

Second Motion to Compel and for Sanctions on May 22, 2002. The defendants have responded and the motions are ripe for decision.²

It appears that during discovery Trigon objected to certain interrogatories and a request for production of documents propounded by the plaintiffs. The parties had telephone conferences regarding the objections to discovery requests and memorialized their understanding of the scope of discovery in three letters. Trigon then provided the agreed upon information. Thereafter, the plaintiffs filed the present motion seeking an order compelling Trigon to supplement its responses.

The first issue of the motion relates to Plaintiffs' Interrogatory 3, which requests information regarding medical doctors who are employed by Trigon. After Trigon provided the plaintiffs with the information agreed upon by the parties, the plaintiffs now wish Trigon to supply the "number of medical doctors who hold any position, office, job, duty, or consultation position" with Trigon. Trigon objects to this additional request on the basis that it is irrelevant.

The next issue relates to Plaintiffs' Interrogatory 7, which asks Trigon to supply CPT codes under which Trigon pays any limited license providers less than medical doctors. Trigon objected to this request as over broad, unduly burdensome, oppressive

² I will dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not significantly aid the decisional process.

and irrelevant. Although Trigon provided the plaintiffs with all responsive information in the physical medicine area, of which chiropractors are a part, the plaintiffs seek to compel CPT codes under which Trigon pays any limited license provider less than medical doctors regardless of the area of practice.

The third issue in plaintiffs' motion deals with Plaintiffs' Request for Production of Documents 1, which requests any documents dealing with Trigon's \$500 payment limit for spinal manipulation. Trigon objected to this request as unduly burdensome and irrelevant, but pursuant to the parties' negotiations did provide claims and payment documents that related to the named plaintiffs. In addition, Trigon produced a CD-ROM containing all transactional data that relates to payments to chiropractors in Trigon's network.

The final issue in plaintiffs' motion relates to the production of all computer readable documents that are responsive to plaintiffs' requests for documents. Trigon initially objected to duplicative production of computer readable documents that had previously been supplied in hard form, but later supplied the plaintiffs with diskettes containing such information.

The plaintiffs' supplemented and amended motion renews their previous arguments and adds several others. A majority of the additional arguments spring from a deposition taken by the plaintiffs of J. Lawrence Colley, M.D., a former executive of

Trigon. The plaintiffs assert that Colley and another Trigon executive, Drodowski, were insufficiently prepared for their depositions; that Trigon misrepresented that Colley was involved with Trigon's Provider Policy Committee when he was not; that Colley's testimony shows that Trigon incorrectly answered some of the plaintiffs' discovery requests; and that Colley destroyed documents to hinder this case.³

As a remedy for these alleged transgressions, the plaintiffs seek to compel Trigon to provide another designated corporate witness for deposition and request sanctions against Trigon for failure to obey this court's previous order regarding discovery, as well as for its failure to provide a proper corporate witness to be deposed.

In response, Trigon renews its previous objections and argues that the plaintiffs deposed Colley on all topics contained in the notice of deposition, that Colley has produced relevant documents, and denies any destruction of evidence. In addition, Trigon explains that while it made a mistake in its initial disclosure to the effect that Colley was involved with the Provider Policy Committee, that the mistake has been corrected, and it did not prejudice the plaintiffs. Finally, Trigon argues that it did

³ The plaintiffs also complain that Trigon produced copies of other insurance companies' policies relating to chiropractors after they had previously denied that Trigon had any such documents. In addition, they complain that Trigon recently identified eight employees who have information about Trigon's fee schedules and relationships with chiropractors and medical doctors. However, the plaintiffs have not requested any specific relief in relation to these complaints.

properly respond to the plaintiffs' interrogatories and Colley's deposition was consistent with those responses.

The plaintiffs replied to Trigon's response and renewed their previous arguments. Due to Trigon's "stonewalling," the plaintiffs now request that the discovery period be extended for six months. In addition, the plaintiffs seek to compel Trigon to answer all previous interrogatories giving information from 1988 to the present, explain why no chiropractors were consulted before Trigon released its low back pain guide, and identify the medical doctors who endorsed Colley's version of the Agency for Healthcare Policy and Research ("AHCPR") guidelines.

After careful consideration of the record and the respective arguments, I will deny the plaintiffs' motions because I find that Trigon has provided responsive information to the plaintiffs' relevant discovery requests, and any mistakes on Trigon's part have not caused prejudice.

First, as to Plaintiffs' Interrogatory 3, pursuant to the parties' agreement, Trigon provided several names and information regarding medical doctors who served on the Board of Directors and Provider Policy Committee, and any other medical doctor who had responsibility concerning chiropractic policies. The plaintiffs' additional request

of the number of medical doctors, including those with no relation to chiropractors, who hold duties with Trigon, is irrelevant to the present case.⁴

Plaintiffs' Interrogatory 7 requests CPT codes under which Trigon pays any limited license provider less than chiropractors. Trigon provided all such information concerning chiropractors, medical doctors and other providers involved in the physical medicine area. Additional information from all practice areas is over broad and irrelevant to the issues in this case.

The parties also had discussions concerning Plaintiffs' Request for Production of Documents 1, in which the plaintiffs requested information related to a \$500 payment cap for spinal manipulations. According to the parties' agreement, Trigon provided all such information pertaining to the named plaintiffs. Later, the plaintiffs requested data concerning insured persons who had reached the \$500 cap and Trigon provided that information. After the plaintiffs served the present motions, Trigon produced a database containing all transactional information pertaining to chiropractors and any other providers of spinal manipulation services. In addition, Trigon has produced on diskette all documents previously provided in hard copy. Therefore,

⁴ "Parties may obtain discovery regarding any matter, not privileged, that is relevant to the claim . . . of any party. . . ." Fed. R. Civ. P. 26(b)(1).

Trigon has adequately supplied the plaintiffs with information responsive to Plaintiffs' Request for Production of Documents 1 and other "computer readable" documents.

I find the plaintiffs' remaining arguments concerning Colley without merit. On June 21, 2002, I granted Trigon's motion for protective order to prohibit notice of additional Rule 30(b)(6) depositions of Trigon, except for a limited deposition as to documents not previously discussed. Because the plaintiffs have undertaken two depositions of Trigon's representatives and inquired as to the noticed matters at that time, I denied the plaintiffs' motion for additional depositions. Likewise, I deny the plaintiffs' motion for sanctions as to the deponents' preparation before previous depositions. Trigon has produced all of Colley's documents that relate to chiropractors and I find that other documents are not relevant to this case.

I will deny the request for sanctions because I find no evidence that Trigon has destroyed documents in anticipation of this litigation, and Trigon adequately responded to Plaintiffs' Interrogatory 9(b) and Request for Admission 5.

While Trigon incorrectly stated in its initial disclosures that Colley was a member of the Provider Policy Committee, it corrected this mistake before the close of the discovery period. In addition, Trigon had previously provided the identity of additional parties who were on the committee, who the plaintiffs have not deposed. Thus, the plaintiffs have not been prejudiced by this mistake.

As I have previously ruled,⁵ the plaintiffs have reached their limit of allowable interrogatories. Thus, Trigon need not answer the plaintiff's questions regarding Trigon's low back pain guide and Colley's version of the AHCPR guidelines.

I also deny the plaintiffs' request to extend the discovery period and hence discovery will proceed according to the previously entered scheduling order.

For all of these reasons, it is **ORDERED** that the plaintiffs' motions to compel [Doc. Nos. 77, 82] are denied.

ENTER: June 26, 2002

United States District Judge

⁵ See *Am. Chiropractic Assoc. v. Trigon Healthcare, Inc.*, 2002 WL 534459, at *2.