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November 16, 2022

Benjamin Chevat  
9/11 Health Watch  
c/o New York State AFL-CIO  
100 South Swan Street  
Albany, New York 12210

Dear Mr. Chevat:

Thank you for your letter of November 10, 2022 to Dr. Rochelle Walensky, Director of the Centers for Disease Control and Prevention (CDC), concerning the performance of a CDC contractor—Managed Care Advisors-Sedgwick (MCA)—providing services for the World Trade Center (WTC) Health Program (Program). Under its contract with CDC, MCA provides services to WTC Health Program members living outside of the New York metropolitan area (NYMA), referred to as the Nationwide Provider Network (NPN).<sup>1</sup> I am pleased to respond on behalf of Dr. Walensky and CDC.

Your letter raised ten questions about the contract with MCA; your questions and our responses are outlined below.

### **Question 1—Second Year Option**

You asked, *“Has the CDC contract office exercised the second-year option?”*

Following the award of the NPN contract to MCA on November 29, 2021, the WTC Health Program undertook an extended transition period of eight months to transition from the previous NPN contractor, Logistics Health Incorporated (LHI), to MCA. The new NPN contract “went live” on August 1, 2022.

Since that time, MCA and the Agency have worked to address the performance issues outlined in your letter. The Agency has determined that it is in the best interest of Program members to move forward with exercising the next option year. See also responses to Questions 2 and 3.

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<sup>1</sup> In September 2021, after Managed Care Advisors submitted their application to serve as the NPN contractor, it was announced that Sedgwick had acquired MCA. See <https://www.sedgwick.com/news/2021/sedgwick-acquires-managed-care-advisors>

## **Question 2—Continuation of NPN Contractor**

You asked, “*Why would the CDC contract office continue the contract given Sedgwick’s lack of performance?*”

Since the August 1, 2022 NPN contract “go live” date, the Agency has worked with MCA to improve performance. Based on the trajectory of improvements in performance to meet contract requirements, the Agency considers the most prudent course of action to be continuing to track and monitor MCA’s performance.

As your letter recognizes, rebidding the contract would be “a significant undertaking and ...[potentially] disruptive.” Considering the performance improvements that were tracked during the August through November time period, the amount of time required to prepare for another course of action, and the significant disruption to member services occasioned by rebidding the NPN contract, the Agency does not consider rebidding the contract to be in the best interest of the members *at this time*.

## **Question 3—Actions to Correct Performance Deficiencies**

You asked, “*What is the CDC contracting office doing to correct the ‘performance deficiencies’ that have been identified in the NPN contract and hold Sedgwick accountable?*”

The Agency has been monitoring MCA’s performance to identify areas of non-conformance since the NPN contract was awarded in November of 2021. The Agency has been conducting performance reviews and actively engaging with MCA to address concerns and create a realistic plan and timeline to improve quality of performance.

The Agency acknowledges that the contractor still needs to improve the quality of services. Given the complexity of these services and potential for service disruptions, however, the Agency has determined that it is in the best interest of Program members to move forward with exercising the next option year.

In the three and a half months since the NPN contract “go live” date, the Agency has seen improvements in MCA’s contract performance metrics. The Agency will continue to monitor MCA’s performance and hold the contractor accountable in bringing performance up to contract standards.

#### **Question 4—Incentives to Improve NPN Contractor Performance**

You asked, *“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?”*

The Agency will continue to monitor performance and hold the contractor accountable in meeting performance according to contract standards.

#### **Question 5—Actions Applied to NPN Contractor**

You asked, *“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?”*

The Federal Acquisition Regulation (FAR)<sup>2</sup> does not establish a mechanism for monetary fines or penalties for contractors as a negative performance incentive. The FAR permits liquidated damages only in specific instances, which are not applicable to the current NPN contract. Other contractual remedies are available, but remain non-public information, privy only to the government and the contractor.

#### **Question 6—NPN Contract Audit**

You asked, *“Is an audit of the NPN program being considered according to section 4.12 of the contract?”*

The ability to audit the NPN contractor is established in the contract but is not directly tied to current performance issues.

#### **Question 7—Assessment of Quality Assurance Surveillance Plan**

You asked, *“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[.]”?*

As stated above, performance is constantly being monitored in accordance with the contractual requirements and the Agency will continue to actively engage with MCA regarding results of the Agency’s monitoring.

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<sup>2</sup> <https://www.acquisition.gov/browse/index/far>

### Question 8—Actions to Correct Performance Deficiencies

You asked, *“Is the agency planning to take any proactive steps to improve Sedgwick’s performance other than waiting for new promises?”*

The Agency has been, and will continue to be, proactive to ensure quality services are being provided to Program members.

### Question 9—NPN Contract Option Year 3

You asked, *“If Sedgwick performance fails to reach the contracted terms, is the CDC ready to decline option year 3 and rebid this contract?”*

The Agency is committed to taking the necessary steps in order to meet its mission and the requirements of the Public Health Service Act.

### Question 10—Price Reasonableness

You asked, *“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?”*

As stated in my April 5, 2022 response to your February 16, 2022 letter inquiring about the issue of price reasonableness:

*“You inquired whether, as a part of the NPN contract awarding process, CDC engaged in “an evaluation process to identify if any bids were too high or too low to provide the services.” For the NPN contract, CDC followed the process outlined in the Federal Acquisition Regulation (FAR) and the solicitation.”*

Thank you again for your November 10, 2022 letter regarding the performance of the NPN contractor and thank you for 9/11 Health Watch, Inc.’s continuing support of the WTC Health Program. If you should have any additional concerns or questions, I invite members of the 9/11 Health Watch, Inc. Board of Directors to reach out to Dori Reissman, MD, MPH, the WTC Health Program Associate Administrator, at [dvs7@cdc.gov](mailto:dvs7@cdc.gov) or Jessica Bilics, WTC Health Program Policy Coordinator, at [hvg8@cdc.gov](mailto:hvg8@cdc.gov).

Sincerely,



John Howard, MD  
Director, National Institute for Occupational Safety and Health, and  
Administrator, World Trade Center Health Program