

IN THE COURT OF COMMON PLEAS  
CUYAHOGA COUNTY, OHIO

TRACY ANN SMITH, )  
ADMINISTRATRIX, etc., )  
Plaintiffs, )  
vs ) Case No. 327828  
UNIVERSITY HOSPITALS OF ) Judge Fuerst  
CLEVELAND, et al., )  
Defendants. )

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DEPOSITION OF KELLY STED  
TUESDAY, DECEMBER 21, 1999

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The deposition of KELLY STED, the Witness herein, called by counsel on behalf of the Defendants for examination under the statute, taken before me, Vivian L. Gordon, a Registered Diplomate Reporter and Notary Public in and for the State of Ohio, pursuant to issuance of subpoena and notice, at the offices of QualChoice Health Plan, 6000 Parkland Boulevard, Mayfield Heights, Ohio, commencing at 9:30 o'clock a.m. on the day and date above set forth.

APPEARANCES:

On behalf of the Plaintiff

Becker & Mishkind

BY: JEANNE M. TOSTI, ESQ.

Skylight Office Tower Suite 660

Cleveland, Ohio 44113

On behalf of the Defendant University Hospitals

Moscarino & Treu

BY: PATRICIA CASEY CUTHBERTSON, ESQ.

630 Hanna Building

Cleveland, Ohio 44115

On behalf of the Witness

BY: GAYE ADAMS MASSEY, ESQ.

QualChoice Health Plan

6000 Parkland Boulevard

Mayfield Heights, Ohio 44124

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2 (Thereupon, STED Deposition  
3 Exhibits A thru D were marked for  
4 purposes of identification.)

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6 KELLY STED, a witness herein, called for  
7 examination, as provided by the Ohio Rules of  
8 Civil Procedure, being by me first duly sworn, as  
9 hereinafter certified, was deposed and said as  
10 follows:

11 EXAMINATION OF KELLY STED

12 BY-MS. CUTHBERTSON:

13 Q. Ms. Sted, my name is Patti Cuthbertson  
14 and I represent University Hospitals of Cleveland  
15 in a lawsuit brought by the family of Patricia  
16 Ann Smith against the hospital and several  
17 attending physicians. We are here today pursuant  
18 to a notice and subpoena duces tecum.

19 Let me ask you to do this. You told  
20 me previously that you haven't been deposed  
21 before. It's a question and answer session. You  
22 need to answer orally so the court reporter can  
23 take down your answers. But any time I do not  
24 make myself clear or you don't understand the  
25 question, please let me know or otherwise when

1 you answer, I will assume that you understood.

2 If you need to take a break, please  
3 let me know and we can do that. If at any time  
4 you need to look at any of the documents produced  
5 to me, please feel free to do so.

6 A. All right.

7 Q. Please state your name, spelling it  
8 for the court reporter.

9 A. Kelly Ann Sted. K-E-L-L-Y, A-N-N,  
10 S-T-E-D.

11 Q. And what is your current work address?

12 A. 6000 Parkland Boulevard, Mayfield  
13 Heights, 44124.

14 Q. And what is your home address, please?

15 A. 3209 Lucerne L-U-C-E-R-N-E Avenue,  
16 that's Parma, 44134.

17 Q. Tell me what your current position is  
18 and who your employer is.

19 A. Manager of enrollment at QualChoice  
20 Health Plan.

21 Q. How long have you held that position?

22 A. 8-1/2 years. Well, that position,  
23 September of '98 I became the manager. Prior to  
24 that I was supervisor.

25 Q. Supervisor of enrollment?

1           A.       Of enrollment.

2           Q.       How long did you hold that position?

3           A.       I am going to guess here. It's been a  
4 couple years. It was a couple years prior to me  
5 becoming a manager.

6           Q.       I don't want you to guess. If at any  
7 time during the deposition you are not sure of an  
8 answer, or you don't know, just tell me that you  
9 don't know.

10          A.       Okay. I am not sure of the time  
11 period I was supervisor.

12          Q.       How long have you been with  
13 QualChoice?

14          A.       8-1/2 years. August of '91.

15          Q.       Tell me what are your responsibilities  
16 as a manager of enrollment.

17          A.       To oversee the member maintenance  
18 activities, the addition, deletion, any  
19 activities having to do with membership  
20 maintenance, as well as group and billing  
21 activities, COBRA administration, Medicare and  
22 Medicaid maintenance.

23          Q.       During the time period 1994, 1995,  
24 what was your title at that point and what were  
25 your responsibilities?

1           A.       I'm not sure I remember what title I  
2       had at that time. I was still in the enrollment  
3       department and would have been responsible at  
4       that time for actually performing member  
5       maintenance. So the addition of applications, et  
6       cetera.

7           Q.       Were you familiar with the various  
8       types of plans under which QualChoice enrollees  
9       could be insured?

10          A.       Yes.

11          Q.       Are you familiar with the  
12       documentation that needed to be completed by the  
13       enrollee and by QualChoice to make those plans  
14       work?

15          A.       Yes.

16          Q.       Are you familiar with the billing  
17       procedures then in terms of QualChoice and  
18       getting, you know, payments and bills taken care  
19       of?

20          A.       In regard to claims?

21          Q.       Yes.

22          A.       Not really, no.

23          Q.       Who would be responsible for that at  
24       that point in time?

25          A.       1994, again, I am not sure. I can't

1 remember.

2 Q. Let me go ahead and show you what's  
3 marked as Defendant's Exhibit A. I will ask you  
4 to take a look at that document and tell me if  
5 you have seen it before?

6 A. No.

7 Q. At any time prior to this deposition  
8 within the last six or eight weeks, did you  
9 receive any legal papers?

10 A. In regard to this case?

11 Q. Yes.

12 A. No.

13 Q. How did you become aware that your  
14 deposition was requested for today?

15 A. Gaye and I worked together.

16 Q. A number of documents were requested  
17 in the duces tecum. Have you been involved in  
18 gathering documents to be produced to us today?

19 A. Yes.

20 Q. Did you have a chance to -- strike  
21 that.

22 Did you review anything in preparation  
23 for today's deposition?

24 A. In regard to the documents?

25 Q. Yes.

1           A.       Yes, to make sure that they were  
2       applicable to this case in that time period.

3           Q.       Can you tell me what documents you  
4       reviewed?

5           A.       The provider directory from April of  
6       '94, as well as the addendum from, I believe,  
7       May of '94.

8           Q.       Anything else?

9           A.       The certificate of coverage for that  
10      period of time.

11          Q.       Were you able to locate any documents,  
12      such as the application or enrollment form for  
13      the decedent in this case, Patricia Ann Smith?

14          A.       No.

15          Q.       At the time period we have been  
16      talking about, 1994, '95, would there be any  
17      documents other than an enrollment form which  
18      would be submitted by an enrollee to QualChoice?

19          A.       **No.** For the purpose of enrolling with  
20      us?

21          Q.       Yes.

22          A.       No.

23          Q.       I was provided with a number of  
24      documents pursuant to the duces tecum. Why don't  
25      I have you first identify the documents that were



1 produced.

2 I am going to hand you what we have  
3 marked as Defendant's Exhibit B. I will ask you  
4 to take a look at that and identify that document  
5 for us.

6 A. This is a certificate of coverage from  
7 approval date 1993, and this was in effect at the  
8 time Mrs. Smith came on.

9 Q. So this would have been in effect as  
10 of what date?

11 A. It was approved in -- I believe that's  
12 the approval day.

13 THE WITNESS: Gaye, confirm that.

14 MS. ADAMS MASSEY: Yes.

15 A. January '93, and it was in effect at  
16 the time of her enrollment in May of '94.

17 Q. Did these certificates of coverage  
18 change during the time period Ms. Smith was  
19 enrolled through late 1995?

20 A. I can't answer that, I don't know.

21 Q. How would I find out if I wanted to  
22 know whether that changed?

23 A. I suppose we would have to check with  
24 someone in the benefits area here. I don't know  
25 if I can give you the best person that would be.

1 Q. But someone in the area of benefits is  
2 who I would need to make inquiry with.

3 Let me hand you what is marked --

4 A. Again, I am guessing on that. I am  
5 not sure about the person.

6 Q. Okay, that's fine. Let me hand you  
7 what we have marked as Exhibit C and I would ask  
8 you to identify that document for us.

9 A. This is an addendum to the provider  
10 directory to show any additions, changes, status  
11 changes, deletions.

12 Q. Do you know the time period in which  
13 that document would have been in effect?

14 A. May of '94.

15 Q. Until when?

16 A. I don't recall how often they were  
17 sending them out back then.

18 Q. Okay. And finally, I will hand you  
19 what's marked as Defendant's Exhibit D and ask  
20 you to identify that as well.

21 A. This is the full directory of medical  
22 providers for the time period April of '94.

23 Q. There is some handwritten notations on  
24 the front. It's 4-1-94. Is that your writing?

25 A. Actually it's the writing of someone

1 who was formerly in the department.

2 Q. Who is that?

3 A. Valerie Fosnight.

4 Q. Could you spell that name, please?

5 A. F-O-S-N-I-G-H-T.

6 Q. But it's your understanding that that  
7 directory was in effect as of April 1, 1994?

8 A. Yes.

9 Q. I am going ahead and at least walk  
10 through the duces tecum with you, and I am going  
11 to hand you Exhibit A back.

12 With respect to sub A, are there any  
13 documents that you are aware of that would be  
14 responsive to that request?

15 A. No.

16 Q. Are those documents, such as the  
17 bills, explanation of benefits, purged after a  
18 period of time?

19 A. That, I don't know.

20 Q. Are you aware of whether those  
21 documents such as billing statements are retained  
22 for any period of time?

23 A. I don't know.

24 Q. On sub B, that was a request for any  
25 third-party payments, third-party request for

1 payments made by the Family Practice Center.

2 Are you aware of whether there are any  
3 documents responsive to that request?

4 A. No.

5 Q. If I wanted to make further inquiry  
6 and find out how long billing statements are  
7 retained, for example, is there a particular  
8 person or department that I would direct that  
9 request to?

10 A. In regard to claims?

11 Q. Yes. And payments.

12 A. I would think our claims manager  
13 currently might be able to answer that. I am  
14 guessing.

15 Q. How long, if you know, are the  
16 enrollee application forms maintained now?

17 A. We keep them on site until they  
18 terminate. We then keep them for three months in  
19 case there is a COBRA election, and then they are  
20 sent off site. And off site they are kept, I am  
21 not even sure how long.

22 Q. And am I using the correct  
23 terminology? It's called an enrollee --

24 A. Applications.

25 Q. -- application.

1           A.       Actually I believe we call them  
2       enrollment applications, to be specific.

3           Q.       Did you call them enrollment  
4       applications back in '94 and '95? The same  
5       terminology?

6           A.       Yes.

7           Q.       And as far as we know, there are no  
8       documents responsive to sub C?

9           A.       **No.**

10          Q.       Let me ask you another question.

11                    When a participating physician or a  
12       network provider departs the locality or no  
13       longer chooses to be a provider, in 1994, '95,  
14       was information sent to an enrollee informing  
15       them of that?

16          A.       That a provider had left our network;  
17       that there was a change?

18          Q.       Yes.

19          A.       Again, in the addendums, it lists --  
20       let's see if the actual section is correct here.  
21       I don't know how it was worded.

22                    It indicates physician, additions,  
23       address changes, status changes, and deletions in  
24       these addendums. And again, I am not sure how  
25       often they were sent out back in '94 or '95, if

1 it was quarterly, I don't know. **So** those kind of  
2 changes were updated in here, and if physicians  
3 left the network, letters were sent to the  
4 members indicating such, giving them an  
5 opportunity to choose someone else.

6 That also applied if a physician  
7 changed addresses, would not be within a certain  
8 group any longer or at a certain address or  
9 affiliated with a certain facility; again, giving  
10 them a chance to chose another provider.

11 Q. Do you know whether the letters such  
12 as you have described would be maintained by  
13 QualChoice for any period of time?

14 A. I couldn't say that for certain. It's  
15 possible.

16 Q. And then in terms of sub E, **F**, G and  
17 H, I think we have discussed all the documents  
18 that would be potentially responsive to those  
19 requests and there is none other than what have  
20 been produced here today?

21 A. No.

22 Q. Would there be any other documents  
23 other than billing statements that we have  
24 discussed, registration forms, or the enrollment  
25 application particular to an enrollee such as

1 Patricia Ann Smith that would be maintained now  
2 several years after she was no longer a  
3 QualChoice insured?

4 A. Not that I can think of.

5 Q. Tell me what period of time Ms. Smith  
6 was a QualChoice insured.

7 A. From May **of** '94 through November **of**  
8 '95.

9 Q. In following up on an early question,  
10 we talked about whether there would be any other  
11 documents available relative to **Ms.** Smith. Would  
12 there be any other computer stored information  
13 regarding Ms. Smith; billing statements,  
14 registration forms, consultants, anything like  
15 that?

16 A. None of those forms would be on line,  
17 no.

18 Q. Is there any document that  
19 corroborates the time period in which she was a  
20 QualChoice insured?

21 A. Those dates?

22 Q. Yes.

23 A. Basically just using the on line  
24 history of her enrollment record.

25 Q. What is included in the on line

1 history of her enrollment record?

2 A. Basically her -- what is the word I am  
3 looking for -- the demographic information, her  
4 name, address, date of birth, ID number. The  
5 physician, group number, which would include  
6 information regarding the type of plan she had.

7 Q. Can that --

8 A. I'm sorry.

9 Q. No, go ahead.

10 A. The dates that her policy were entered  
11 into the system, certain information.

12 Q. Can that be printed off the computer?

13 A. I don't know. Can it be? Yes.

14 Q. Is the ability there?

15 A. Yes, the ability is there.

16 Q. That's the first question.

17 A. Yes.

18 Q. Okay.

19 MS. CUTHBERTSON: Off the record.

20 (Thereupon, a discussion was had off  
21 the record.)

22 Q. Are you familiar, do you know the type  
23 of plan under which Ms. Smith was covered? Does  
24 it have a particular name?

25 A. It was marketed as a point of service



1 plan.

2 Q. And was that the plan under which she  
3 was covered during the entire time she was a  
4 QualChoice enrollee?

5 A. Yes.

6 Q. Is that the correct terminology;  
7 QualChoice enrollee or QualChoice insured?

8 A. QualChoice enrollee or insured. We  
9 refer to them as enrollees.

10 Q. And that was an employer group  
11 sponsored plan?

12 A. Yes, it was a group plan.

13 Q. I am going to go ahead and hand you  
14 what's been marked as Defendant's Exhibit B. You  
15 have already identified that for us as the  
16 certificate of coverage. Is this a true and  
17 correct copy of the certificate of coverage that  
18 would have been applicable to Ms. Smith?

19 A. Yes.

20 Q. Were there other documents provided  
21 other than what we have marked as exhibits --  
22 strike that.

23 What documents were provided to  
24 enrollees just prior to or at the time of  
25 enrollment with respect to the QualChoice

1 coverage?

2 A. In addition to the certificate of  
3 coverage, and the provider directory, there would  
4 have been a schedule of benefits at that time.  
5 Any other information that might have been input  
6 at that time, I don't recall. But those are the  
7 primary pieces that I am sure of.

8 Q. Is there some accompanying information  
9 or instructions for the enrollee to complete the  
10 enrollment form?

11 A. That would have been given to them  
12 from their employer. We wouldn't have sent those  
13 documents until after they were enrolled with us.

14 Q. Is that a document that QualChoice  
15 would have provided to the employer for  
16 distribution?

17 A. The certificate?

18 Q. No, the registration form.

19 A. We provide them the stock, right.

20 Q. What is the schedule of benefits?

21 A. That outlines the different co-pays,  
22 out-of-pocket co-insurance amounts for a specific  
23 plan, for a specific group.

24 Q. Were you able to locate the document  
25 that would have been in effect under which **Ms.**

1 Smith was covered?

2 A. No.

3 Q. Do you know if back in 1994 whether  
4 QualChoice would have sent a representative to  
5 Cleveland Board of Education, for example, Ms.  
6 Smith's employer, to give information to  
7 employees about the QualChoice plan?

8 A. I don't know.

9 Q. Who at QualChoice would be the person  
10 that might know the answer to that question?

11 A. I think someone in marketing.

12 Q. Just tell me briefly, what is included  
13 in that certificate of coverage? What does it  
14 tell them?

15 A. Everything. Eligibility and effective  
16 date. Continuation of coverage in regard to  
17 COBRA, things like that. How your plan works.  
18 Medical services, hospital care.

19 It goes into mental health and  
20 substance abuse, hospice, transplant, admissions  
21 by out of network physicians, case management,  
22 exclusions, coordination of benefits, Medicare  
23 and your coverage, grievances and appeals,  
24 subrogation, and miscellaneous provisions, and  
25 then there is a definition section.

1 Q. Is there basically a textbook or  
2 reference, if you will, for the enrollee?

3 A. Yes.

4 Q. About what their plan covers?

5 A. It doesn't go into amounts. This is  
6 not group specific, whereas the schedule I  
7 referred to would be more group specific, but  
8 this will go into how a point of service plan  
9 works.

10 Q. And in some respects, what the  
11 enrollee's rights and responsibilities are under  
12 the plan?

13 A. Yes.

14 Q. Does every enrollee have to select a  
15 primary care physician?

16 A. For this point of service plan, no.

17 Q. In order to receive the highest level  
18 of benefits, must an enrollee select a primary  
19 care physician?

20 A. Yes.

21 Q. And must that physician be a  
22 participating provider?

23 A. Yes.

24 Q. Why don't you tell me what is a  
25 primary care physician, as QualChoice defines

1 it.

2 A. As we would define it in the case of  
3 someone over the age of 18, it would be either a  
4 family practice or an internal medicine provider,  
5 as described in the directory of providers, who  
6 manages the care **of** an enrollee and develops a  
7 relationship with that enrollee.

8 Q. Are you familiar -- strike that.

9 Now, the primary care physicians are  
10 not employees of QualChoice?

11 A. No.

12 Q. They have a contractual arrangement,  
13 if you will, with QualChoice to provide certain  
14 kinds of covered services?

15 A. I believe so.

16 Q. Are you --

17 A. I am not at all affiliated with the  
18 provider relations area.

19 Q. Would that question be better answered  
20 by someone other than yourself?

21 A. Yes.

22 Q. And that would be someone in provider  
23 relations?

24 A. Yes.

25 Q. In the certificate of coverage,

1 physicians who are in-network physicians are  
2 described as privately practicing physicians.  
3 What is your understanding of what that means?

4 A. I don't know that I have one.

5 Q. That's fine.

6 I think what you told me is that  
7 enrollees are not limited to in-network primary  
8 care physicians; they can choose an out of  
9 network physician; is that right?

10 A. Yes, that's correct.

11 Q. In order to get the various level of  
12 benefits, you need to choose that in-network  
13 physician?

14 A. Right. There are three levels of  
15 benefits with the point of service plan. If you  
16 select an in-network primary care physician  
17 manager and allow him or her to manage your care  
18 and get services through that provider, that's  
19 option one, highest level of benefits.

20 Option two means you still see someone  
21 in the network, although you don't necessarily  
22 claim him as your primary care physician. Option  
23 two, which means probably a higher co-pay,  
24 probably a higher co-insurance.

25 Option three means you access care out

1 of network. Again, even higher amounts are going  
2 to be paid per visit, but you still have a  
3 benefit provided.

4 Q. Does the enrollee have to indicate  
5 their primary care physician on their enrollment  
6 application?

7 A. That's one way to select a provider,  
8 yes.

9 Q. How else would an enrollee be able to  
10 select a provider?

11 A. They can send something under separate  
12 cover in writing at a later date. They can call  
13 our customer service line, or they can do it  
14 through their group who then would contact  
15 enrollment or customer service to update that  
16 information.

17 Q. And those were the ways to do it back  
18 in 1994?

19 A. Yes.

20 Q. Is an enrollee who has dependents  
21 required to choose a primary care physician for  
22 those dependents?

23 A. Not under a point of service plan, no.

24 Q. If the dependents -- strike that.

25 If the enrollee wanted the dependents

1 to receive the option one level of coverage,  
2 would the enrollee have to choose a primary  
3 relationship care physician in-network?

4 A. Yes.

5 Q. For the dependents?

6 A. Right.

7 Q. Ms. Smith had two dependent children,  
8 one named Asia and one named Andrea.

9 Have you made inquiry as to whether  
10 the enrollment forms for those minor children are  
11 still available?

12 A. If there are dependents on her policy,  
13 they would have been listed on her enrollee  
14 form. They wouldn't have their own.

15 Q. Again, the whole point of this plan  
16 with the three levels of benefits is that the  
17 enrollee has the option to choose not only the  
18 level of benefits, but to choose the provider of  
19 those benefits?

20 A. Correct.

21 Q. I'm sorry, those services?

22 A. Correct.

23 Q. Can an enrollee change their primary  
24 care physician?

25 A. Yes.



1           Q.       And back in 1994, 1995, if an enrollee  
2       wanted to change their PCP -- I will use the  
3       shorthand -- what did they need or what option  
4       did they have to accomplish that?

5           A.       The same as we discussed. In writing  
6       or via phone.

7           Q.       If there was a telephone change, did  
8       the enrollee have to sign something authorizing  
9       or confirming that change?

10          A.       No. Not to my memory, at least.

11          Q.       Is there someone else who might be  
12       better able to answer that question?

13          A.       If there is, I can't think. Possibly  
14       provider relations or maintenance, again.

15          Q.       I will go ahead and show you what's  
16       marked as Exhibit D.

17                    Tell me, again, how does the provider  
18       directory get to the enrollee? What are the  
19       mechanisms for that to reach the enrollee?

20          A.       Okay. I believe that it's provided to  
21       them by their employer, and they become a new  
22       employee. And at that time, we mailed them in  
23       the new packet, as well.

24          Q.       Mailed them to the employers?

25          A.       **To** the enrollees.

1 Q. Or to the enrollees?

2 A. Uh-huh.

3 Q. And you described something you called  
4 a new packet. What would be in the new packet of  
5 information?

6 A. Okay. And that's what we discussed  
7 earlier. The provider directory, the certificate  
8 of coverage, their ID cards, a schedule of  
9 benefits, and any accompanying riders, which, I  
10 don't know what applied at that time, and then  
11 there might be various other brochures, et  
12 cetera. And again, I don't know what would have  
13 been included for this particular group at that  
14 time.

15 Q. Are you aware of whether in 1994, '95,  
16 there was a brochure that described selecting  
17 your PCP, changing your PCP, something other than  
18 these documents here, these exhibits we have  
19 referred to?

20 A. Outside of these, no. Not that I  
21 remember.

22 Q. You don't remember one? **Would** that be  
23 more the responsibility or purview of the  
24 marketing department?

25 A. Right.

1 Q. Would it be the expectation of  
2 QualChoice that enrollees would refer to the  
3 documents such as we have marked today as  
4 Exhibits B, C and D?

5 A. Oh, yes.

6 a. To obtain services, to choose a PCP,  
7 to change their PCP, to have described to them  
8 the level of benefits and other things?

9 A. Yes.

10 Q. And again, Exhibits B, C and D, are  
11 fair and accurate representations of what Ms.  
12 Smith would have received as an enrollee back in  
13 May of 1994?

14 A. Yes.

15 Q. Would you go ahead and take a look at  
16 pages 9 through 12, which are the family  
17 practitioners listed in Exhibit D.

18 Now, those practitioners are listed by  
19 individual physician, am I right?

20 A. Yes.

21 Q. The individual -- strike that.

22 There is no listing for the Family  
23 Practice Center at University Hospitals of  
24 Cleveland in your provider directory?

25 A. No.

1           Q.     The arrangements, I mean the providers  
2     are of the individual physicians only?

3           A.     Right.

4           Q.     Are you aware of whether any of these  
5     physicians are affiliated with QualChoice other  
6     than the fact that they have agreed to provide  
7     covered services?

8           A.     I am not sure I understand that.

9           Q.     I will rephrase it.

10                As far as you know, these various  
11     physicians listed here aren't employees or  
12     otherwise affiliated with QualChoice, are they?

13           A.     As far as I know, no.

14           Q.     Okay. Now, Dr. Michael Rowane is a  
15     family practitioner listed in Exhibit D. I  
16     wonder if you would turn to the page where Dr.  
17     Rowane's name appears. There is nothing under  
18     his name, is there, that identifies him **as** being  
19     a University Hospitals of Cleveland physician, is  
20     there?

21           A.     No.

22           Q.     It just says Michael Rowane, with his  
23     identification number and address?

24           A.     Yes. And phone number.

25           Q.     And phone number.

1                   He is not listed as part **of** any group  
2 practice, is he, like some of the others listed  
3 there?

4           A.       **No.**

5           Q.       Was it ever the practice of QualChoice  
6 to try to steer a patient to a particular  
7 physician or physician group?

8           A.       No.

9           Q.       Has it ever been the practice of  
10 QualChoice to do that?

11          A.       No.

12          Q.       **So** basically an enrollee who wants to  
13 receive the network highest level of benefits can  
14 go to any one **of** those family practitioners  
15 listed there?

16          A.       Yes.

17          Q.       Who is accepting new patients?

18          A.       Who is accepting new patients or who  
19 has accepted someone to be a new patient.

20          Q.       Okay. Now, in fact, back on page 81  
21 -- it's the very last page -- there is an  
22 important -- the page is captioned important  
23 notice, and that informs the enrollees that the  
24 selection **of** provider is solely their  
25 responsibility; is that right?

1 Take your time to read it.

2 (Pause.)

3 A. Yes.

4 Q. So QualChoice doesn't select the PCP  
5 for the enrollees?

6 A. No, not for a point of service.

7 Q. If a patient -- or strike that.  
8 If an enrollee was to stay, for  
9 example, they wanted to change primary care  
10 practitioners, would you be the person that would  
11 receive those kinds of questions or inquiries  
12 regarding that?

13 A. Myself, customer service possibly.

14 Q. Was that true back in '94, '95?

15 A. Yes.

16 Q. Do you ever recall back in that time  
17 frame, or really to today, ever receiving any  
18 complaint from a QualChoice enrollee that they  
19 were not given a choice of PCP and were assigned  
20 to a physician?

21 A. Not for a point of service plan.

22 Q. I think I know the answer, but with  
23 respect to Ms. Smith, you don't ever remember  
24 receiving some phone call from her that she was  
25 assigned to a primary care practitioner, not

1 allowed to choose?

2 A. No.

3 Q. Would you keep in your possession,  
4 custody and control documents relative,  
5 complaints or telephone inquiries that you would  
6 get along the lines of the question I just asked?

7 A. They would have been kept with the  
8 enrollment application.

9 Q. And you didn't find any such document  
10 with respect to **Ms.** Smith?

11 A. No.

12 MS. CUTHBERTSON: Why don't you go  
13 ahead, Jeanne, and while you are doing that I  
14 will check my notes quick.

15 EXAMINATION OF KELLY STED

16 BY-MS. TOSTI:

17 Q. My name is Jeanne Tosti and I am here  
18 representing the plaintiff in this case.

19 Could you tell me what a point of  
20 service plan is? Just generally.

21 A. It outlines three options for  
22 accessing benefits. The first option one, which  
23 is the highest level benefits, is available to  
24 those people who not only name or select a  
25 primary care physician, but access services

1 through that primary care physician.

2 Q. Now, you discussed those before and I  
3 am just wondering, point of service, why that  
4 title is used.

5 I understand your previous  
6 descriptions of those three levels in selecting  
7 various in plan providers or out of plan  
8 providers, but what does point of service refer  
9 to?

10 A. I am not sure I can answer that for  
11 you. That was the marketed name of the plan that  
12 I described.

13 Q. Now, you have absolutely no records on  
14 Patricia Smith prior to May 1994; is that  
15 correct?

16 A. Prior to her enrolling with us?

17 Q. Yes.

18 A. No.

19 Q. So you have no knowledge or any  
20 documentation of what occurred in regard to her  
21 health care prior to that enrollment date;  
22 correct?

23 A. No.

24 Q. Do you know whether all of the  
25 physicians at the Family Practice Center at



1 University Hospital were QualChoice plan  
2 providers?

3 A. I don't know.

4 Q. Do you know how University Hospitals  
5 was organized in regard to how care was being  
6 provided at the Family Practice Center?

7 A. I don't.

8 Q. Now, the QualChoice plan required that  
9 the patients select a primary care physician;  
10 correct?

11 A. In order to achieve option one  
12 benefits.

13 Q. At the Family Practice Center, many  
14 times the care provided there was provided by  
15 resident physicians, attending physicians, nurse  
16 practitioners.

17 Did QualChoice pay the bills for all  
18 of those things? If there was a designated  
19 primary care physician on their enrollment form,  
20 but they in actuality were receiving care from a  
21 variety of people at the Family Practice Center,  
22 did QualChoice pay the bills for that?

23 A. I am not sure I can answer that. It's  
24 outside of the scope of enrollment.

25 Q. Who would answer that?

1           A.       I would think a claims person, but I  
2       am not sure.

3           Q.       Now, you indicated QualChoice had no  
4       responsibility for selecting a physician for the  
5       enrollees; correct?

6           A.       Correct.

7           Q.       But you really have no knowledge or  
8       documentation as to how the patients ended up  
9       selecting whoever they put on their enrollment  
10      form; correct?

11          A.       I'm sorry.

12          Q.       You have no knowledge or documentation  
13      as to the process or as to what went into a  
14      particular patient selecting a primary care  
15      physician; correct?

16          A.       As far as how to go about doing it?

17          Q.       As to how in a particular situation  
18      that enrollee selected that physician as a  
19      primary care physician? You don't know how that  
20      process occurred?

21          A.       I just know the end result. We ended  
22      up selecting.

23          Q.       You don't know whether that name was  
24      suggested to them?

25          A.       No.

1 Q. Or whether somebody said, you know,  
2 this is a good provider, or what the various  
3 factors were?

4 A. Correct.

5 Q. The only thing QualChoice has is a  
6 document from the enrollee that has a physician's  
7 name on it, and that physician is one of the  
8 physicians from the provider directory; correct?

9 A. Correct.

10 Q. And in Patricia Smith's case,  
11 QualChoice, as far as you know, has no  
12 documentation as to how Dr. Rowane was selected  
13 as her primary care provider; correct?

14 A. No.

15 MS. TOSTI: That's all the questions I  
16 have.

17 EXAMINATION OF KELLY STED

18 BY-MS. CUTHBERTSON:

19 Q. One last question.

20 If a potential enrollee had a primary  
21 care physician from whom they had obtained  
22 services and then subsequently became a  
23 QualChoice enrollee, they would need to identify  
24 that physician to QualChoice in order to receive  
25 the highest level of benefits, assuming that

1 physician is an in-network provider?

2 A. If they had obtained services prior to  
3 enrolling with us?

4 Q. Yes.

5 A. I'm not sure we would be concerned  
6 with those services.

7 Q. No, my -- and good point. Let me  
8 rephrase that.

9 A. Okay.

10 Q. If the person, if a potential enrollee  
11 had been obtaining services from a primary care  
12 physician and subsequently became a QualChoice  
13 enrollee, the enrollee would have to identify  
14 that physician to QualChoice in order to keep  
15 receiving services from that physician at the  
16 highest level of benefits, assuming that doctor  
17 is an in-network provider?

18 A. Yes. **Well**, I'm sorry. Maybe I  
19 misunderstood, but I had a thought there, wait.

20 Yes, they would need to identify that  
21 provider in order to obtain option one, but they  
22 could potentially continue to see that provider  
23 and still obtain option two benefits even though  
24 they didn't make us aware this is my primary care  
25 physician.

1           Q.       And that choice rests solely with the  
2       enrollee?

3           A.       Correct.

4                   MS. CUTHBERTSON:   That's all we have.  
5       Do you want to instruct her about reading?   Maybe  
6       you have a practice here.

7                   **You** have a right to read and review  
8       this transcript.   Ms. Adams Massey will instruct  
9       you.   You also have the right to waive reading  
10      and signing of the deposition.

11                  I will let her advise you one way or  
12      the other.

13                  THE WITNESS:   I would like to read it  
14      to make sure.

15                  MS. CUTHBERTSON:   We will waive the  
16      seven day reading rule and I will order a copy.

17                               - - - -

18                               (Deposition concluded at 10:30 a.m.;  
19      signature not waived.)

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AFFIDAVIT

I have read the foregoing transcript from  
page 1 through 37 and note the following  
corrections:

PAGE LINE	REQUESTED CHANGE
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\_\_\_\_\_  
KELLY STED

Subscribed and sworn to before me this \_\_\_\_\_  
day of \_\_\_\_\_, 1999.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

## 1 CERTIFICATE

2 State of Ohio, )  
3 ) SS:  
County of Cuyahoga.)

4  
5 I, Vivian L. Gordon, a Notary Public within  
6 and for the State of Ohio, duly commissioned and  
7 qualified, do hereby certify that the within  
8 named KELLY STED was by me first duly sworn to  
9 testify to the truth, the whole truth and nothing  
10 but the truth in the cause aforesaid; that the  
11 testimony as above set forth was by me reduced to  
12 stenotypy, afterwards transcribed, and that the  
13 foregoing is a true and correct transcription of  
14 the testimony.

15  
16 I do further certify that this deposition  
17 was taken at the time and place specified and was  
18 completed without adjournment; that I am not a  
19 relative or attorney for either party or  
20 otherwise interested in the event of this action.

21  
22 IN WITNESS WHEREOF, I have hereunto set my  
23 hand and affixed my seal of office at Cleveland,  
24 Ohio, on this 28th day of December, 1999.

25  


Vivian L. Gordon, Notary Public  
Within and for the State of Ohio

My commission expires June 8, 2004.

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