Health Care Cost Containment System
Contracts and Purchasing Section
701 East Jefferson, MD 5700
Phoenix, Arizona 85034

PROTEST OF AWARD FOR ALTCS – PIMA AND SANTA CRUZ COUNTIES (GSA 50)
SOLICITATION NO. YH12-001

Dear Mr. Veit:

This law firm represents Southwest Catholic Health Network Corporation, dba Mercy Care Plan ("Mercy Care" or "MCP") and, on behalf of Mercy Care, files this protest. Arizona Health Care Cost Containment System ("AHCCCS") recently decided not to award the Arizona Long Term Care System ("ALTCS") contract to Mercy Care for Pima and Santa Cruz Counties. Mercy Care protests this decision because the AHCCCS Scoring Team committed numerous errors in scoring and evaluating Mercy Care's proposal. As we explain in more detail in the remaining parts of this protest, if AHCCCS correctly scored Mercy Care's proposal, Mercy Care would have had the highest score and would have been awarded the contract for Pima and Santa Cruz Counties. Consequently, Mercy Care should be awarded the ALTCS contract for Pima and Santa Cruz Counties.[1]

As required by the Arizona Administrative Code ("A.C.C.") R2-7-A901(B), and R9-22-604, Mercy Care provides the following information:

Interested Party/Protesting Party:	Southwest Catholic Health Network Corporation dba Mercy Care Plan 4350 East Cotton Center Blvd., Bldg. D Phoenix, Arizona 85040 (602) 453-8365
Bid Solicitation Number:	YH12-0001
Relief Requested:	Award of the ALTCS Contract for Pima and Santa Cruz Counties

[1] Importantly, most of the scoring errors, when corrected, will also increase Mercy Care's score for the contract in Maricopa County. Mercy Care was one of the successful bidders for the ALTCS contract in Maricopa County.

All additional information required by the Administrative Code, including a detailed statement of the legal and factual basis for the protest, are provided in the remaining portions of this letter. Copies of all relevant documents are included as exhibits in the attached Appendix.

I. AHCCCS IMPROPERLY SCORED MERCY CARE'S PROPOSAL

By filing this protest, Mercy Care does not mean to disparage the work of the Scoring Team. Mercy Care appreciates the difficulties associated with evaluating a proposal against several hundred evaluation criteria. However, errors do exist. They are objectively demonstrated, easily corrected and set forth in detail below. When corrected, Mercy Care should be awarded this contract.

The difference in scores between Mercy Care and the winning bidder was .51. Thus, barely one half of one percent resulted in the loss of the award to Mercy Care for both Pima and Santa Cruz Counties. Mercy Care initially received a score of 81.83. But, scored correctly, Mercy would have been awarded first place for Pima and Santa Cruz Counties. In addition, Mercy Care's high score for Maricopa County would have been higher.

Awarding the contract to Mercy Care is not only legally required, it is also fair and will save the State money based on the fact that Mercy Care had the lowest overall cost bid for Pima and Santa Cruz Counties.

II. CALCULATION ERROR

The Scoring Team committed an arithmetic error in totaling the points that were awarded to Mercy Care for a particular category. The correct total point calculation for the category "Organization" is 58 points; however, the Scoring Team erroneously calculated the total to be 57 points. Based on this miscalculation alone, Mercy Care is entitled to an extra point in this section.[2]

The error relates to Mercy Care's response to the "Encounters Submission Requirement." The Scoring Team awarded Mercy Care six out of eleven points in this subcategory. The points are recorded in the "Encounters" calculation table, attached hereto as Exhibit 1. However, when the total points for "Encounters" was transferred to the table for calculating all points for "Organization," the Scoring Team only transferred five points, as evidenced in the table, attached hereto as Exhibit 2. Thus, when adding the total points for the "Organization" category, the Scoring Team only added five points for "Encounters" instead of adding six points, which is the actual number of points awarded to Mercy Care by the Scoring Team.

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[2] Because Mercy Care does not have the master scoring tool, which assigns varying weights to each category and subcategory of points, it is unable to determine whether this arithmetic error increases Mercy Care's overall point total by one whole point. Regardless, the miscalculation undoubtedly increases Mercy Care's point total.

Accordingly, Mercy Care is entitled to at least one additional point in the Organization section towards its final score for Pima, Santa Cruz, and Maricopa Counties. Rather than receiving a total score of 57 for "Organization," Mercy Care should have received a total score of 58.

III. POINT-BY-POINT ANALYSIS OF SCORING ERRORS

This section identifies the evaluation criteria mis-scored by the Scoring Team. Each title (in bold) identifies the "Category" and "Component" being scored. The table identifies the Submission Number, Evaluation Criteria, and the Comments and Clarification/Consensus generated by the Scoring Team during their review as set forth in the materials provided on scoring. Following the table, under the heading "Mercy Care's Protest of the Scoring Error," Mercy Care explains the nature of each error.

Organization and Staffing Submissions

Question 3 – Submit current resumes of key personnel as required in Section D, Paragraph 25, Staff Requirements and Support Services documenting their educational and career history up to the current time. Include information on how long the personnel have been in these positions and whether the position included long term care experience. If personnel are not in places, submit job descriptions outlining the minimum qualifications of the position(s). Each resume or job description is limited to 2 pages.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
3-4	Financial Officer/CFO: The Financial Officer has 3 years relevant managed care experience. "Relevant" is defined to mean previous management experience in the AHCCCS or in another state's Medicaid managed care program. Management is defined as supervisory level or above. (Scored 0 out of 1 point)	Unable to determine 36 months Medicaid Managed Care experience (2010 – present = 4 mo)
3-5	Financial Officer/CFO: The Financial Officer has 3 years experience with the elderly and physically disabled, through publicly funded programs. (Scored 0 out of 1 point)	Unable to determine EPD through publicly funded program (2010 – present = 4 mo)
3-28	Provider Services Manager: The Provider Services Manager has 3 years managed care experience in Medicaid managed care. (Scored 0 out of 1 point)	Provider Services Manager does not meet 36 months Medicaid Managed Care experience (2009 – present = 16 mo)

Mercy Care's Protest of the Scoring Error: 3-4 and 3-5 – The Scoring Team noted that it was "unable to determine" whether Mercy Care's Financial Officer/CFO satisfied the evaluation criteria for Medicaid Managed Care experience (3 years) and experience with publicly funded programs (3 years). However, Mercy Care's response clearly sets forth the requisite criteria. Mr. Chuck Sowers is identified as Mercy Care's CFO. His resume, which was included in the proposal, indicates he was President and CEO of Health Net of Arizona from 2007-2010. Health Net managed over 50,000 Medicare Advantage lives during that period. Mr. Sowers' Health Net experience, therefore, meets the requirement for three years of managed care experience working with the elderly and physically disabled (EPD). In addition, Mr. Sowers was the CFO for Health Net of Arizona 2003-2007. Likewise, his work at Chandler Regional Hospital, an AHCCCS participating hospital, from 1996 to 2000 meets the requirement for three years of Medicaid Managed Care experience.

3-28 – The Scoring Team's determination that Mercy Care's "Provider Services Manager does not meet 36 months Medicaid Managed Care experience" is erroneous. As documented in her resume, Ms. Jennifer Sommers has 2.25 years in her current position with Mercy Care Plan. In addition, her resume reflects that she also served as an independent consultant to Mercy Care from 2008-2009, which constitutes experience in Medicaid managed care. Ms. Sommers also worked at AHCCCS participating entities, Sonora Quest Laboratories and InSight Health Corp., from 2000-2007. Her experience as an independent consultant with Mercy Care Plan from 2008-2009 and her work at InSight and Sonora Quest from 2000-2007, when added to the 2.25 years in her current position, exceeds the requirement of having three years Medicaid managed care experience. Her resume also reflects experience with Intergroup of Arizona from 1992-2000, which included managed care experience with publicly funded programs. Based on her total experience, this point should have been awarded.

Given that Mercy Care's response regarding its Financial Officer/CFO and Provider Services Manager satisfied the requirements set forth in evaluation criteria 3-4, 3-5, and 3-28, Mercy Care should be awarded three points.

Relevant documents for Question 3 are attached hereto as Exhibit 3.

Claims Submissions

Question 7 – Provide a detailed flowchart and narrative description of the claims adjudication process, addressing both paper and electronic claims submissions. Include in the description the following: monitoring process for accurate and timely claim adjudication; how deficiencies are identified and resolved; timeliness standards and cost avoidance/TPL activities; and how claim inquiries are handled. Include an actual sample of the remittance advice (front and back) or a written narrative of the remittance advice. The submission requirement will be a maximum of four pages of narrative and an additional five pages of flowcharts.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
7-1	The submission includes the following remittance advice requirements: a. A description of all denials and adjustments b. The reasons for such denials and adjustments c. The amount billed d. The amount paid e. Application of COB and SOC, and f. Provider rights for claim disputes (Scored 0 out of 1 point)	Unable to locate (a/b) description of reasons for claims denials and application of (e) share of cost (SOC).

Mercy Care's Protest of the Scoring Error: Mercy Care's proposal includes the information required to meet criterion 7-1. The Scoring Team's notes indicate that it was "unable to locate description of reasons for claims denial and application of share of cost." However, the "Sample Remittance Advice" shows "Code/Description: 23 - Payment adjusted because charges have been paid by another payer," which is directly responsive to 7-1a/b criterion. (Proposal, page 97.) The "Sample Remittance Advice" also shows where the patient's "Co-Pay," which is the same as share of cost (SOC), if any, would be listed. Because there was no patient responsibility for the particular remittance advice in Mercy Care's response, there is no amount listed in the "Co-Pay" field. (Proposal, page 97.) If there were patient responsibility, the SOC information would be shown in the "Co-Pay" field on the EOB.

Indeed, that Mercy Care should be awarded a point under this criterion is evidenced by a comparison of the scoring and proposals submitted by Mercy Care and Evercare Select. Specifically, Evercare Select's remittance advice also included a space for "Co-Pay," but did not include any amount because, presumably as in Mercy Care's proposal, the particular remittance advice did not require patient share of cost. (Evercare Select Proposal, page 79.) Because the remittance advice provided by Mercy Care is virtually the same as the remittance advice provided by Evercare Select, they should have been scored the same. Failure by the Scoring Team to award Mercy Care a point for criterion 7-1 constitutes a scoring error which should be corrected.

Relevant documents for Question 7 are attached hereto as Exhibit 4.

Question 9 – Provide a description of the clinical edits and data related edits included in the claims adjudication process.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
9-1	Mentions Key Clinical Edits (must include a through c to receive point): a. Correct Coding Initiative (CCI) for Professional and Outpatient services b. Multiple Surgical Reductions c. Global Day Bundling (Scored 0 out of 1 point)	Unable to find that CCI was done for outpatient services.
9-2	Mentions Key Data Assessment Edits (must include a through g to receive point): a. Benefit Packages b. Timeliness c. Data Accuracy d. Adherence to AHCCCS Policy e. Provider Qualifications f. Member Eligibility and Enrollment g. Over Utilization standards (Scored 0 out of 1 point)	Unable to locate that edits were employed for timeliness.

Mercy Care's Protest of the Scoring Error: 9-1 – The Scoring Team indicated that Mercy Care failed to include mention of CCI for outpatient claims. However, the proposal specifically states: "Professional claims (HCFA 1500s) that reach an adjudicated status of 'Pay' are automatically reviewed against nationally recognized standards such as the Correct Coding Initiative (CCI), medical policy requirements [e.g., American Medical Association (AMA)], and maximum unit requirements supplied by AHCCCS, with recommendations applied during an automatic re-adjudication process. Other methodologies utilized throughout the autoadjudication process include, but are not limited to, Multiple Surgical Reductions and Global Day E & M Bundling." (Proposal, page 103.) (emphasis supplied). The Scoring Team indicated that Mercy Care's proposal did not state that CCI was done for outpatient services; however, the information set forth in the proposal references HCFA 1500s, which are outpatient claims. In other words, Mercy care's proposal specifically sets forth CCI information as required by criterion 9-1, entitling Mercy Care to a point for this criterion.

9-2 – The Scoring Team indicated that Mercy Care did not include information relative to timeliness edits. However, the "Adherence to Prior Authorization Requirements" section of the proposal specifically states that, "[c]laim edit rules are set to validate the claim against the network provider, member, dates of service, services rendered, and units authorized." (Proposal, page 103.) Claim edit rules include "dates of service" and "dates of service" is, definitionally, a timeliness standard. Thus, Mercy Care's response includes information relative to timeliness by way of its discussion of dates of service. This is specifically responsive to the scoring criterion for 9-2.

Relevant documents for Question 9 are attached hereto as Exhibit 5.

Accordingly, Mercy Care should be awarded full credit of 2 points for 9-1 and 9-2.

Encounters Submission

Question 10 – Submit a description of the Offeror's encounter submissions process, including, but not limited to, how accuracy, timeliness and completeness are ensured, how data is extracted from the system and the remediation process when AHCCCS standards are not met. The description should include the tracking, trending, reporting, process improvement, and monitoring submissions of encounters and encounter revisions. Include any feedback mechanisms to the encounter process that improves encounter accuracy, timeliness and completeness. The submission requirement will be a maximum of four pages and four pages of flowcharts.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
10-9	There is a method for process improvement based upon encounters submission outcomes that includes Provider Training Report to Management Team. (Scored 0 out of 1 point)	Does not specifically say Provider Training Report to Mgt. team – point not awarded.

Mercy Care's Protest of the Scoring Error: The Scoring Team indicated that Mercy Care did not include the words "Provider Training Report." However, Mercy Care's response specifically states that "Remediation Strategies" constitutes "MCP's Health Plan Operations (HPO) team, under the direction of VP of HPO and supported by two encounter specialists who research each pending or denial edit from AHCCCS." (Proposal, page 107.) (emphasis supplied). The phrase "under the direction of VP of HPO" makes clear that the Management Team receives a Provider Training Report. Thus, Mercy Care's response does describe the method to improve processing based on encounter submissions, including training reports to management, which in this case is the Vice President of HPO.

Because Mercy Care's Proposal expressly discusses their adherence to this criterion, Mercy Care should be awarded one point under 10-9.

Relevant documents for Question 10 are attached hereto as Exhibit 6.

Grievance System Submission

Question 15 – Provide a flowchart and comprehensive written description of the Offeror's grievance system. At a minimum, the description should include the member grievance and appeal process, and the provider and subcontractor claim dispute process. Include in the description how data resulting from the grievance system is used to improve the operational

performance of the Offeror. The submission requirement will be maximum of four pages of narrative with a maximum of three pages of flowcharts.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
15-1	Did the Offeror's description include flowcharts and written descriptions for grievances, including (must meet a through c below to receive point): a. When, where and how to file b. Resolution requirements, including timeliness in accordance with AHCCCS rules c. Response requirements (Scored 0 out of 1 point)	Nowhere does MCP offer state "where" to file grievance. Offer states that the Case Manager educating regarding their grievance, does not state the address or where to get the address is given.
15-2	Did the Offeror's proposal include flowcharts and written descriptions for appeals, including (must meet a through c below to receive point): a. When, where and how to file b. Resolution requirements, including timeliness in accordance with AHCCCS rules c. Notice requirements (Scored 0 out of 1 point)	For 2(a): Again the offer does not state "where" to file Appeal, does not state address or where to get the address from i.e. phone number or website.

Mercy Care's Protest of the Scoring Error: 15-1 – The Scoring Team noted that Mercy Care did not indicate "where" members can file grievances. This is incorrect. The last paragraph above the "Member Grievances" section of the Proposal clearly includes the requisite information. That paragraph states:

> Our members and their families/caregivers are educated regarding their grievance, appeals, and State Fair Hearing rights by their Case Manager (CM) during the initial in-person assessment. The CM gives and reviews with the member a new member packet. This packet includes a: a) member handbook, b) provider directory including a zip code specific urgent care listing, c) information on HIPAA, d) member rights and responsibilities acknowledgement, e) Critical Service Gap Report Form, f) self-directed attendant care pamphlet, and g) advance directives form. The CM thoroughly reviews items from the member handbook such as: instructions on how to file a grievance or appeal or request a State Fair Hearing; the entire spectrum of Long Term Care (LTC) services; behavioral health crisis line; translation and transportation services. At the same time, the member and member's family/caregiver are advised that if the member or member's family/caregiver is unable to file a grievance or appeal themselves, their CM, as the member's advocate will assist the member or member's family/caregiver in completing the process.

(Proposal, page 130.) (emphasis supplied). Mercy Care's proposal also states that, "this information is also available on our website and at no cost to the member or the member's family/caregiver by contacting either the CM or our Member Services Department (via our toll-free line)." (Proposal, page 130.) (emphasis added). Both the handbook and the website provide the necessary information, including an address and phone number, directing members how to file grievances.

Mercy Care responded similarly to Bridgeway Health Solutions, which was awarded full points. Like Mercy Care's response, Bridgeway's response states: "The grievance, appeal, expedited appeal and request for hearing procedures are communicated to members in the Member Handbook which is delivered in the New Member Packets and is available on the Member Portal. The Member Handbook contains information about how to contact a Member Service Representative (MSR); how to file a grievance or appeal including timeframes...." (Bridgeway Proposal, page 150.) (emphasis in original). Because Mercy Care's response is essentially the same as Bridegway's response, it should also receive 1 point for criterion 15-1.

15-2 – In declining to award a point on this criterion, the Scoring Team again noted that Mercy Care did not indicate "where" members can file appeals. But, as reflected in the above-quoted text, Mercy Care's proposal states that the CM educates the member about this information. (Proposal, page 130.) Mercy Care's proposal meets this criterion.

Based on the foregoing, Mercy Care should be awarded full credit for 15-1 and 15-2, amounting to 2 points.

Relevant documents for Question 15 are attached hereto as Exhibit 7.

Question 22 – Describe the process the Offeror will employ in assessing and meeting the needs of complex care members via service planning and coordination of multiple providers and involved entities specifically for (1) members needing behavior management and (2) members with complex medical care needs.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
22-5	The Offeror's narrative mentions Nursing Facility, Home and Community Based, Assisted Living Facilities/Centers as viable placement settings for these members (need to have all three mentioned to receive the point). (Scored 0 out of 1 point)	The response did not address that all placements settings were an option for complex and/or BH members.

Mercy Care's Protest of the Scoring Error: The Scoring Team notes that Mercy Care failed to address all three placement settings identified in evaluation criterion 22-5 as options for members with complex medical conditions or who have behavioral health issues. This is

incorrect. As explained in the proposal, "Mercy Care's Case Management program has been working with ALTCS complex care members since 2000. Mercy Care has been continuously enhancing the Case Management program to meet the needs of its complex care members. As a result, in 2004 MCP established two specialty teams – high risk behavioral health (BH team) and Medically Complex Care team (MCCT) – to serve members with the most severe behavioral and complex care issues." (Proposal, page 150) (emphasis supplied). In response to criterion 22-5, Mercy Care's proposal states: "Members assigned to one of the complex care teams are identified in a variety of ways… and "[o]ur general CMs are assigned a case load based on the member's placement in either a home setting, Assisted Living Facilities, or Nursing Homes." (Proposal, page 150 and FN 2) (emphasis supplied). In addition, Mercy Care explained that, "MCP identifies members to be assigned to the Medically Complex Care Team (MCCT) due to their complex chronic care needs…[and] members are identified for management by the MCCT if they are: 1) residing in the community/assisted living facilities …or 2) residing in a nursing facility…. Due to these special complex care needs, these members are assigned to MCP RN CMs for optimal case management and service coordination." (Proposal, page 151.) (emphasis supplied).

Again, Mercy Care's proposal fully responds to the scoring criteria. It clearly includes how all placement settings are options for both complex and behavioral health members. Had the Scoring Team considered this information, it would have awarded Mercy Care a point under this criterion

Relevant documents for Question 22 are attached hereto as Exhibit 8.

Question 24 – Program – Case Management Scenarios.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
24(A)-4	Other proposed steps/actions likely to improve members/caregivers' health, quality of life, and overall system experience. (Scored 0 out of 5 points)	All responses fell into the parameters of numbers 1 through 3.

Mercy Care's Protest of the Scoring Error: The Scoring Team did not award any points for the "Other" category of the Evaluation Criteria, noting that all responses fell into 1-3. This is not correct. The proposal does, in fact, include other proposed steps/actions likely to improve members/caregivers' health, quality of life, and overall system experience. For example, Mercy Care's proposal includes the following other proposed steps/actions:

- "Patient Centered Medical Home" as part of PCP choice action (page 156 – "Oscar is also made aware of our Patient Centered Medical Home (PCMH) program that serves members through "in-home" visits at the member's placement (NF, ALF or the member's home) that is part of his PCP choice options.");

- Family night/social interaction and "Respite Care" (page 158 – "Additionally, the CM recommends, with Oscar's agreement that the Activities Director schedule a family night where Oscar's family/friends can visit, have dinner, and socialize.");

- Inquiry about satisfaction with services (page 156 – "The CM also asks Oscar about his satisfaction with the services provided in the NF, identifies issues to be investigated and, if necessary, files a grievance on Oscar's behalf.")

These additional steps and actions constitute "other" proposed steps/actions likely to improve members/caregivers' health that did not fall within the parameters of 1 through 3.

Because Mercy Care's response does, in fact, provide additional information than what is provided in the parameters of 24(A)-1 to 24(A)-3, Mercy Care should be awarded 5 points for criterion 24(A)-4.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
24(B)-1	Considerations related to assessment of critical services • Review of difference between previous and current case manager's assessment of member service hours (less hours despite apparent increased need, inter-rater reliability, supervisory review) • Notice of Action (AHCCCS noted "Not needed") • Review of Service Gaps • Respite request • Other (AHCCCS noted "referral to PCP re: falls") (Scored 4 of 5 points)	Respite request not addressed
24(B)-2	2.) Consideration of other in-home services • Interpretation/translation services • Assistance with change of PCP • DME needs assessment • Options for member being able to go to church • Other (Scored 4 of 5 points)	Pastoral visit in lieu of member going to church. Multicultural/multilinqual day program. PCP in home.
24(B)-3	Other proposed steps/actions likely to improve members/caregivers' health, quality of life, and overall system experience. (Scored 0 of 5 points)	All responses fell within parameters of #1-2.

Mercy Care's Protest of the Scoring Error: 24(B)-1 – Mercy Care's proposal includes all information required to receive full points in this section. The scoring comments erroneously state that Mercy Care's proposal fails to address respite care. However, the proposal states, "[t]he CM will also inform Magda and Raquel that MCP has a number of Romanian speaking adult foster care homes that could be used for extended respite care. The CM offers respite care service on Sundays so that Raquel and her family can go to church." (Proposal, page 160.) (emphasis supplied). Failure by the Scoring Team to award Mercy Care full points for this section constitutes a scoring error which should be corrected.

24(B)-2 – Mercy Care's Proposal includes information to receive full points for "Consideration of other in-home services." While it is unclear why full points were not awarded, the Scoring Team wrote "O" next to "options for member being able to go to church." This, however, was addressed in Mercy Care's Proposal: "The CM will ask Raquel to explore the option of having someone from the church come to the home for pastoral services." (Proposal, page 160.)[3]

In addition, Mercy Care's Proposal suggests "MCP's Adult Day Health Care centers, which is multi-cultural and multi-lingual (including Romanian). (Proposal, page 160.) This meets the criterion's "other" category. Mercy Care should have been awarded full points for this section.

24(B)-3 – This criterion calls for "other proposed steps/actions likely to improve members/caregivers' health, quality of life and overall system experience." The Scoring Team erroneously awarded zero points on this criterion. Mercy Care's proposal includes other steps/actions, such as:

- "The CM discusses with Magda and Raquel the challenges associated with caring for and having the early stages of dementia." (page 160)
- "The CM offers community resources such as the Alzheimer's Association which provides resources and education for members and families living with dementia." (page 160)
- "Raquel and the family will be encouraged to attend regularly scheduled support groups offered for caregivers and to perhaps take Magda, since individuals in the early stage of the disease are also invited to the meetings." (page 160)

The above steps/actions clearly meet the scoring criteria's requirement for a plan to improve the members' and caregivers' quality of life and system experience. Full points should have been awarded.

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[3] To the extent the Scoring Team is requiring a proposal for church services outside the home, such requirement is inconsistent with the criterion which measures "other in-home services."

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
24(C)-3	Other proposed steps/actions likely to improve members/caregivers' health, quality of life, and overall system experience. (Scored 0 of 5 points)	All responses fell into the parameters of numbers 1 - 2.

Mercy Care's Protest of the Scoring Error: The scoring team erred in awarding no points under this criterion. Mercy Care's proposal identified hospice and the services of Patient Centered Medical Home (PCMH) program as steps/actions likely to improve health, quality of life and overall system experience. Specifically, the proposal states:

- "Depending on Wanda's care plan, the PCP may want to consider if hospice is an appropriate option for Wanda. If hospice is appropriate, the PCP will discuss the option with Wanda and her son to determine what their wishes are...." (Proposal, page 162)

- "The CM explains that MCP LTC members enrolled with Mercy Care Advantage are able to use the contracted Patient Centered Medical Home (PCMH) program that serves members through "in-home" visits at the member's placement (NF, ALF or the member's home). The CM will assist in coordinating care with Wanda's current PCP and MAP if Wanda would like to continue with her current plan. If Wanda and her son choose to enroll in the PCMH program described above, and choose to enroll in MCP's MAP, the CM will assist in coordinating the change so Wanda will be eligible at the beginning of the following month." (Proposal, page 162.)

These other proposed steps/actions are sufficient to earn Mercy Care points under this criterion, and a "0" score constitutes an error. Because Mercy Care's response does, in fact, provide additional information than what is provided in the parameters of 24(C)-1 and 24(C)-2, Mercy Care should be awarded 5 points for criterion 24(C)-3.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
24(D)-4	Other proposed steps/actions likely to improve members/caregivers' health, quality of life and overall system experience. (Scored 0 out of 5 points)	All responses fell within the parameters of numbers 1 – 3.

Mercy Care's Protest of the Scoring Error: The Scoring Team award of zero points on this criterion was an error. Mercy Care's proposal includes other strategies to improve health, quality of life and overall system experience that are not within the parameters of the other sections of 24(D). Specifically, the proposal discussed available support groups:

- "Joyce will be provided with family/caregiver support group information, such as the Brain Injury Association of Arizona, Alliance for the Mentally Ill and TBI Caregivers Support Group." (page 164) (emphasis supplied)

- "The BH CM will ask Roger if he has any recall of the support services he received in the other state. The BH CM will review the medical records from the other state to see if they can determine the support services he received. The BH CM will discuss with Roger his interests and preferences for meaningful activities such as the TBI Adult Day program." (page 165) (emphasis supplied)

Because Mercy Care's response does, in fact, provide additional information beyond the parameters of 24(D)-1 to 24(D)-3, Mercy Care should be awarded 5 points for criterion 24(D)-4.

Relevant documents for Question 24 are attached hereto as Exhibit 9.

Question 28 – Describe the process used by the Offeror for the adoption and dissemination of clinical criteria used for decision making that would ensure consistent application of the criteria for clinical decision making. (emphasis supplied).

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
28-4	The Offeror describes the use of more extensive criteria for cases when its experience shows higher costs associated with furnishing of excessive services, or attended by a physician whose pattern of care frequently is found questionable. (Scored 0 out of 2 points)	The Offeror lists the criteria used for decision making, but does not describe the use of extensive criteria for cases when its experience shows higher costs associated with furnishing of excessive services or attended by a physician whose pattern of care frequently is found questionable.

Mercy Care's Protest of the Scoring Error: The RFP question seeks information about the adoption and dissemination of clinical criteria. "Clinical criteria" refer to nationally-accepted clinical criteria that are publically available, such as Aetna Clinical Policy Bulletins, CMS Local Coverage Determinations and National Coverage Determinations. The scoring criterion used for 28-4, however, does not correlate with the "clinical criteria" that is the basis of the question. The scoring criteria asks about "more extensive criteria" and specifically, "costs" associated with "excessive services." But, clinical criteria are not cost-based criteria. The process for adoption of clinical criteria is not dependent upon the extent to which services are utilized by a member or ordered by a provider. Further, there are no nationally accepted clinical criteria or "more extensive" criteria to be utilized. The clinical criteria simply are what they are. In short, the scoring criterion is not reasonably related to the question and Mercy Care's failure to include non-existent "more extensive" criteria should not result in a loss of points.

Because no "extensive criteria" exists for cases showing higher costs, none could have been described by Mercy Care in response to criterion 28-4 and, therefore, Mercy Care should be awarded full points for its response.

Relevant documents for Question 28 are attached hereto as Exhibit 10.

Question 31 – Program – Quality Management Scenarios.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
31(A)-2	Ongoing monitoring during I.J. Coordinate with ADHS to determine whether or not there is anything the • Contractor can do to assist the facility in obtaining licensure • Contractor staff onsite assessment of member needs and remain onsite until immediate jeopardy is abated • Ongoing monitoring of the ALH until compliance is reached, including a process to assist the owner in keeping licensure / compliance up to date • Other (Earned 4 of 5 points)	Page 189 & 190 - Coordinating with ADHS in efforts to obtain licensure is not addressed.
31(A)-5	Other proposed steps/actions likely to improve members/caregivers' health, quality of life and overall system experience. (Earned 0 of 5 points)	Nothing outside of normal process expectations.

Mercy Care's Protest of the Scoring Error: 31(A)-2 – Mercy Care should have been awarded full points under this criterion. The Scoring Team incorrectly stated that the proposal failed to address coordination with ADHS to obtain licensure. But, the proposal states: "MCP's provider relations personnel will continue to work with the facility to assist them in obtaining the required operating license." (Proposal, page 190.) Because Mercy Care addressed working with the facility to obtain licensure, full points should have been awarded.

31(A)-5 – Mercy Care was improperly awarded "0" points on this criterion. Its proposal did include a strategy to increase the member's overall system experience: "Help the member pack their belongings, including any prescribed or over the counter medications." (Proposal, page 189.) Consequently, Mercy Care should have received points for this criterion.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
31(B)-5	Other proposed steps/actions likely to improve members/caregivers' health, quality of life and overall system experience. (Scored 1 of 5 points)	Process described/referenced to update AHCCCS/ADHS and coordinate related to press/public requests. Outside of normal expectations.

Mercy Care's Protest of the Scoring Error: In addition to describing a process to update AHCCS/ADHS and coordinate press/public requests, Mercy Care's proposal includes other steps, outside of normal expectations, to improve health, quality of life and overall system experience. For example, Mercy Care's response includes the following other proposed steps/actions:

- With respect to Post Transition Monitoring, the proposal states that, "[f]ollowing MCP's P&P for all members transferred there will be post transition clinical monitoring performed by a QM RN from the On-Site team. A QM RN performs an on-site clinical audit at the new placement within 24 hours for all members...." (page 193) (emphasis supplied)

- "The QM RN's will immediately address any identified gaps in care with the member's PCP, the member or member's family/caregiver and if the member was placed in a new facility, with the facility's administrator and/or DON." (page 193)

- "The QM/UM Committee will analyze and evaluate our performance relative to this IJ event and recommend improvements in its P&Ps and training protocols (occurs within 60 days of the final transition). As part of our commitment to and support of the Nursing facility Review Collaborative (NFRC) the VP of QM will share the results of our evaluation with other program contractors to identify any potential gaps in the quality review oversight of NF's (occurs within 30-60 days of the final transition)." (page 193)

Because these strategies are outside of normal expectations, the full five points should have been awarded under this criterion.

Relevant documents for Question 31 are attached hereto as Exhibit 11.

Provider Network Submissions

Question 36 – The Offeror must submit a Network Development and Management Plan. The submission may exceed the three page minimum.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
36-E	Did the Offeror's description include a plan for interventions to fill network gaps and evaluation of those interventions? This description must include both out of network referrals and expedited/temporary credentialing. (Scored 0 out of 2 points)	Although the Offeror has many tools to identify gaps and monitor its network, it did not include information on the evaluation or interventions.

Mercy Care's Protest of the Scoring Error: Mercy Care respectfully submits that its proposal does address evaluation of interventions: "Using the results from the information and data sources listed above, MCP modifies our network development action plans as necessary, to reflect successful closure of gaps, the addition of newly targeted areas for network improvement, and/or the changes to the type of intervention strategies being employed. Each evaluation methodology is continually reviewed to determine the effectiveness of any interventions." (Proposal, page 240.) (emphasis supplied).

In light of this language, Mercy Care should have received 2 points for this criterion.

Relevant documents for Question 36 are attached hereto as Exhibit 12.

Question 40 – Describe the process for accepting and managing provider inquiries, complaints, and requests for information that are received outside the claims dispute process.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
40-J	Are the interventions that resulted from information collected by the Offeror shared with the impacted providers? (Scored 0 out of 1 point)	While MCP discussed interventions at length, they did not clearly indicate how the results of such interventions would be communicated with providers.

Mercy Care's Protest of the Scoring Error: Mercy Care's proposal does address how the results of interventions would be communicated with providers: "If a PICRI[4] is received outside of the Provider Services Department, our written P&Ps and training protocols requires the receiving employee to refer an electronic copy of the PICRI to the Provider Services Department if further action is required. The assigned PSR will follow-up with the provider to make sure we understand the purpose of the PICRI (if applicable) and if the provider agrees with the resolution. This contact may happen at the next scheduled provider visit or the PSR may contact the

[4] PICRI is defined as Provider Inquiries, Complaints and Requests for Information.

provider via telephone call or visit prior to that date (depending on the purpose of the PICRI)." (Proposal, page 310.) (emphasis supplied).

Mercy Care should be awarded one point based on its response to this criterion.

Relevant documents for Question 40 are attached hereto as Exhibit 13.

Question 43 – The Offeror must describe how their organization will handle the potential loss (i.e. contract termination, closure) in a GSA of a (a) nursing facility and (b) an assisted living facility.

Submission/Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
43-B	Did the response describe how the Offeror will work with the facility to avoid closure or contract termination? (Scored 0 out of 1 point)	The Offeror did not describe how it would work with a facility to avoid closure or contract termination.

Mercy Care's Protest of the Scoring Error: The Scoring Team was incorrect when it stated that Mercy Care failed to describe how it would work with a facility to avoid contract termination. This issue was discussed extensively: "MCP routinely monitors the network for viability and continuity, with focus on SNFs and ALFs with known or suspected viability problems or known to be at risk for closure. This monitoring serves as an early warning system and allows us to identify possible loss of a SNF/ALF, prevent abrupt closure, prevent member disruption, and provide for seamless delivery of services to members. The following are examples of key indicators used in our monitoring process:

- State licensure issues
- Medicare/Medicaid sanction reports
- Credentialing or re-credentialing concerns
- Failure to secure or renew required insurance
- Multiple facility requests within short time lines for advance payments to cover expenses
- Concerns raised by Case Managers (CMs), quality management (QM) staff and provider service representatives (PSRs) that suggest that facility closure may occur
- Member or provider complaints about the availability of care or services

In addition to monitoring SNFs and ALFs, we maintain communication with officials from state agencies (e.g., Arizona Department of Health Services (ADHS)) to identify potential

closures." AND "MCP's primary concerns during SNF/ALF losses are the safety of members and continuity of care. We take the actions listed below upon learning of potential contract termination, closure for any reason, or serious quality of care concerns:

- Facilitate a meeting with the SNF/ALF and AHCCCS to be held prior to the effective date of contract termination or any change related to contract status that could have an impact on members and/or their representatives."

Proposal, page 317 (emphasis supplied).

Mercy Care should have received a point under this criterion.

Relevant documents for Question 43 are attached hereto as Exhibit 14.

Question 44 – Describe the process for addressing provider performance issues, up to and including contract termination.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
44-C	Did the Offeror describe a process for communicating the reason for contract termination to the provider? (Scored 0 out of 1 point)	The Offeror failed to describe the process for communication the reason for contract termination to the provider.

Mercy Care's Protest of the Scoring Error: 44-C – With respect to this scoring criterion, the Scoring Team indicates that Mercy Care failed to describe the process for communicating the reason for contract termination to the provider. This is incorrect. The Proposal states: "Should the problem continue, MCP sends a letter to the provider that explains the issue and requests a Corrective Action Plan (CAP). The provider must submit the CAP within 15 business days and the CAP must be approved by MCP. The PSR sends a follow up letter to the provider reminding them of the CAP due date and content. Upon receipt and approval of the CAP by MCP, the PSR monitors the provider's performance until the CAP is successfully completed. If the provider does not improve performance, the MCP Medical Director or Chief Medical Officer contacts the provider by letter, telephone call or site visit to discuss non-compliance and offer assistance. MCP may recommend further corrective action, panel or referral restrictions or possible termination from the network if unacceptable performance continues." (Proposal, page 321.)

Mercy Care should have received full points for 44-C.

Relevant documents for Question 44 are attached hereto as Exhibit 15.

Question 45 – Provider Network Roster Requirement.

Submission/ Question Number	AHCCCS Evaluation/Scoring Criteria	AHCCCS Scoring Team Notes/Comments
45	AHCCCS has standards relative to the number of each provider type in each Zone of the Network. These standards vary by Zone and provider type. Please see PDF file Network Scores sheets beginning on PDF page 18 for Pima County scoring.	

Mercy Care's Protest of the Scoring Error: Mercy Care's original Network Summary Template (uploaded to AHCCCS electronically as part of Mercy Care's submission pursuant to RFP) sets forth Mercy Care's providers, both providers under contract and Letter of Intent ("LOI"). AHCCCS did not give Mercy Care points for a number of providers because the template did not show "provider type." The reason that the template does not show "provider type" is because at the time of the submission, those providers had applied for but not yet received the AHCCCS provider number or their "provider type" designation because AHCCCS assigns the "provider type" when it assigns the provider number. The RFP permitted Mercy Care to submit providers with pending AHCCCS number applications as long as that was indicated to AHCCCS. Mercy Care did submit providers with pending AHCCCS number applications and indicated that to AHCCCS by entering "XX" in the "provider type" column (Column E) of the spreadsheet. In addition, in the "limitations/restrictions" column (Column N), Mercy Care noted that providers are "in process of registering with AHCCCS." Mercy Care's intent was to clearly identify for AHCCCS the providers that had not received AHCCCS identification numbers. Further, at the time of submission of Mercy Care's proposal, a signed LOI was on file with Mercy Care and, thus, they were included in Mercy Care's provider network assessment.

Indeed, Mercy Care should be awarded points for the providers designated as "XX" because Mercy Care was following the clear instructions of the RFP. Question 45 specifically states that, "[t]he Offeror must provide a listing of its provider network using the Network Summary template as described in ACOM 420 *Network Summary Policy*...." (Exhibit 16) (emphasis supplied). In turn, the ACOM 420 sets forth the following guidelines for completing the Network Summary:

Provider Type: If the provider is an AHCCCS registered provider insert the Provider Type (See AMPM 610-01 or the Bidder's Library for a list of provider types). If the Provider is not registered with AHCCCS at this time, place "XX" in the Column.

NOTE: in the event of a Contract Award, the Contractor must ensure the Provider has registered with AHCCCS prior to providing services to members.

- AHCCCS Provider Identification No: Insert the AHCCCS assigned number identifying the provider. If the Provider does not have a number leave the row blank.

(Bidder's Library ACOM, Page 420, 4 of 16) (emphasis supplied).

Attached as Exhibit 17 is a hard copy of Mercy Care's original Network Summary Template. Attached as Exhibit 18 is a Revised Network Summary Template showing in yellow the provider type designation per Mercy Care's LOI for those providers originally designated as "XX." Finally, Exhibit 19 shows by zone where these providers should be included in the network summary scoring sheet. Based on the foregoing, points should have been awarded.

IV. CONCLUSION AND RELIEF REQUESTED

The prior analysis clearly demonstrates that numerous scoring errors, as well as a calculation error, reduced Mercy Care's final score for its Proposal. The errors, taken together, significantly decrease Mercy Care's final score. Accordingly, Mercy Care protests these errors and calls for their correction. Had Mercy Care properly been awarded points, it would have placed Mercy Care with the highest score for Pima and Santa Cruz Counties and resulted in Mercy Care being awarded the ALTCS contract for Pima and Santa Cruz Counties.

Accordingly, Mercy Care hereby requests that it be awarded the ALTCS contract for Pima and Santa Cruz Counties.

If you have any questions or require additional information, please do not hesitate to call me.

Very truly yours,

Andrew S. Gordon

ASG:slm
Enclosure
cc: Mark Fisher
President and CEO
Mercy Care Plan
4350 East Cotton Center Boulevard, Bldg. D
Phoenix, AZ 85040