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June 11, 2008

**HAND-DELIVERED**

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**Appeal of the Procurement Officer's Decision Regarding the Protest of the Award of Acute  
Care Services Contract - Pima County (GSA 10)  
(Solicitation Number YH09-0001)**

Dear Mr. Rogers and Mr. Veit:

This law firm represents Southwest Catholic Health Network Corporation, doing business as Mercy Care Plan ("Mercy Care" or "MCP") and, on behalf of Mercy Care, files this appeal. Arizona Health Care Cost Containment Systems ("AHCCCS") recently decided not to award an Acute Care Services contract to Mercy Care in Pima County. Mercy Care protested this decision (the "Protest") on the basis that AHCCCS committed numerous errors in scoring and evaluating Mercy Care's Proposal. In response to the Protest, the procurement officer decided that Mercy Care was entitled to only 4 of the 39 points under protest and declined to award Mercy Care a contract.

As detailed below, Mercy Care appeals the procurement officer's decision ("Procurement Officer's Decision" or "Decision") because it fails to correct scoring errors and requests an award to Mercy Care of an Acute Care Services Contract for Pima County.

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Of course, those who will suffer most as a result of these scoring errors are Mercy Care's members, and it is on their behalf Mercy Care undertakes this appeal. In scoring proposals, AHCCCS formulated evaluation checklists which focused almost entirely on whether proposals used keywords, rather than on the quality of the health care the bidders would provide. This caused AHCCCS to overlook and ignore the substance of Mercy Care's Proposal—an established track record of high quality health care delivered to Pima County residents. The result is that Mercy Care's members in Pima County will no longer enjoy Mercy Care's comprehensive network of providers dedicated to caring for complex and vulnerable populations.

As required by Arizona Administrative Code ("AAC") R9-22-604(I)(2), Mercy Care provides the following information:

**Interested Party:** Southwest Catholic Health Network Corporation  
dba Mercy Care Plan  
4350 E. Cotton Center Blvd., Bldg-D  
Phoenix, Arizona 85040  
(602) 453-8365

**Purchasing Agency:** AHCCCS

**Solicitation Number:** YH09-0001

**Relief Requested:** Award of an Acute Care Services Contract for Pima County

**Request for a Hearing:** Mercy Care requests a hearing.

All additional information required by AAC R9-22-604(I)(2), including a detailed statement of the legal and factual grounds of the appeal, follows. A copy of the Procurement Officer's Decision, as well as a copy of Mercy Care's Protest, is included as an appendix with this letter.

I. THE PROCUREMENT OFFICER FAILED TO EXPLAIN THE BASIS FOR THE DECISION

AAC R9-22-604(G)(1) requires that the Procurement Officer's Decision "contain an explanation of the basis of the decision." Mercy Care's May 23, 2008 Protest sought, as relief, the award of a fifth Acute Care Services Contract in Pima County. Mercy Care sought this relief even if the Protest did not result in enough points to rank fourth in Pima County. The Decision declines to award Mercy Care one of four Pima County contracts, but the Decision does not explain AHCCCS's basis for not awarding a fifth contract in Pima County. The Procurement

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Officer's Decision only explains why Mercy Care does not rank fourth or higher. [Decision, p. 9 ("The cumulative effect of the additional points is not material to the award of contracts; that is, it does not change MCP's ranking among offerors in Pima County. Therefore the protest is denied.")] Mercy Care appeals the Procurement Officer's failure to award a fifth contract.

The award of a fifth contract is within AHCCCS's discretion [RFP, p. 117]. A fifth Acute Care Services contract should be awarded in Pima County because it is in the best interests of the State. As noted in Mercy Care's Protest, it has served AHCCCS enrollees in Pima County for over 20 years. Mercy Care has 40,000 members in Pima County and an award would avoid disrupting care for these 40,000 enrollees in Pima County. Mercy Care is owned by two of the most respected mission-oriented, non-profit hospital systems in the State (Catholic Healthcare West and Carondelet Health Network). Both are Catholic systems with a focus on providing care to the poor. This mission focus of the owners is reflected in Mercy Care's own history with the AHCCCS program. When the Healthcare Group had severe financial difficulties, Mercy Care did not abandon the program but effectively agreed to postpone payment in order to give the Governor and the Legislature time to fund the program.

In the past, Pima County has been served by five providers (including University Family Care Plan operating on a capped basis), and the expected growth of Pima County confirms the need for a fifth contract. A decision not to award a fifth contract in Pima County increases the risk of the AHCCCS program in Pima County becoming Phoenix-dominated.

Mercy Care has requested, as relief, the award of a fifth Acute Care Services Contract for Pima County. For reasons explained above, an award of a fifth contract is in the best interest of the State. The award of a fifth contract is also within AHCCCS's discretion.

## II. THE PROCUREMENT OFFICER'S DECISION FAILS TO CORRECT NUMEROUS SCORING ERRORS

The Procurement Officer's Decision also refused to correct numerous scoring errors. The Decision's refusal not to correct Mercy Care's score has little to do with the quality of Mercy Care, or even the quality of the Proposal. Ultimately, the Procurement Officer's Decision awarded Mercy Care only 4 of the 39 points under protest. In reaching this conclusion, the Decision adopts two positions. First, the Decision invokes a blanket prohibition against taking into account "prior knowledge of bidder performance in the evaluation of any proposal." Second, the Decision erroneously applies page restrictions in order to avoid discussion of Mercy Care's Protest. As explained in greater detail below, it was inappropriate for the Decision to adopt either position as it rejected Mercy Care's Protest.

**A. The Procurement Officer's Decision Unreasonably Rejects Prior Performance**

The Decision refused to take into account "prior knowledge of bidder performance in the evaluation of any proposal." The Procurement Officer's position regarding past bidder performance is at odds with the RFP issued by AHCCCS. Page 112 of the RFP reads, "[i]n the case of negligible differences between two or more competing proposals for a particular GSA, in the best interest of the State, AHCCCS may consider one or all of the following factors in awarding the contract ... an offeror who is an incumbent Contractor and has performed in an adequate manner (in the interest of continuity of care) ... an Offeror's past performance with AHCCCS." In light of the RFP, the Procurement Officer's blanket disregard for all prior performance is not appropriate.

The Decision purports to exclude prior performance in order to "maintain fairness" since "AHCCCS has no prior knowledge of bidders who are not currently contracted" [p. 1]. However, in these instances, Mercy Care is not asking AHCCCS to rely on its own present-sense recollection of Mercy Care's past performance. Instead, Mercy Care made reference to its prior performance in its Proposal. It cannot be unfair to other bidders for AHCCCS to consider this information, especially when Mercy Care provided it in its Proposal.

**B. The Decision Over-Emphasizes Page Restrictions**

The Decision also erroneously applies page restrictions in order to avoid discussion of Mercy Care's Protest. Above all, it should be noted that this is largely a non-issue. Very few sections of Mercy Care's Protest cite page ranges outside the specific response.

In any event, the Decision goes too far in emphasizing page restrictions. Section I, Paragraph 14 of the RFP, cited in the Procurement Officer's Decision, established page limits and formatting requirements for the proposal responses. A February 28, 2008 amendment to the RFP, also cited in the Decision, noted that proposal responses could not "include a reference" to other responses. In other words, the amendment forbid inclusion of cross-references in the responses as a means of circumventing the page limits. Invoking these RFP citations, the Procurement Officer now argues that AHCCCS may simply ignore information not found within individual responses when conducting its evaluation in the name of upholding page restrictions. Of course, the danger of such a myopic response-by-response evaluation is that each response will not be understood in its proper context. In fact, the failure to consider each response in context appears to have been one source of the scoring errors that Mercy Care protests.

Finally, the Decision contends that the checklist Mercy Care submitted at pages 8-10 of the Proposal "included none of the additional pages now being cited in the protest letter." This

contention is incorrect and cannot be used to ignore the Protest. The vast majority of citations in the Protest letter correlate to the checklist.

III. THE PROCUREMENT OFFICER'S DECISION REVEALED THAT EVALUATION CRITERIA AHCCCS USED IN EVALUATING THE PROPOSAL HAD NOT BEEN DISCLOSED PRIOR TO BID SUBMISSION

The Procurement Officer's Decision reveals that the Proposal was scored using factors never disclosed to Mercy Care. ACC R9-22-602(A)(4) requires that "factors used to evaluate a proposal" be included in the RFP. The point by point review section of the Procurement Officer's Decision evaluated the Proposal against evaluation criteria that were not disclosed in the RFP, inclusive in the RFP question, or disclosed prior to bid submission, and the Decision revealed that the Scoring Team had done the same. In many instances, it would have been impossible for Mercy Care to discern the evaluation criteria based solely on the RFP to include the Bidder's Library, yet the Decision strictly construed undisclosed evaluation criteria to deny Mercy Care points.

The level of scrutiny the Procurement Officer's Decision applies to withhold an award of points for each individual evaluation criterion should reflect whether the evaluation criterion was actually disclosed in the RFP.

IV. POINT BY POINT RESPONSE

Mercy Care incorporates its responses in Sections II and III above to each point-by-point response made in the Procurement Officer's Decision. Accordingly, Mercy Care insists that if all scoring errors are corrected, it would have received a final score of approximately 70.51. (We developed a statistical methodology to replicate AHCCCS's weights. We recognize that our weighting will not be an exact match, but it allows for a reasonable estimation of final score.) Additionally, Mercy Care replies to the point by point responses raised in the Decision as follows. For convenience, Mercy Care includes excerpts from its Protest as well as excerpts from the Procurement Officer's Decision.

**Organization - Organization and Staffing**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
3-2 & 3-3	2. The Offeror provides ongoing (refresher) training on the following: AHCCCS requirements, Cultural Competency, Fraud and Abuse  3. The Offeror provides initial and ongoing job specific training on contract requirements and state and federal requirements.	3.2 Ongoing Training did not address AHCCCS requirement or Fraud & Abuse  3.3 Ongoing job training & additional training did not address job specific training on contract requirements and state & federal requirements.	3.2 & 3.3. Comments: Criteria found under initial training. Syllabus list information for “new” employees nothing mentioned under “ongoing” or “additional training.”

Mercy Care’s Protest of the Scoring Error: Above all else, it should be noted that in AHCCCS’s operational and financial review for contract year ending 2007, AHCCCS found Mercy Care to be in full compliance in the following areas: (i) educating employees on fraud and abuse, (ii) training and educating on compliance across all levels of Mercy Care, and (iii) training for all staff members on AHCCCS program guidelines. [Proposal, p. 293]

The Scoring Team’s Clarification/Consensus indicates they did not award points for this criteria because there was no mention of “ongoing” training. This is mistaken. Language in the Proposal specifically mentions ongoing training programs. For instance on page 295, the Proposal reads, “*Ongoing training* needs are determined by trends in operations, frequent questions from staff members, feedback from managers and new requirements/procedures/policies.” [(emphasis added)]

Additionally, the syllabi, included as part of our response to this question, reference course objectives that include knowledge of all AHCCCS programs and fraud prevention. [See for example, Proposal, p. 307] Notwithstanding the course objectives referenced in the syllabi, the Scoring Team indicated points were withheld because the syllabi only referenced training for “new” employees. In this sense, the Scoring Team reads the word “new” too literally. “New” not only refers to new employees, but to employees that are promoted or reassigned and in need

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of additional training. For example, consider the syllabi at page 307 of the Proposal. An existing employee who is promoted or newly assigned as a Member Service Representative would undergo “new” Member Service Representative training, which includes training regarding fraud and AHCCCS programs. Hence, Mercy Plan’s fraud and AHCCCS training is “on-going” and offers additional training to employees as their changing scope of employment so warrants. As illustrated by many of the other syllabi attached as part of the Proposal, as employees advance to positions dealing with fraud prevention and governmental compliance, they receive the requisite on-going training.

In addition to the training courses described above, Mercy Care also conducts ongoing training by disseminating electronic memoranda allowing Mercy Care staff to receive updates to policies and processes on a daily basis. [Proposal, p. 295]

Given the Proposal’s robust discussion of criteria 3-2 and 3-3, the Scoring Team’s failure to award points constitutes a scoring error which should be corrected.

Procurement Officer’s Decision: As previously stated, AHCCCS considered only the contents of each proposal in the evaluation process. Any results of prior monitoring by AHCCCS were not considered in the evaluation process.

Mercy Care’s Appeal: Setting aside the issue of prior performance, the Decision simply ignores that the Proposal clearly references an ongoing training program. Page 293 of the Proposal reads:

MCP employees are provided initial and *ongoing training* to fulfill the requirements of the position and to support the attainment of a high performing organization. The purpose of MCP’s training program is to link people, learning and performance to:

- Ensure MCP is in compliance with all relevant federal, AHCCCS and employment laws and regulations
- Provide all MCP employees adequate knowledge to perform their jobs successfully
- Ensure that all employees have the opportunity to enhance and/or increase their job skills in order to afford them opportunities for advancement
- Keep employees current on the latest innovations and technology advances related to their field
- Support career advancement through continuing education. [(emphasis added)]

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As indicated in the Protest, detailed class syllabi were provided which document new and ongoing training. Even if one sets the issue of prior performance aside, the Proposal response is sufficient for an award of points under this criteria.

Of course, the Procurement Officer's Decision not to consider prior AHCCCS monitoring results is unreasonable. As discussed in Section II(A) above, the Procurement Officer's general refusal to weigh prior monitoring by AHCCCS is at odds with the RFP. Second, if Mercy Care is fully AHCCCS compliant regarding employee training, as noted by Mercy Care at page 293 of the Proposal, it is impossible for Mercy Care to lack sufficient ongoing training. Any finding to the contrary is unreasonable and factually incorrect.

**Organization - Organization and Staffing**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
7-1	Other than encounter (partial encounter/data validation) sanctions, no past or current sanctions since January 1, 2005. 3 points.	7-1. Mercy Care received a sanction of \$200,000 for concerns related to their grievance system.	<b>Comments:</b> On page 339 the Offer listed a \$200,000 sanction by AHCCCS for grievance system issues.

Mercy Care's Protest of the Scoring Error: AHCCCS levied this sanction against Mercy Care four days prior to the bid submission due date. Mercy Care has appealed this sanction and this appeal is still pending. As such, the sanction should not be part of the bid review.

Procurement Officer's Decision: The Scoring Team addressed this issue by documenting that even if sanctions were pending, the points would not be awarded. All bidders were evaluated in this manner. In addition, MCP reports a separate sanction levied against an owner facility. This sanction also makes MCP ineligible to receive these points.

Mercy Care's Appeal: There was no sanction brought against an owner. Carondelet Health Network, doing business as St. Mary's Medical Center had a sanction brought against it, but it appealed the sanction and prevailed on that appeal. The sanction was lifted and the contract was reinstated. Because Carondelet prevailed on the appeal, the sanction cannot count against Mercy Care. The Procurement Officer's Decision in this regard is unreasonable.

The circumstances of the sanction referenced in the Protest arises from site visits and correspondence in October and December of 2007. As a result of these visits and correspondence, Mercy Care developed a corrective action plan that it communicated to AHCCCS in January 2008. In the ensuing weeks and months, Mercy Care heard nothing from AHCCCS. Finally, on the eve of submitting its Proposal and just four days before bids were due, AHCCCS levied a sanction on Mercy Care. The imposition of a sanction on Mercy Care just four days before bids were due—when Mercy Care Plan would have no opportunity to exercise its due process rights to an appeal—and then not taking into account Mercy Care’s appeal, is unfair and unreasonable. Finally, withholding imposition of a sanction until shortly before the submittal date raises at least the appearance that AHCCCS acted deliberately to disadvantage Mercy Care during the evaluation process.

**Organization - Information Systems**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
10-1 & 10-2	10. When was the last IT-specific external operational audit or external performance review of the Offeror’s system/division? Provide the contact information for the external organization if applicable.	Offeror mentioned that a SAS 70 audit was completed, but there was not indication that SAS 70 includes a comprehensive IT audit. More definition would have been required to award points.	[None]

Mercy Care’s Protest of the Scoring Error: The Scoring Team’s comment regarding the “comprehensiveness” of Mercy Care’s IT audit is at odds with the Evaluation Criteria. A comprehensive IT audit is not required. Mercy Care’s recent audit tested the “Operating Effectiveness for Claims Processing Controls and Related General Computer Controls of the Phoenix Service Center” [Proposal, p. 354], which describes the audit in sufficient detail to merit award of points under the criteria.

Procurement Officer’s Decision: MCP asserts it should get two points that would be awarded to bidders who describe an external Information Technologies audit because MCP described a recent SAS 70 audit. Although MCP’s one paragraph response refers to testing

claims process controls and general computer controls of the Phoenix Service Center, this description is inadequate to determine if an IT specific external operational audit or external performance review was performed.

Mercy Care's Appeal: Question 53 of the RFP reads, "When was the last IT-specific external operational audit or external performance review of the Offeror's system/division? Provide the contact information for the external organization if applicable." Mercy Care's response fully answered the precise questions asked, and its response is appropriate given the limited scope of the questions.

In any event, the fact that Mercy Care said that the audit was an "SAS 70 audit" would have informed a reviewer with substantive expertise about the nature of this audit. The fact that the reviewers did not have this basic knowledge cannot be grounds for denying Mercy Care any points.

The term "SAS 70" speaks for itself. There can be no question that a SAS 70 audit includes comprehensive IT auditing. SAS 70 is an acronym for Statement on Auditing Standard 70; that was developed and is maintained by the AICPA (American Institute of Certified Public Accountants). Specifically, SAS 70 is a "Report on the Processing of Transactions by Service Organizations" where professional standards are set for a service auditor that audits and assesses internal controls of a service organization. During the audit, the auditors look for evidence that indicates the organization has designed effective general computer controls and that there are no control design deficiencies. The auditor also determines if organization consistently applies the controls they have designed and that there are no operational deficiencies. If the auditors do not find evidence of an effective control program, or they find that the organization is not adhering to the control program, they note these deficiencies in their final audit report. As noted in the MCP proposal, the audit report is unqualified.

An SAS 70 audit is a widely recognized standard. In fact various Mercy Care vendors, clients, and regulatory bodies, including other Medicare agencies, rely on its SAS 70 audit in lieu of performing their own independent IT audit. This has become the industry standard. Therefore, mention of the "SAS 70 audit" alone provides obvious reference to an external audit of IT operations.

**Organization - Claims**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
13-2	2. The submission identifies the use of a remittance advice that specifies reasons for denial or partial payment.	<b>“No mention of Remittance advice in the Offeror’s response.”</b> (emphasis added)	Team reviewed submission & information pertaining to provider feedback & data analysis not remittance advice.

Mercy Care’s Protest of the Scoring Error: Mercy Care’s Proposal includes the information required to meet criterion 13-2. The Offeror Reference field on the Acute RFP Evaluation Tool worksheet for Category 13 indicates that the Scoring Team only considered *pages 361-366* of the Proposal when it evaluated criterion 13-2. However, use of remittance advice for denial or partial payment was discussed on *pages 368-69* of Mercy Care’s Proposal.

For example, quoting the Proposal on page 368, “[i]f the member was not eligible on the date of service, the system will automatically deny the claim using the appropriate Health Insurance Portability and Accountability Act (HIPAA) *approved remittance comment*. (emphasis added) Furthermore, page 368 of the Proposal continues, “[t]he claim line will deny with the appropriate HIPAA *remittance remark* on the EOB.” (emphasis added) Additionally, on page 369 of the Proposal, “[i]f a provider bills a code that has terminated, the system will deny the claim line and advise the provider the code is invalid.” (emphasis added)

The Scoring Team was mistaken when it observed that Mercy Care made “no mention” of “remittance” in the Proposal. Had the Scoring Team considered pages 368-69, they would have awarded Mercy Care a point under this criterion.

Procurement Officer’s Decision: Only the response to the specific submission item was considered in the evaluation process and information provided in response to other questions was not considered.

Mercy Care’s Appeal: As discussed in Section II(B) above, the RFP page restrictions do not give the Procurement Officer license to ignore portions of the Proposal. As explained in Mercy Care’s Protest, this criterion was adequately discussed in the Proposal, albeit in response to a different but related submission item.

**Organization - Claims**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
14-4	The submission included monitoring of the corrective action plan (monitoring to include testing/evaluation of the CAP).	14-4. Offeror discussed CAP implementation, however at no point mentioned evaluation & further monitoring of CAP to see if issue was fixed.	14-4. Offeror discussed implementing corrective action plans but did not evaluate the CAP in place.

Mercy Care’s Protest of the Scoring Error: Mercy Care’s Proposal includes the information needed to meet criterion 14-4. The Scoring Team’s Comment that the Proposal fails to mention monitoring of the CAP is mistaken. The Proposal establishes a corrective action plan [CAP], the “claims issue management process.” [Proposal, p. 367] This process is monitored by a “Claims Issue Management team,” a multi-disciplinary team and subcommittee which “*monitors and manages* of [sic] our claims issue management activities.” [p. 367 (emphasis added)] It is clear that Mercy Plan has a process in place to monitor, test, and evaluate its corrective action plans and that this committee accomplishes this expressed purpose. Failure by the Scoring Team to award Mercy Plan a point for this criterion constitutes a scoring error which should be corrected.

Procurement Officer’s Decision: The Scoring Team did not award this point because MCP did not specifically address the evaluation of the effectiveness of corrective action plans as part of their correction activities. MCP does state it develops corrective action plans, but does not state they are evaluated for effectiveness. This language was required to earn this point. All bidders were evaluated in this manner. Upon re-review, it is determined that the Scoring Team was correct in its assessment that MCP did not state it evaluates the effectiveness of corrective actions.

Mercy Care’s Appeal: A subject matter expert would assume that “monitoring and managing” any activity includes evaluating effectiveness, otherwise the intervention is not complete. Because there is no need to “monitor” or “manage” a project/activity unless the goal is to evaluate the effectiveness of interventions, failure to award Mercy Care a point under this criterion was unreasonable and is an error.

**Organization - Claims**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
14-6	6. The submission included a process that included correcting encounters that were found to be impacted by those deficiencies.	14-6. No mention of resubmitting/correcting encounters.	Comments: 14-6. Offeror re-priced and repaid claims but did not address correcting and resubmitting encounters.

Mercy Care’s Protest of the Scoring Error: Mercy Care’s Proposal includes the information necessary to satisfy criterion 14-6. The Clarification Consensus Comments note that Mercy Care was denied a point because it did not address “resubmitting encounters.” However, “resubmitting encounters” is not part of the Evaluation Criteria. In fact, the Recommendation on the Assumptions worksheet for Submission number 14.6 notes that, “we [AHCCCS] are looking for *identification* of adjudicated encounters which must be replaced and/or voided as a result of audit findings and/or corrections.” [(emphasis added)] Thus, if the Proposal addresses “identification,” the Proposal should satisfy the criterion.

The Proposal itself speaks to the precise issue of identification at page 375, under the heading “Data Reporting/Analysis.” To summarize the Proposal language, the “Summary Transfer Validation Reports” compare all paid-claim counts and confirm that all files are successfully transferred to an Encounter Management System. At this stage, “[d]iscrepancies can be *identified*, researched, and resolved,” and verification received that all adjudicated encounters are accounted for. [p. 375] In other words, Mercy Plan has a procedure in place to *identify* adjudicated encounters and this procedure is found in the Proposal.

Procurement Officer’s Decision: To be awarded the point, it was still necessary for bidders to state erroneous encounters are corrected. Upon re-review it was determined that MCP did not address the correction component of the submission requirement.

Mercy Care’s Appeal: Mercy Care plainly addressed the correction component of the criterion at page 367 of the Proposal under the headings “Remediation Process for Manual Adjudication” and “Remediation Process for Auto Adjudication.” The Proposal reads, “we have standard operating procedures to identify and *rectify* the problem ... In the event the claim accuracy errors occur during the auto adjudication process, then an Issue Identification Form

(IIF) is routed to the Business Application Management (BAM) department to *correct* the system issue.” [p. 367 (emphasis added)] Having addressed the correction component of the criterion, Mercy Care merits award of a point under the criterion.

**Organization - Claims**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
15-2d	2.d. Adherence to AHCCCS Policy.	Offeror’s response did not address key elements.	<b>Comments:</b> Offeror stated “adjudicated” claims process; however they did not specifically discuss the criteria in c, d, e, and g.

Mercy Care’s Protest of the Scoring Error: Mercy Care’s Proposal includes information necessary for criterion 15-2d. Mercy Care’s Proposal discusses adherence to AHCCCS policy at page 368 under the heading “Use of iHealth Technologies to Detect Questionable Billing Practices.” As stated in the Proposal, “Professional claims that reach an adjudicated status of PAY are automatically reviewed against nationally recognized standards such as the Correct Coding Initiative (CCI) *as well as Medical Policy requirements and maximum unit requirements supplied by AHCCCS.*” [p. 368 (emphasis added)] Because Mercy Care’s Proposal expressly discusses their adherence to this criterion, they should be awarded one point under 15-2d.

Procurement Officer’s Decision: The MCP proposal does not adequately describe how MCP assures adherence to AHCCCS Policy. MCP states that “adjudicated claims are reviewed against nationally recognized standards, such as the Correct Coding Initiative as well as Medical Policy requirements and maximum unit requirements supplied by AHCCCS.” First, it is not clear from the response what the source of the Medical Policy requirements are. Second, AHCCCS has not established maximum unit requirements as policy.

Mercy Care’s Appeal: The Procurement Officer’s Decision notes two reasons for denying a point under this criterion. Both reasons are baseless. First, it is clear from Mercy Care’s Proposal that Mercy Care is using Medical Policy supplied by AHCCCS, as well as maximum unit requirements supplied by AHCCCS. Second, AHCCCS has an encounter edit, “S835 – Service Unit Exceeds Maximum Allowed,” that pends encounters exceeding the AHCCCS maximum units. Moreover, Mercy Care does not mention an AHCCCS maximum

unit “policy.” There is no basis for AHCCCS to withhold a point from Mercy Care under this criterion.

**Organization - Encounters**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
18-1	1. All services rendered (including those in the prior period) will be submitted as encounters to AHCCCS.	Reviewer could not find reference to the key criteria in Offeror’s response.	[None]

Mercy Care’s Protest of the Scoring Error: Mercy Care’s Proposal includes the information needed to meet criterion 18-1. The Scoring Team noted that they did not award Mercy Care a point on this criterion primarily because there was no reference to submittal of encounters to AHCCCS. This is mistaken. At page 375 of the Proposal, under the heading “Encounters,” the Proposal reads, “Mercy Care Plan (MCP) understands that the success of the AHCCCS program depends heavily on the accurate and timely *submission of encounter data*. We use a combination of a custom, internally-developed Encounter Management System (EMS) and highly-skilled, extensively-trained Encounter Unit (EU) employees *to submit encounter data that are clean, complete, and submitted timely.*” [(emphasis added)]

On the same page, the Proposal goes on to explain that EMS acts as a repository for all encounters; hence, via EMS, Mercy Care submits *all* appropriate encounters to AHCCCS.

Procurement Officer’s Decision: Bidders must describe how claims are matched or compared to the encounter file to verify that all claims have been converted into encounters.

Mercy Care’s Appeal: The criteria that bidders must include reference to matching criteria was revealed for the first time in the Decision. As discussed above in Section III, this is improper. The RFP question reads, “Submit a description of the Offeror’s encounter submission process including, but not limited to, how accuracy, timeliness and completeness are ensured and the remediation process when AHCCCS standards are not met.” The RFP question did not request details related to matching edits. In any event, it may be reasonably assumed that such

edits are in place or Mercy Care would not have been able to respond to the actual question addressing accuracy, timeliness, completeness and compliance with AHCCCS standards. Compliance would not occur if such matching logic did not exist.

**Organization - Encounters**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
18-10 & 18-11	<p>10. Offeror’s Staff utilizes a management report that reconciles the claims system to the encounter system that includes financial fields.</p> <p>11. The timeliness of encounter submissions is tracked in aggregate.</p>	Reviewer could not find reference to the key criteria in Offeror’s response.	<p>10. The Offeror compares paid claim counts in one system to another but not to encounters that include financial fields.</p> <p>11. Offeror list reports of “aging” or existing encounters but not the timeliness of encounter submissions.</p>

Mercy Care’s Protest of the Scoring Error: In this case, the Scoring Team did not apply the Assumption and Recommendation for Submission Numbers 18-10 and 18-11. According to the 18-10 and 18-11 Assumptions worksheet, mention of a “ESTR management” report is sufficient to meet the Evaluation Criteria here. Mercy Care’s Proposal specifically mentions creating “**Encounter Tracking Reports**” to meet the needs of AHCCCS. [p. 375 (emphasis added)] Accordingly, Mercy Care should be awarded points under criteria 18-10 and 18-11.

Procurement Officer’s Decision: The MCP proposal states the MCP **can** use the ETR to identify aging pended encounters. MCP does not state that they **do** use the report to identify aging encounters, nor does the proposal state that MCP monitors encounter submission timeliness in the aggregate to assure compliance with AHCCCS requirements.

Mercy Care’s Appeal: The distinction the Procurement Officer’s Decision draws between “can” and “do” cannot apply to Mercy Care’s Proposal because it is implicit that Mercy Care generates the reports in order to use them. Furthermore, the fact Mercy Care’s Data

Reporting/Analysis includes “Encounter Aging Reports” showing the “aging of existing encounters” and prioritizing submission deadlines to “substantiate on-time submission” is sufficient to demonstrate that the timeliness of encounter submissions is tracked in the aggregate.

**Organization - Member Services**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
19-2	2. The Offeror resolves member Grievances within 90 days.	Grievances are resolved for clinical/quality issues within 90 days, but response does not address timeliness of the rest of the grievances.	2. Offeror stated only clinical/quality grievances monitored for 90 day timeliness.

Mercy Care’s Protest of the Scoring Error: Mercy Care’s Proposal includes the information needed to meet criterion 19-2. Although the Proposal does not explicitly state that service grievances are resolved within 90 days, the Proposal does note that in CYE 07, Mercy Care responds to 97% of service grievances within an average of .06 and 18.66 days. [p. 378] Of course, the implication is that nearly all service grievances are in fact resolved within 90 days.

Procurement Officer’s Decision: MCP states that it responds to written service grievances within 10 days of receipt and clinical quality grievances no more than 90 days from receipt. MCP states that it accepts verbal grievances and monitors them for resolution, but does not cite the time frame by which MCP monitors its performance on responding to verbal grievances, which is why the point was denied.

MCP argues in their protest that since internal monitoring of resolution timeframes indicate “97% of service grievances and three percent of clinical quality grievances are responded to within an average of .06 and 18.66 days, respectively”, it is implicit that nearly all grievances are responded to in 90 days. Average days to resolution is not an appropriate measure of compliance with this standard because measuring the average time frame does not allow the bidder to know whether there are some grievances whose resolution fall outside the time frame. For example, MCP reports that three percent of clinical/quality grievances are resolved within 18.66 days. *This does not provide any indication of the time frame to resolve the other 97% of the clinical quality grievances.* All bidders were evaluated in this manner.

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Upon re-review, it is determined that the Scoring Team was correct in the initial score. [(emphasis added)]

Mercy Care's Appeal: AHCCCS misinterprets Mercy Care's Proposal. According to the Proposal, "97% of service grievances and three percent of clinical quality grievances are responded to within an average of .06 and 18.66 days, respectively." Restated for simplification, 97% of total member grievances are service related (average turnaround time for response is .06 days) [Proposal, p. 378] and 3% of total grievances are quality/clinical related (average turnaround time for response is 18.66 days) [Proposal, p. 378], totaling 100% of member grievances. All Clinical/Quality grievances are responded to within 90 days. [Proposal, p. 378] All Service grievances (the remaining 97% of all grievances) are responded to, on average, within .06 days. [Proposal, p. 378] Thus it is simply untrue that "[Mercy Care] does not provide any indication of the time frame to resolve the other 97% of clinical quality grievances." Service related grievances are responded to within an average time of .06 days and all clinical/quality related grievances are responded to within an average time of 18.66 days. Because turnaround times are measured, and an average is calculated, it is evident that Mercy Care (the bidder) is measuring grievances time frames. Moreover, AHCCCS's submission requirement specifically requested to be provided the "average time of resolution."

**Organization - Member Services**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
19-3	3. There is a process that monitors resolution timelines when complaints are referred to other departments.	Offeror refers to [sic] grievances to other departments when appropriate, but did not state they are monitored for timeliness.	3. Offeror appropriately refers grievances to another department, but does not monitor for timeliness.

Mercy Care's Protest of the Scoring Error: Mercy Care's Proposal states that grievances are monitored for timeliness and should have been awarded one point under criterion 19-3. As detailed in the Proposal, the Member Services Department monitors all "member grievance information for timeliness" [pp. 378-79], including grievances that are transferred to the Quality Management department. In any case, all transferred grievances are answered "in writing as soon as possible but in no more than 90 days from receipt." [Proposal, p. 378]

Procurement Officer's Decision: MCP's response mentioned referrals to the Quality Management (QM) Department but does not address monitoring for timeliness of QM's responses. Referrals to other departments are not addressed at all.

Mercy Care's Appeal: In the Proposal, Mercy Care clearly stated that 99% of service grievances are resolved within one day. Service is inclusive of all departments, excluding quality. It should not be necessary to list each department that is contacted during a member call. Ninety-nine percent (99%) of service grievances are resolved while on the phone. This implies that communication occurs with other departments, otherwise immediate resolution would not be possible. Furthermore, the monitoring process for member grievances was described, including resolution timeliness for both service and clinical grievances.

**Organization - Member Services**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
21-4	4. Members are notified how to obtain translation services and that they are paid for by the Offeror using methods other than a member handbook or website.	Offeror did not state that translation services are at no cost to member.	Offeror did not state that translation services are at no cost to member.

Mercy Care's Protest of the Scoring Error: The Scoring Team withheld one point under Evaluation Criterion 21-4 claiming that the Proposal does not state that translation services were at "no cost to members." The Scoring Team is mistaken. The Acute RFP Evaluation Tool worksheet indicates that the Scoring Team was looking only at page 383 of the Proposal for this information; however, this information is found on page 382. Page 382 of the Proposal reads, "MCP provides an interactive Language Line Interpreter Services with over-the-phone interpreters in 170 languages, seven days-a-week, 24 hours-a-day *at no cost to members* or providers." [(emphasis added)] Mercy Care clearly documented the source of payment for translation services and should be awarded a point under criterion 21-4.

Procurement Officer's Decision: Upon re-review, it is determined that MCP's response does make this statement. However, the evaluation criterion is that the availability of no cost

translation services must be communicated to members via methods other than the member handbook or website. In re-reviewing the submission, it is determined that MCP did not indicate any method of communication other than the member handbook and website. [p. 5]

Mercy Care's Appeal: Mercy Care's Proposal stated how it communicates the availability of translation services to members by means other than the member handbook or its website. On page 382 of the Proposal, Mercy Care describes "Readability of Member Materials." The Member Materials are discussed on page 383. The description of Language Line Services at no cost to the member in this section correlates to any of the materials on page 383. For example, Mercy Care explains that each new member is provided a "Welcome Newsletter," which explains "how to get interpreter services if needed." The Welcome Newsletter is not part of the member handbook, nor is it part of our website. Accordingly, the Procurement Officer's Decision is mistaken. Mercy Care communicates the availability of translation services by means other than the member handbook or website.

**Organization - Grievance System**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
23-1.a.,b., & c.	1. Did the Offeror's description include flowcharts and written descriptions for grievances including: a. when, where and how to file b. resolution requirements, including timelines in accordance with AHCCCS rules c. response requirements.	The Offeror did not describe when & specifically address where to send grievances. Timeframe addresses resolution no more than 90 days only for clinical quality grievances.	The Offeror stated members are educated through written materials on the grievance system, but did not address "how, when or where" to file a grievance.

Mercy Care's Protest of the Scoring Error: The Scoring Team's criticism focuses on the fact the Proposal fails to address, "how, when or where" one may file a grievance within Mercy

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Care's grievance process. The Proposal acknowledges that grievances enter its member services department by "*telephone, letter, or e-mail.*" That statement, though broad, should be sufficient to satisfy the criteria. [p. 388] [sic] (emphasis added)].

Of course, the rationale behind the criteria is ensuring that Mercy Care can communicate to its members the "how, when and where" of its grievance process. The Proposal directly addresses this point at page 388, "[g]rievance education occurs at many points. Members are educated on our grievance system and any changes through written materials (e.g. member handbook, member newsletter), on our website and in member notifications (e.g., notice of action)." The information provided in the Proposal is sufficient to warrant an award of points under criteria 23a-c.

Procurement Officer's Decision: MCP asserts it should get a point for communicating to members on how, when, and where to file a grievance. The submission item requires bidders to address both member and provider grievances. The MCP response does not address how providers are informed about how to file grievances with MCP. Additionally, MCP's protest states that because MCP member services does receive member grievances, it should be assumed that all members know when, where and how to file grievances. The mere existence of grievances against the plan is not an adequate demonstration that MCP is committed to educating members on this important beneficiary protection.

Mercy Care's Appeal: The Procurement Officer's Decision mischaracterizes Mercy Care's Protest. Mercy Care did not argue or state that the receipt of member grievances implies that all members know when, where, and how to file grievances. Mercy Care simply states exactly how grievances are received by its service department, by "telephone, letter or email," in satisfaction of Criterion 1.a. [Proposal, p. 388]

As for Mercy Care's commitment to educating members, the Proposal demonstrates this commitment with the following language:

Grievance education occurs at many points. Members are educated on our grievance system and any changes through written materials (e.g. member handbook, member newsletter), on our website and in member notifications (e.g., notice of action). Providers are trained on our grievance system and any changes through on-site training delivered to new providers during the pre-contracting stage. Throughout the year (frequency depends on provider type) providers receive site visits and training on the grievance system occurs. Further, providers receive written material (e.g., provider manual) at the time of contracting and

annually thereafter and through network newsletters and notifications (e.g., remittance advice). All grievance personnel receive extensive training on the specific grievance process they perform. This training occurs at the time of hiring followed by an annual refresher. Additionally, individual personnel coaching is provided to employees for whom additional training needs are identified through our quality monitoring processes (e.g., call monitoring, supervisors' review of employee's timeliness and work product). [p. 388]

Thus, the Proposal demonstrates Mercy Care's commitment to educating members regarding the grievance process and notes how grievances are received.

**Program - Quality Management**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
3-4	4. Peer Review Committee includes local providers.	3-4. Peer Review Committee includes network providers, but it is not clear that they are local providers.	[None]

Mercy Care's Protest of the Scoring Error: All providers on the Mercy Plan Peer Review Committee are local providers in our network. The names of the Committee are included in the Proposal at page 290 and identified as network practitioners. Although the Proposal does not identify these providers as "local," they are, in fact, local providers. Accordingly, the concerns expressed in the Scoring Team's comment are unfounded, and the denial of a point under evaluation criterion 3-4 is a scoring error.

Procurement Officer's Decision: "MCP acknowledges that its proposal does not identify local (community) providers as participants on its peer review committee. The evaluation criterion specifically requires the bidder to state in their proposal that they use local providers. All bidders were evaluated in this manner." [p. 6]

Mercy Care's Appeal: Both the Scoring Team comment and the Procurement Officer's Decision acknowledge that Mercy Care specifically stated that the committee includes "network

providers.” What the Scoring Team and the Procurement Officer’s Decision fails to note is that the network, in order to serve members in the local GSAs, must be *local*. It follows that the “network providers” on the committee are “local providers.” In this case, the term “network provider” is equivalent to the term “local provider.” Furthermore, Mercy Care released the names of the committee members. Anyone familiar with the local medical communities would recognize these providers as local. Given that there is no doubt that these members are indeed local, it is unfair and unreasonable to deny Mercy Care points. Accordingly, the Procurement Officer’s Decision in this regard is incorrect.

**Program - Quality Management**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
4-2.d	2.d. Procedure for insuring confidentiality.	2.d. Procedure for insuring confidentiality is missing.	[None]

Mercy Care’s Protest of the Scoring Error: As discussed on page 141 of the Proposal, all Mercy Care staff involved in these processes receive new hire training and annual refresher training and follow established policies and procedures including but not limited to “... *maintaining member confidentiality...*” [(emphasis added)] The Scoring Team was mistaken to conclude that reference to Mercy Care’s procedures concerning member confidentiality was “missing” from the Proposal.

Procurement Officer’s Decision: The MCP Proposal fails to describe the actual process by which it maintains the confidentiality of these complaints. By contrast, on the very next item, 4-2.e., MCP describes the actual process by which a level of severity is assigned to a quality of care complaint, and was awarded that point.

Mercy Care’s Appeal: First, Mercy Care clearly documented a procedure for insuring confidentiality as evidenced by the following response within the Proposal:

As an integral component of MCP’s QM program, we use peer review findings to enhance and support our QM processes. The QM department documents all peer review cases in the confidential and secure QM department Vision 2000 database from which it prepares a quarterly peer review trend report that includes

for each provider reviewed, the number of issues, the severity level of each issue and the action taken ... [p. 139]

Second, AHCCCS did not require that bidders provide an entire process for each component of the response. Additionally, AHCCCS's reference that because Mercy Care provided one process that they should have provided documentation of all processes is unreasonable, and such a requirement was not revealed prior to the Decision.

**Program - Quality Management**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
4-6	6. Quality of care data is included in the provider profile/file and considered during recredentialing process.	There is no indication that quality of care data is included in the provider file for consideration during the recredentialing process.	[None]

Mercy Care's Protest of the Scoring Error: The Proposal discusses this criterion on page 143 under the heading "Tracking and Trending and Ongoing Improvements." Under this heading, the Proposal explains how Quality of Care reports are tracked by provider and how Quality of Care reports are used during the recredentialing process. Additionally, the Proposal explains how Mercy Care relied upon its Quality of Care tracking process to evaluate a specific provider. The relevant portion of page 143 of the Proposal reads as follows:

The QM department prepares quarterly and annual QOC reports and peer review trend reports on cases that were closed during the reporting period and the member services department prepares similar trend reports for all member grievances received and resolved (service and QOC). These trend reports can be *organized according to provider*, issue category, referral source, number of verified issues, and closure levels. The CMO, the QM/UM Committee, SIC and QMOC review these reports which are used to provide background information on providers for whom there have been previous complaints, identify significant trends that warrant review by the Peer Review Executive Session of the

QM/UM Committee, or identify the need for possible quality improvement initiatives. For example, a QOC investigation regarding late or no arrival of a provider responsible for transporting members to dialysis clinic appointments was referred to the SIC for discussion and resolution. The SIC monitored the provider's transport timeliness, required corrective action and regularly scheduled meetings with the provider to discuss improvement progress. After an evaluation period, we elected to contract with another provider to exclusively provide transportation of MCP members to their dialysis appointment.

It appears that the Scoring Team did not award a point simply because the phrase "provider file" does not happen to appear on page 143 of the Proposal. However, the Proposal details how Quality of Care reports are tracked by provider, which can only mean the reports are sorted by provider. Accordingly, the Scoring Team committed a scoring error when it did not award a point under this criterion.

Procurement Officer's Decision: "Neither the MCP responses to submission requirement 16 nor the protest letter states that quality of care concern information is included in the recredentialing process."

Mercy Care's Appeal: Apparently, the Procurement Officer's Decision to deny Mercy Care a point under this criterion is based solely on the fact there is no mention of recredentialing. This is mistaken. For instance, on page 141 of Mercy Care's Proposal there is specific reference to the role of the credentialing committee in considering quality of care information in making credentialing and recredentialing decisions. Specifically the Proposal reads: "Additionally, our committees (Quality Management/Utilization Management, [QM/UM], and the **Credentialing Committee**) have the responsibility and authority to hear and recommend action in QOC concerns and along with the Service Improvement Committee [SIC] review QOC and service data and performance results and make recommendations to senior management on corrective actions and potential interventions. The CMO in turn is responsible for making a final decision regarding **recredentialing** of the provider and informing the QMOC and Board of Directors of the action taken." [p. 141 (emphasis added)]

**Program - Quality Management**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
6-1	1. Process for provisional, initial, and recredentialing described follows AMPM requirements (JCAHO or NCQA also acceptable). (Checklist?)	The Offeror does not list all of the requirements for credentialing such as past or present illegal drug use.	[None]

Mercy Care’s Protest of the Scoring Error: The Evaluation Criterion does not require a complete listing of NCQA requirements. All that is required is that the process described in the Proposal follow NCQA requirements. Mercy Care explained that its processes comply with NCQA requirements. Page 147 of the Proposal clearly states, “These processes, which are part of our quality management (QM) program, are conducted in a fair and nondiscriminatory manner, and *follow nationally recognized accreditation standards (NCQA)* and all applicable AHCCCS and federal (CMS) standards. MCP *received findings of full compliance for the AHCCCS* operational and financial review standards related to credentialing in the areas of provisional credentialing, monitoring and oversight of delegated entities and organizational provider processing *for the past three contract years.*” [(emphasis added)]

Procurement Officer’s Decision: While MCP described the general process, it did not address all the elements that are required to be evaluated, i.e., past or present illegal drug use.

Mercy Care’s Appeal: The RFP question requested a description of the process, not each evaluation criterion. AHCCCS did not disclose the evaluation criteria that requires bidders to list each monitoring standard, and the Decision revealed the extent to which this criterion was undisclosed. MCP clearly stated that it follows AHCCCS and NCQA. The mere mention of following both AHCCCS and NCQA guidelines is sufficient to demonstrate that “all the elements that are required to be evaluated” are inclusive.

**Program - Quality Management**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
10-1	1. If statistical significance is achieved in TWO consecutive years, award 3 points. If statistical significant is NOT achieved in two consecutive years, award 0 points.	The Offeror reported a statistical significance level of $p < .06$ . Review of the data indicated a statistical significance level of $P = .065$ . The value is incorrect and not properly reported.	[None]

Mercy Care’s Protest of the Scoring Error: Mercy Care clearly demonstrated sustained improvement across three years for six indicators.

The Scoring Team noted that for one of the indicators presented, Mercy Care “reported a statistical significance level of  $P < .06$ ,” which the Scoring Team concluded was “incorrect and not properly reported.” However, when applying the AHCCCS required p-value standard of .05, the potential discrepancy in the third decimal place of the p-value does not change the conclusion drawn, and this indicator still shows evidence of sustained improvement over three years. In conjunction with many other indicators that showed sustained improvement, the information presented clearly meets the AHCCCS requirements for this question.

Additionally, because different test statistics produce slightly different p-values, the reviewer’s conclusion that the p-value is incorrect cannot be drawn without prior specification of the test-statistic required by AHCCCS to demonstrate statistical significance. The Scoring Team was mistaken when it concluded that Mercy Care’s reported value of  $P < .06$  was incorrect or improperly reported.

Procurement Officer’s Decision: As part of the evaluation of a bidder's ability to improve performance, AHCCCS examined the accuracy of the submitted statistical analysis. This is important because AHCCCS requires contractors to continuously monitor their own performance through application of analytical techniques such as those required in this submission item. Contractors must be able to identify and remediate deficiencies in their performance and require accurate information to do so.

In the proposal, MCP reported their results as having a probability value of less than .06 ( $p < .06$ ). When AHCCCS attempted to replicate these results applying a Pearson's Chi-square test, it yielded a chi-square value of 3.148 which converts to a p value of .0645, which is greater than .06 ( $p > .06$ ). A chi-square test is the most appropriate technique when data is categorical and there is a large sample size. The points were not awarded because MCP did not accurately report the results of their testing. All bidders were evaluated in this manner.

Mercy Care's Appeal: MCP clearly demonstrated sustained, statistically significant improvement for several indicators for all of the Schaller Anderson managed plans. For one indicator, AHCCCS indicated that the correct p value is .0645, and that MCP incorrectly reported that the p-value was less than .06. The distinction to the fourth decimal place using the chi-square test does not impact the conclusions drawn. Moreover, had MCP reported the p-value AHCCCS supplied of .0645, AHCCCS could still arbitrarily indicate that this was incorrect, when carried out to still more decimal places (e.g. the p-value carried out to the sixth decimal place is .064489. The p-values used by MCP were abbreviated to aid in presentation within the table, and were intended to convey sustained improvement, and not precise accuracy to an indeterminate number of decimal places.

The AHCCCS contention that this represents MCP's inaccurate presentation of results cannot be support because the p-value reported by AHCCCS of .0645 is also inaccurate. Moreover, other valid test statistics produce slightly different results, and the statement by AHCCCS that the chi-square test is the most appropriate technique is not support by existing literature, and this test statistic was not indicated in the RFP question as the only valid method.

Based upon the flawed assumptions that a p-value equal to .0645 is the correct value, AHCCCS awarded zero points. Both the test-statistic used by AHCCCS and the number of decimal places for displaying this information cannot be support as the criterion for awarding points.

Given the above, and that MCP and other Schaller Anderson managed plans clearly demonstrated sustained, statistically significant improvement for several HEDIS indicates, full points should be awarded.

**Program - EPSDT/MCH**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
3-2	2. Describes the State's AzEIP procedure for care coordination.	No mention of education or encouraging providers to coordinate care with AzEIP by advising of services rendered.	[None]

Mercy Care's Protest of the Scoring Error: Mercy Care clearly describes its processes to coordinate with AzEIP to identify children in need of services and to encourage providers to communicate to AzEIP results of assessments and services provided to AzEIP enrollees as evidenced by the response within the Proposal.

Pages 190-191 of the Proposal include a section specific to AzEIP and address Mercy Care's processes and protocols for our AzEIP eligible or enrolled members. Highlights of this portion of the Proposal include (with appropriate emphasis added):

*MCP works with AzEIP and providers for outreach to AzEIP eligible members* who have a developmental delay and coordination of their medically necessary EPSDT covered services. Within two business days of receipt of an AzEIP Individualized Family Service Plan (IFSP), MCP forwards the documentation to the member's PCP. Within 14 days, the PCP reviews the documentation to determine if the requested EPSDT services are medically necessary. If so, we authorize and send notification to the service provider and AzEIP ...

Each month, MCP receives a file of MCP members who are potential AzEIP referrals from AHCCCS. *We use this data to notify each member's PCP that their patient was referred to the AzEIP program and that PCP follow up with the parent/guardian may be needed.* Effective October 2008, MCP will supplement current materials given to providers with specific AzEIP program information and how PCP's can navigate AzEIP's service delivery system, as well as MCP's role and responsibilities in the

coordination of medically necessary EPSDT services. *We will disseminate this information to providers during the EPSDT coordinator on-site visits ...*

The coordinator provides written and verbal information about the AzEIP program at that time including AzEIP referral procedures and program contact information ...

Our coordinator provides additional education if we discover that referral to AzEIP is not part of their procedures.

These passages specify exactly how Mercy Care encourages providers to coordinate care with AzEIP. Accordingly, Mercy Care should be awarded a point under this criterion.

Procurement Officer's Decision: Nowhere in the Proposal or the protest letter does MCP describe how it encourages PCPs to communicate back to AzEIP the results of assessments and services provided to individual AzEIP enrollees.

Mercy Care's Appeal: As discussed in the Protest, Mercy Care's Proposal adequately explains how Mercy Care encourages providers to coordinate care with AzEIP as well as the role Mercy Care plays in coordinating such care itself.

**Program - EPSDT/MCH**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
3-6	6. Has a comprehensive process for coordinating care for members with special health care needs, including oral health and behavioral health.	No mention of oral health in comprehensive care coordination process, even though mention of "working with" dental clinic for homeless to get current contract information, but did not discuss how care is coordinated for these members.	[None]

Mercy Care’s Protest of the Scoring Error: Pages 191-192 of the Proposal addresses CRS and behavioral health needs children as well as Mercy Care’s processes and protocols for coordination of care for these members. As detailed in this section, Mercy Care has established a Special Needs unit within its QM department to assist in outreach and care coordination. The section offers a detailed explanation of “coordination” that is more than sufficient to satisfy criterion 3-6.

Procurement Officer’s Decision: The evaluation criteria specifically requires bidders to describe coordination of oral health services.

Mercy Care’s Appeal: The Decision reveals the extent to which it was undisclosed that “oral health” is considered a special health care need and that bidders should address it in their responses. AAC R-22-602(A)(4) requires that all factors used to evaluate a proposal be disclosed in the RFP.

**Program - Behavioral Health**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
1-1f.	1.f. Other	Offeror did not include an alternative mechanism to identify members with behavior health meds. Specifically, the health plan did not reference an outside agency, organization or entity.	[None]

Mercy Care’s Protest of the Scoring Error: According to the AHCCCS Assumption, the Scoring Team determined that to meet criteria for the “other” requirement, the Offeror must reference referrals from outside organizations, agencies, or entities in their submission. The Mercy Care Proposal, pages 211-212, shows referral sources from:

- HSA – provided by new MCP members
- NICU report – provided by hospitals

- AHCCCS and RBHA enrollment reports – provided by AHCCCS and RBHA

All of these referral sources are outside the Mercy Care organization and should have been considered by the Scoring Team when scoring this evaluation criterion.

Procurement Officer's Decision: The HSA is a member self report mechanism, for which a point is awarded in 1-1.e. In the Proposal, MCP describes that a nurse reviews the NICU report to identify parents who may need services. In the protest letter, MCP states that the NICU report is provided by hospitals, but this information was not provided in the Proposal itself. Based on the statement in the Proposal that a MCP case manager reviews this report, the point for this activity was awarded under 1-1.c. Finally, reports from AHCCCS and the RBHA are reports of members already identified as needing behavioral health services. This activity would not have been awarded a point under any of the criteria as the members are already identified.

Mercy Care's Appeal: The Procurement Officer's Decision withholds one point under this criterion because "this information [that the NICU report is provided by hospitals outside the Mercy Care Organization] was not provided in the proposal itself." The Procurement Officer's Decision in this regard is incorrect. A subject matter expert would know that NICU reports are provided by the hospitals. In any case, AHCCCS and RBHAs are "external" to the Plan and, therefore, it is reasonable for Mercy Care to report them as outside sources. In addition, Mercy Care's response on page 213 notes the use of additional entities outside of the health plan, in particular the PCPs and OB/GYNs: "We also identify members with behavioral health needs if the PCP seeks our assistance in making an appropriate referral, when the member or the member's family/guardian discusses behavioral health concerns with the PCP." Further, in the same paragraph we illustrated how these providers are supported in making identification and referral, as indicated in the following sentence: "To promote early identification of these members, we provide PCPs with information and technical assistance during new provider orientation and routine on-site visits by provider services representatives as well as in our provider newsletter and provider manual," Mercy Care also specified that members and member's families are an additional source of referral. On page 212, Mercy Care describes that: "MCP member services representatives (MSR) often have the first contact with members. At times, the member or the member's family/guardian calling the MSR self-identify as having behavioral health needs and request assistance in obtaining services."

**Program - Medical Management**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
2-5	5. Ineffective interventions were modified or suspended when necessary.	The Offeror did not cite any ineffective interventions.	[None]

Mercy Care’s Protest of the Scoring Error: The Scoring Team commented that the Proposal does not cite any ineffective interventions. This is mistaken. On pages 168-169, Mercy Care describes changes it made to its comprehensive preferred drug list as a result of monitoring conducted by its medical and pharmacy management staff. The following passage from page 169 of the Proposal illustrates an ineffective intervention (the removal of the prior authorization requirement for certain prescriptions) that was later modified (the step therapy program):

Typically, the first line standard of care for heartburn, gastroesophageal reflux disease (GERD) or ulcers is histamine2-receptor antagonist (H2RA). For many years MCP had required prior authorization for the use of proton pump inhibitors (PPIs) for heartburn, GERD or ulcers but after reviewing prior authorization requests *we removed the prior authorization requirement* as most requests were appropriate and being approved. *After the requirement was removed, one particular PPI became the most highly utilized and costly drug, with H2RAs no longer being utilized as a first line standard of care.* To manage the appropriate use of PPIs and minimize the prior authorization requirements for the provider, *MCP put in place the following step therapy program:* 1) member must have tried and failed a compliant regimen of standard dosages of H2RAs for two consecutive months, at which time they can automatically move to over the counter Prilosec; 2) if the member does not respond to a compliant regimen of Prilosec they can then move on to the next preferred PPI, Protonix; and 3) exceptions to the process are allowed with documentation of member specific individual care needs or contraindications for medications in the first two steps.

The PPIs now account for about 25 percent of the medications for heartburn, GERD or ulcers. [(emphasis added)]

The Scoring Team's failure to consider removal of the prior authorization requirement as an ineffective intervention resulted in a scoring error under this criterion.

Procurement Officer's Decision: Upon reading the submission, it is clear that the removal of the prior authorization requirement for histamine2-receptor antagonists (H2RA) is not in response to an identified problem requiring an intervention. Rather, this action caused the problem of over utilization of these medications. The intervention described in this section is the introduction of a step therapy program. This intervention was effective, and therefore MCP did not meet the evaluation criteria.

Mercy Care's Appeal: While the intervention was effective, it resulted in over utilization of medication. Mercy Care took action to reduce over utilization while still maintaining quality of care. In any case, pages 167-68 provide several adequate examples which meet the intent of the question.

As for the example cited in the Protest, it demonstrated how the analysis of data from pharmacy prior authorization decisions resulted in programmatic change, followed reassessment (further data analysis) of the resulting new process. H2Ras are effective clinically and are cost-effective and, as such, are routinely prescribed as front line therapy with progression to PPIs after a failure to control symptoms following a reasonable trial. During the period of time that H2Ras required prior authorization, monitoring of the data and subsequent decisions revealed that prescribing physicians were adhering to accepted standards or guidelines for their use—and, therefore, most requests were routinely being approved. Based on this assessment, it was determined that the administrative burden for both the prescribing physician and the plan could be reduced by appropriately removing the PA requirement, thus streamlining the process. Monitoring of requests continued after the PA requirement was removed, revealing that prescribing physicians had migrated to a practice of initiating therapy at the level of the PPI. While these medications are very effective at controlling symptoms, they are not cost-effective as a front line therapy and it is reasonable to reserve their use after a trial of H2Ras. Assessment and analysis of this data resulted in the decision to reinstate the PA requirement—changing provider practice, assuring cost effective medications without negatively impacting members. In addition, this example clearly indicates Mercy Care's use and commitment to the Plan, Do, Study, Act cycle.

**Network - Provider Network Management & Development**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
8-2	2. Are changes made to the network to accommodate the needs of special populations?	8.2. No mention of changing network to accommodate special populations.	The Offeror's response does not specifically reference special needs or case management involvement in gap identification.

Mercy Care's Protest of the Scoring Error: Based on the page numbers listed in the Offeror Reference field of the Acute RFP Evaluation Tool worksheet, it is clear that the Scoring Team did not consider pages 67-68 of the Proposal when scoring this criterion. On pages 67-68 of the Proposal, Mercy Care details how it has contracted with providers in order to offer specialized services to special populations, including, among others, providers with expertise in caring for homeless members, members in border communities, and members with Acquired Immunosuppressant Deficiency Syndrome. Additionally, the Proposal states that "MCP has and continues to enhance the network for other special needs members." [page 68] Undoubtedly, had the Scoring Team considered pages 67-68 when scoring this criterion, it would have awarded Mercy Care a point.

Furthermore, the Proposal notes on page 106 that "[e]mployees also work informally to *resolve accessibility issues or network gaps* that require immediate intervention ... For example, employees from medical management, quality management, or member services may identify gaps during routine activities. When this occurs, these employees work with our contract specialists to identify alternative contracted providers. If none are immediately available, medical management employees authorize and coordinate care to nonparticipating providers and report network needs to the network development/contracting department for follow-up."

Given the description of Mercy Care's efforts to serve special populations, as well as their efforts to resolve accessibility issues and network gaps, the Proposal adequately addresses this criterion, and the Scoring Team erred when it failed to award a point.

Procurement Officer's Decision: MCP cites a response to another submission requirement as addressing this issue, and as previously stated, only the response to the specific submission requirement was evaluated.

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Mercy Care’s Appeal: It may be reasonably assumed that if efforts are made to accommodate the general population, they are also made to accommodate a special needs population. Regardless, in response to this question, Mercy Care’s Proposal clearly referenced its “Network Management Plan.” This Plan includes a comprehensive program for special needs members, including efforts to accommodate the network needs of a special needs population. As discussed above, the RFP page restrictions do not give the Procurement Officer license to ignore portions of the Proposal or read responses out of context. Since Mercy Care’s Network Management Plan provides accommodation for special needs members, Mercy Care should be awarded a point under this criterion.

**Network - Provider Network Management & Development**

Submission Number - Evaluation Criteria	Evaluation Criteria	Scoring Team Comments	Scoring Team Clarification/Consensus
8-5e	General Claim inquiry/issues	8.5e. No mention of general claim inquiry	Offeror reference to provider complaint and claim dispute does not address informal general inquiry.

Mercy Care’s Protest of the Scoring Error: Receiving, documenting, trending, and development and monitoring of quality improvement initiatives related to claims inquiry is addressed on pages 102-105 of the Proposal.

Procurement Officer’s Decision: Pages 102-104 are in response to another submission requirement, and as previously stated, only the response to the specific submission requirement was evaluated.

Mercy Care’s Appeal: The Decision revealed the extent to which it was undisclosed to bidders that they should address “claims inquiries” as part of the Network Monitoring program. Because claims “inquiry” questions are just that, inquiries, they are not part of the process to “manage and improve the network.” Mercy Care was evaluated against unknown criteria. Furthermore, it is reasonable that claims inquiries would not be addressed in this question as they were specifically addressed in question 7 under “provider inquiries.”

