



HEALTH WATCH

c/o New York State AFL-CIO

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Dr. Rochelle Walensky, MD, MPH
Director
Centers for Disease Control and Prevention
1600 Clifton Road
Atlanta, GA 30329

November 10th, 2022

Dear Dr. Walensky,

On behalf of the Board of Directors of *9/11 Health Watch, Inc.*, I am again writing regarding the performance, or rather the continuing nonperformance of Managed Care Advisors/Sedgwick (Sedgwick) in delivering services under its contract with the Centers for Disease Control as the National Network Provider (NPN) to the World Trade Center Health Program and its members.

9/11 Health Watch, Inc. was created by the stakeholder unions and others that fought diligently to get health care and compensation for those impacted by the toxins at Ground Zero. We are dedicated to ensuring that the contracts implemented under the James Zadroga 9/11 Health and Compensation Act — the September 11th Victim Compensation Fund and the World Trade Center Health Program — provide optimal care for injured and ill 9/11 responders and survivors as the law intended.

By any interpretation the performance of Sedgwick since it took over responsibilities as the National Provider Network has not met their contract requirements to provide services and benefits promised to responders and survivors under the Act.

Here are just some of the metrics that clearly show that Sedgwick is not meeting the contract requirements:

1. Now in the fourth month since taking over as the NPN, calls placed by World Trade Center Health Program Members to Sedgwick's call center are not being answered according to the contract requirements, as of October, callers were experiencing wait times of over 10 minutes on average with an abandonment rate of calls of over 30%. This is after Sedgwick increased its call center capacity by over 50%, adding 16 new staffers over the initial staffing of 20 at its call center.

While according to Sedgwick the abandonment rate for the first days of November is now 4% with 90% of calls being answered in 20 seconds, that still falls short of the contract requirements - and there is NO information on whether, once a call is answered by the call center, are members issues are being resolved.

While this is an improvement over the experience of the first three months when the call center was essentially not able to answer calls due to the initial low staffing by Sedgwick, this continuing nonperformance means that WTC Health Program members are not getting access to their program and its benefits.

2. During the preparation for the transition, Sedgwick reported in March 2022 that the new National Provider Network supplied by Sedgwick would cover 88% of members, or to put in another way, 2,147 members of the program would have one or more medical providers out of network. Now, 6 months later, we are finding out that over 2,000 additional program members have a provider who is not in the new network. In some cases, these providers have been providing services without realizing they are out of the new network.

This is an increase of over 100% from what was initially reported. The number of providers in the new network now appears to be only 80% of the providers in the old network that was provided by Logistics Health Incorporated. (LHI)

As you can imagine, this has caused enormous disruptions, given that many of the World Trade Center Program Members had no warning of the loss of their provider.

3. Apparently, Sedgwick has only submitted 22 claims from providers for payment as of October. Given Sedgwick's national reputation among providers for problems with making payments for other clients, this is worrisome given it is coming at the same time Sedgwick is trying to close the gap in providers.

A National Provider network that fails to provide quick timely payments is not going to be able to find providers willing to participate in the WTC Health Program Members.

4. 9/11 Health Watch Inc. has reported dozens of cases to the World Trade Center Health Program of Sedgwick staff not returning calls to members, giving out inaccurate information, failing to notify members of providers out of network, failing to reach out to the providers who are now out of network to recruit them to the new network, and failing to provide single case agreements for providers who were treating members under active cancer treatment or active mental health services until they could be recruited into the network.

Worse still, it appears that the staff Sedgwick has hired are not up to the task and are cycling through their jobs at an alarming rate. Many WTC Health Program members who did have case managers assigned to them by Sedgwick are now on their third or fourth case manager, with each successive staffer less trained on the program than the one before.

This week an article in the New York Daily News "9/11 health program users plagued with problems using new medical providers" "documented the impact of Sedgwick not meeting

contract requirements of providing services to injured and ill 9/11 responders and survivors.(New York Daily News, November 7, 2022).

So, what is the CDC contract office doing to address these gross deficiencies in the program?

Your response to Danielle Brian of the Project on Government Oversight (POGO), sent by Dr. Howard dated Oct 13th, 2022, states:

CDC and the Program have been working with the new contractors to improve their performance and to resolve the issues facing the members in obtaining needed services. Performance under the new contracts relating to call center wait times, out-of-network providers, priority of payer issues, and prescription access issues have improved, and more improvements are expected. CDC and the Program have taken the performance deficiencies in both contracts very seriously. We have applied the appropriate incentives to the contractors to bring their performance to the level that was required and expected under their contracts.

Currently, we are seeing improvements in contract performance, although we expect further improvements. The Program fully expects improvements in performance that match contract requirements to be sustained throughout the contract term.

In the letter to POGO the CDC admits that Sedgwick is NOT currently meeting contract requirements, but the agency provides no timeline as to when Sedgwick will be in compliance with their contract.

Even with some services improving, Sedgwick is nowhere near the mandatory “Member Call Service” contract requirements that calls shall be answered in “20 seconds or fewer,” the abandonment rate would be “fewer than 2% of calls,” and call resolutions would be “98%.”

A review of the contract documents that the CDC supplied to POGO via a Freedom of Information Act request indicates that the contract the CDC awarded to Sedgwick is for 5 years - 1 short base year (11/29/21-3/28/22) and 5 option years.

The first option year runs from March 29, 2022, to November 28, 2022.

It appears that the CDC has the right to exercise the option or decline it, based on the terms and conditions outlined in the contract. The contractor can challenge a declined option but would need to prove a contract violation or bad faith.

So that leads us to ask the following ten questions:

1. Has the CDC contract office exercised the second-year option?
2. Why would the CDC contract office continue the contract given Sedgwick’s lack of performance?

3. What is the CDC contracting office doing to correct the “performance deficiencies” that have been identified in the NPN contract and hold Sedgwick accountable?
4. According to the CDC letter to POGO, the CDC “applied the appropriate incentive to the contractors to bring their performance to the level that was required and expected under the contracts.” What exactly were those incentives?
5. Have any disincentives been applied to the company in the way of fines or penalties, letters of concern, cure notices, show cause notices, poor past performance reviews, or any other disincentives outlined in the contract?
6. Is an audit of the NPN program being considered according to Section 4.12 of the contract?
7. Was there an assessment of the quality assurance surveillance plan and Sedgwick’s performance prior to exercising option-year 2? If a performance review was done by the CDC, did it result in the CDC taking any action either incentive or disincentive according to Section 5.1 of the contract, which states that “[e]valuation will be centered around results rather than processes[.]” ?
8. Is the agency planning to take any proactive steps to improve Sedgwick’s performance other than waiting for new promises?
9. If Sedgwick performance fails to reach the contracted terms, is the CDC ready to decline option year 3 and rebid this contract?
10. In my letter to you dated February 16th, 2022, my first question was:

“ In reviewing the public documents associated with the bid on this contract, it does not appear that the NIOSH contracting office conducted a “price reasonableness determination” as part of its bid evaluation process to identify if any bids were too high or too low to provide the services. Is that correct?

If so, why wasn’t a price reasonableness determination included in the bid evaluation process for such a complex, large and impactful contract? It is our understanding that this process is included in many federal contracts award processes to prevent low-ball bidding at a level that is insufficient to provide the proper and adequate services called for in the contract, or to prevent a bid from being considered that is too high, and thus not cost-effective.

So, I again ask the question from the Spring, *“If a price reasonableness determination was NOT part of this bid process, what steps did the NIOSH contract office take to ensure that any low bid was not too low to ensure that the vendor would be able to provide adequate services?”*

Clearly based on their performance to date we can assume that Sedgwick was the low bidder on this contract and did not provide the contract with adequate staff and training as highlighted by

what we have seen to date of the Sedgwick staff's inability to perform their jobs and provide services for the program's members.

If you look at the experience of the last four months, it appears that Sedgwick bid on this contract with the expectation of providing the least amount of services to generate the most amount of profit. This is evidenced by Sedgwick's actions responding to their lack of services-- increasing staffing, increased hours and surge capacity, and increased training that has been added since the contract began.

What we cannot understand is why, under your leadership, the CDC would consider continuing Sedgwick as the National Provider and renewing their contract given their gross non-performance without taking public steps to assure enforcement of the terms of the contract and without any penalties on Sedgwick?

If this was a commercial contract it would likely have been terminated by this point and a successor company would have been hired to perform the terms and conditions of the contract.

We realize that rebidding this contract is a significant undertaking and may be disruptive, but it can't be any more disruptive than the last four months have been. Given Sedgwick's failure to meet the terms of the contract and to provide required services and benefits to 9/11 responders and survivors, we believe CDC must consider this course of action.

At a minimum, the CDC's contracting office must utilize every possible legal authority to hold Sedgwick accountable for its failures, finally get the performance that the contract requires, and publicly inform program members of the steps the agency is taking to achieve these ends and hold Sedgwick accountable.

We look forward to your response.

Sincerely,



Benjamin Chevat
Executive Director