



July 15, 2019

By Email to the Single Point of Contact (SPC)

Email: rfa.cco2.0@dhsoha.state.or.us

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Tammy L. Hurst
635 Capitol Street, NE Room 350
Salem, OR 97301

Re: Protest by Applicant Marion Polk Coordinated Care
RFA #4690-19

Dear Ms. Hurst:

This letter is a written protest by Applicant Marion Polk Coordinated Care (“MPCC”) with respect to OHA RFA #4690-19. The contact information of the Applicant is Dean Andretta, Marion Polk Community Care, 890 Oak Street, SE, Salem, OR 97301, email: deana@mvipa.org. This protest is signed by Dean Andretta, who is the Executive Director and authorized representative of the Applicant.

This protest is with respect to, and is in response to, the July 9, 2019 letter from Patrick Allen, Director of OHA, to Dean Andretta, which letter states that “OHA’s decision is to reject the Application and decline to award a contract.” The OHA letter further states that MPCC “may protest the decision within 7 calendar days after the date of the notice, pursuant to Section 5.2 of the RFA”.

DETAILED STATEMENT OF LEGAL AND FACTUAL GROUNDS
FOR THE PROTEST BY MPCC

Introduction. MPCC is filing this protest because it is clear from the facts and the law, as demonstrated in this protest, that MPCC should have been awarded a 5 year contract with OHA under CCO 2.0, and that the application of PacificSource Community Solutions – Marion Polk (“PSCS-MP”) under CCO 2.0 should have been rejected.

1. **Relief Requested.** MPCC is requesting that OHA issue a written decision which will award a 5 year contract under CCO 2.0 to MPCC in Marion and Polk Counties and the other

zip codes in the MPCC Application, pursuant to Section 5.2b of RFA OHA-4690-19 (“RFA”). MPCC is further requesting that OHA issue a written decision which will deny or reject a 5 year contract to PSCS-MP in Marion and Polk Counties. In the alternative, if OHA does not award a 5 year contract to MPCC under CCO 2.0 for Marion and Polk Counties and the other zip codes in the MPCC Application, which zip codes may be modified in readiness review, and does not deny or reject a 5 year contract under CCO 2.0 to PSCS-MP in Marion and Polk Counties, MPCC requests that OHA set aside the entire RFA and Award and Rejection process for all CCOs in Oregon for one year, and start a new RFA process which is free from error. Without in any manner conceding the two aforementioned remedies, if OHA does not award a 5 year contract to MPCC under CCO 2.0 for Marion and Polk Counties and the other zip codes described in the immediately preceding sentence, and does not deny or reject a 5 year contract under CCO 2.0 to PSCS-MP in Marion and Polk Counties, OHA could award MPCC a 5 year contract under CCO 2.0 and allow PSCS-MP to retain its award, subject to the requirement that PSCS-MP form a separate entity (corporation or limited liability company) that must have its own reserves and net worth that is not shared with or otherwise made available to any other person or entity, including without limitation PacificSource Community Solutions and/or any of its affiliates, and which separate entity otherwise meets all other requirements applicable to “a” CCO as set forth in ORS 414.625(1). See #4.8 through #4.8.5 below.

2. Relevance of MPCC and PSCS-MP Evaluations. This protest discusses the OHA Final Evaluation Reports of both MPCC and PSCS-MP, because both Evaluations are relevant to a protest such as this. See ORS 279B.410(1)(b)(A), which provides that a proposer (such as MPCC) may protest an award of a public contract if the “proposer would be eligible to be awarded the public contract in the event that the protest were successful; and the reason for the protest is that: (A) All lower bids or higher ranked bids are nonresponsive.” (Emphasis supplied).

3. Responsibility Requirements. This protest demonstrates that the bid or Application of MPCC is responsive, and that the bid or application of PSCS-MP is nonresponsive. A “responsive bid” or “responsive proposal” is defined in ORS 279B.005(1)(e) as “a bid or proposal that substantially complies with the invitation to bid or request for proposals and all prescribed procurement procedures and requirements.” A “responsive bidder” or “responsive proposer” is defined in ORS 279B.005(1)(d) as “a person who meets the standards of responsibility in ORS 279B.110.” The RFA in Section 4.9 refers to the “responsibility requirements” in OAR 137-047-0500, which rule refers to ORS 279B.110 and OAR 137-047-0640(1)(c)(F).

4. Grounds for Protest. OAR 137-047-0710 (cited in RFA Section 5.2a), provides in OAR 137-047-0710(3)(a) that the written protest must include: “A detailed statement of the legal and factual grounds for the protest.” The specific legal grounds for this protest include, without limitation, the following:

4.1 MPCC is adversely affected by the July 9, 2019 decision of OHA to reject the MPCC Application for a 5 year CCO 2.0 contract, and each of ORS 279B.410(1)(b)(A) through (D) apply.¹

4.2 The PSCS-MP proposal is nonresponsive. OHA 279B.410(1).

4.3 OHA failed to conduct the evaluation of the MPCC and PSCS-MP proposals in accordance with the criteria or processes described in the RFA. ORS 279B.410(1)(b)(B).

4.4 OHA abused its discretion in rejecting MPCC's proposal as nonresponsive. ORS 279B.410(1)(b)(C). Please note that this ground for the protest is specifically being made by MPCC without waiver in any manner of the fact that OHA failed to reject MPCC's bid as nonresponsive, which therefore compels OHA, on this ground alone, to award a 5 year contract under CCO 2.0 to MPCC for Marion and Polk Counties.

4.4.1 Specifically, the RFA Section 4.9 (fourth bulletpoint) provides that OHA may reject an Application if "Applicant fails to meet the responsibility requirements of OAR 137-047-0500." That rule provides that in the event OHA determines that a "Proposer is not Responsible it shall prepare a written determination of non-Responsibility as required by ORS 279B.110 and shall reject the Offer." ORS 279B.110(1) (in the last sentence) contains the same requirement. Therefore, as a matter of law, MPCC has been determined by OHA as a responsible proposer, and OHA has no legal authority to reject MPCC's Application on the ground that MPCC fails to meet the responsibility requirements.

4.5 OHA's evaluation of proposals and/or OHA's subsequent determination of award to PSCS-MP is otherwise in violation of ORS Chapters 279A and 279B. See ORS 279B.410(1)(b)(D).

4.6 Further with respect to #4.1 above (MPCC is adversely affected), OAR 137-047-0710(3)(b) provides that the protest must include: "A description of the resulting harm to the Affected Person." The reasons why MPCC is adversely affected and harmed include, without limitation, the following:

4.6.1 MPCC is "eligible for Contract award in the event the protest is successful....". See RFA Section 5.2a. Specifically, MPCC meets all Minimum Qualifications with respect to eligibility to RFA Section 3.1 because (1) it timely filed a CCO Letter of Intent on or before February 1, 2019, (2) it is an entity newly formed on January 28, 2019 from a CCO

¹ The reasons for the protest in ORS 279B.410(1)(b)(A) through (D) are stated in the alternative, because of the word "or" after (C), which means that a protest need only be based on one of the alternatives in (A) to (D). However, MPCC's protest is based on any one or more or all alternative grounds for a protest in ORS 279B.410(1)(b)(A) through (D).

currently certified by OHA (Willamette Valley Community Health) as provided in RFA Section 3.1b(5) and (3) it meets the governance requirements in RFA Section 3.1c.

4.6.2 MPCC meets all of the Minimum Submission Requirements in RFA Section 3.3a, and all of the Application Requirements in RFA Section 3.4. Specifically, Attachment 2 – Application Checklist to the MPCC Application, documents that MPCC submitted each of the Application Submission Materials, including without limitation Attachments 1 through 16.

4.6.3 MPCC is adversely affected and harmed because as a matter of law, OHA is compelled to score the MPCC Application as a “Pass” based on RFA Section 4.12 because the MPCC Application meets the RFA Section 3.1 Minimum Qualifications and the RFA Section 3.4 Application Requirements. Moreover, OHA’s failure to follow its own RFA criteria and processes contravenes and in fact violates the requirement that OHA “conduct the evaluation of proposals in accordance with the criteria or processes described in the solicitation materials.” ORS 279B.410(1)(b)(B).

4.6.4 MPCC is adversely affected and harmed because OHA has no legal authority to reject MPCC’s Application on the ground that MPCC fails to meet the Minimum Qualifications. See RFA Section 4.9 (first bulletpoint).

4.6.5 MPCC is adversely affected and harmed because OHA has no legal authority to reject MPCC’s Application on the ground that MPCC has substantially failed to comply with all prescribed RFA procedures and requirements. See RFA Sections 4.9 (second bulletpoint).

4.6.6 Not only is MPCC adversely affected and harmed, but also all Medicaid patients and/or enrollees in Marion and Polk Counties, and also the community at large in Marion and Polk Counties are adversely affected and harmed by OHA’s decision to reject MPCC’s Application under CCO 2.0. MPCC refers to this as derivative harm, for the following reasons which include without limitation: (1) CCOs are required by ORS 414.620(1) to be “accountable for care management and provision of integrated and coordinated health care for its members”, and are required to support “the development of regional and community accountability for the health of the residents of each region and the community”, and (2) MPCC is eligible to be awarded the CCO 2.0 contract in Marion and Polk Counties in the event that this protest is successful as documented in #4.6.1 above, which means that all Medicaid patients and/or enrollees in Marion and Polk Counties will have access to the provider network OHP enrollees are accustomed to have available, and which will become the MPCC provider network if MPCC is awarded the contract.

4.7 MPCC, all Medicaid patients and/or enrollees in Marion and Polk Counties, and the community at large, including without limitation providers in Marion and Polk Counties, are adversely affected and harmed by OHA’s decision to reject MPCC’s Application

under CCO 2.0 for the following reasons, which include without limitation #4.6 through #4.6.6 above:

4.7.1 Willamette Valley Community Health (“WVCH”) currently has approximately 103,959 OHP Medicaid lives enrolled with it in Marion and Polk Counties. The PSCS-MP Evaluation at page 29 provides that PSCS-MP can only serve a minimum of 10,000 to a maximum of 81,910 enrollees. This will mean that based on current enrollment, between 22,049 to 94,000 Medicaid patients in Marion and Polk Counties will need to be “open card” patients, because PSCS-MP does not have the provider network and/or the capacity to enroll and service them. This will deprive those Medicaid enrollees the ability to continue their care through the extensive provider network that they currently have access to as OHP enrollees of WVCH, and which same extensive provider network they will have access to as enrollees of MPCC if MPCC is awarded a 5 year contract with OHA under CCO 2.0. The MPCC Evaluation on page 29 demonstrates that MPCC is capable of enrolling, and will enroll, 107,960 OHP Medicaid enrollees. Accordingly, if OHP fails to grant the CCO 2.0 contract to MPCC, open card enrollment in Marion and Polk Counties will increase substantially, and Medicaid enrollees and providers will be irreparably harmed.

4.7.2 If the MPCC Application is rejected, dual eligible patients will not have access to a Medicare Advantage SNP plan, which they currently have access to under WVCH, and which they will have access to under MPCC. OAR 410-141-3015(33) requires CCOs to provide covered Medicaid services to members who are dually eligible for Medicare and Medicaid. The PSCS-MP Evaluation at page 18 provides that PSCS-MP’s “care coordination response failed to provide information on how services would be coordinated of the dual eligible, 1915i or LTSS populations”, and that PSCS-MP “provided limited information on plans to involve oral health providers in care coordination activities” and “failed to provide answers for care coordination in transition care settings” with respect to members with special needs. Despite the foregoing, PSCS-MP receive a “Pass” recommendation with respect to “Care Coordination and Integration”. See page 18 of the PSCS-MP Evaluation. This “Pass” recommendation in the PSCS-MP Evaluation is erroneous and prejudicial to MPCC, and demonstrates bias against MPCC.

4.7.2.1 Specifically, WVCH is currently a leader among CCOs in Oregon with respect to care coordination and integration with Medicare Advantage plans for dual eligible and special needs plans (SNP) and SNP patients. Attachment 6 to the MPCC Application on page 2 provides that WVP, which is a member of WVCH, and which is a member of MPCC, is an owner of Atrio Health Plans, which is a Medicare Advantage plan that operates a dual eligible SNP plan in Marion and Polk Counties. MPCC and Atrio Health Plans signed a binding Letter of Agreement on March 4, 2019 to affiliate and to “effectively integrate and coordinate health care and care management for fully dual eligible members in accordance with the OHA CCO contract. Moreover, Atrio Health Plan has a current dual special needs coordination of benefits agreement with OHA to serve fully dual eligible members. See MPCC

Application Attachment 6, page 2. Attachment 7 on page 39 in Section 12.g.6 also addresses MPCC's plans with respect to dual eligibles.

4.7.2.2 In addition, Attachment 11 of the MPCC Application on page 8 in B.4 provides that MPCC has an agreement with Atrio Health Plan for the delivery of integrated care to dual eligibles, and that the SNP population has access to all of the behavioral health and all other programs of WVCH and its successor, MPCC. Page 6 in B.2 provides that MPCC uses information from the Health Risk Screening (HRS) to coordinate care for SNP members. Pages 7, 18, and 19 also address MPCC's plans with respect to dual eligible and SNP patients.

4.7.2.3 PacificSource does not offer dual eligible Special Needs Plans for person in Marion and Polk Counties. Atrio Health Plans is the only carrier in Marion and Polk Counties with Medicare Advantage SNP plans. PSCS-MP has no affiliation with Atrio Health Plans, and does not have a provider network in Marion and Polk Counties that can serve the dual eligible and SNP population in Marion and Polk Counties.

4.7.2.4 Despite the leadership of WVCH, MPCC and Atrio Health Plans with respect to serving the most vulnerable patients, namely dual eligible and SNP patients, the OHA Evaluation of MPCC erroneously states on page 18 that "Poor responses were provided for care coordination with Medicare Advantage plans for dual eligible populations." On page 19, the MPCC Evaluation states: "The Applicant consistently failed to acknowledge CCOs roles and responsibilities in working with Medicare Advantage Plans." These statements are erroneous and prejudicial to MPCC, the dual eligible and SNP population, and the provider network of WVCH and MPCC who care for these special needs patients in Marion and Polk Counties.

4.7.3 MPCC, the OHP enrollees in Marion and Polk Counties, the provider network, and the entire Marion Polk community will be adversely affected and harmed if PSCS-MP is awarded a 5 year contract, because the extraordinarily high administrative expense of PSCS-MP will remove a minimum of \$20 million per year from the Marion Polk community, which dollars would otherwise be used by MPCC for patient care. Specifically, the current administrative cost ratio for PS-Central Oregon is 6.7%. See Report L4 for CY 2018 for PS-Central Oregon on the OHA website. The PSCS-MP Evaluation at page 10 states that PSCS-MP projects a "high admin load ratio" of 10%, which is "way above" PS-Central Oregon's current administrative ratio of 7.9% and PS-Columbia Gorge's administrative ratio of 6.1%. WVCH's administrative cost ratio was 4.4% in 2018, and MPCC is projected to be 5.7% to 6% under CCO 2.0. Therefore, under CCO 2.0, the PSCS-MP administrative load will be 49.25% higher than the amount PS-Central Oregon spent in 2018. Currently, the administrative expense for PS-Central Oregon is 43.8% higher than WVCH (\$31.06 PMPM vs. \$17.46 PMPM), which equates to \$16.5 million annually which will leave the Marion Polk community or which will not be used for services to this vulnerable OHP Medicaid population. In addition PSCS-MP will pay income taxes of \$4.52 PMPM, which translates to \$5.5 million annually.

4.7.4 MPCC and the Marion Polk community will be adversely affected and harmed because approximately 180 persons currently serving WVCH and MPCC will be laid off. These are family wage jobs. This will harm the economic viability of the Marion and Polk community.

4.7.5 OHP Medicaid enrollees and patients will experience substantial disruption if MPCC is not awarded the contract, as documented in #4.6.6, and 4.7 through 4.7.3 above.

4.7.6 Without the extensive MPCC network of providers which appear in Attachment 7 to the MPCC Application, which is the DSN Provider Capacity report for MPCC, the 103,959 Medicaid lives enrolled in and served by WVCH's and MPCC's providers will experience a significant gap in their care. The term "gap in their care" means that there is no certainty that the current MPCC network of providers will make independent, unilateral decisions to become contracted providers with PSCS-MP. This will adversely affect the overall health of the community and place the most vulnerable population at substantial risk.

4.7.7 Salem Health, Salem Clinic, and WVP, who are the three members of MPCC, will be adversely affected and harmed reputationally. The community health information system which WVP provides, and the efforts and ability of the community to collaborate on HIT to benefit patient care will be put in serious jeopardy, and may well be terminated if MPCC is not awarded a 5 year CCO 2.0 contract.

4.8 PSCS-MP's Proposal is Nonresponsive. As provided in ORS 279B.410(1)(b)(A), PSCS-MP's "higher ranked proposal" is nonresponsive, as discussed in #2 and #3 above. Moreover, each of #4.7.1, 4.7.2, 4.7.3, 4.7.4, and 4.7.6 and their subsections document that PSCS-MP's higher ranked proposal is nonresponsive, because the OHP Evaluation of the PSCS-MP Application fails to demonstrate that PSCS-MP has available the appropriate financial, material, equipment, facility and personnel services and expertise, or ability to obtain the resources and expertise, necessary to meet all contractual responsibilities. See ORS 279B.110(2)(a) and OAR 137-047-0640(1)(c)(F)(i).

Additional reasons why the PSCS-MP proposal is nonresponsive include, without limitation:

4.8.1 The OHA Evaluation of PSCS-MP contains a finding on page 6 by DCBS that the financial presentation for all four of the PSCS applicant CCOs, including PSCS-MP, are considered by DCBS "to be incorrect, misleading, and not viable to allow for an assessment of PacificSource Community Solutions for a CCO contract." Despite this finding of non-viability by DCBS, OHA scored a "Pass" with respect to the financial review of PSCS-MP. This "Pass" score is clearly erroneous, and is prejudicial to MPCC.

4.8.2 This adverse finding by DCBS, which OHA then scored as a “Pass”, with respect to the financial review of PSCS-MP must be reversed on several grounds. First, OHA has delegated to DCBS, on behalf of OHA, the authority “to confirm financial solvency and assess financial soundness.” See OAR 410-141-3015(30)(a). Moreover, RFA Addendum #7 provides on page 4 in Answer 11 that Ryan Keeling at DCBS is the correct person to answer questions about the financial forms in Attachment 12.

4.8.3 Second, the PSCS-MP application reported all of the revenues of PacificSource Community Solutions as “wholly and exclusively available to the PSCS-MP operations and thus would not be available to the other three PSCS CCO applicants.” See page 5 of the PSCS-MP Evaluation. DCBS found on page 5 that the entire resources of PacificSource Community Solutions “should not be illustrated as being wholly and exclusively available to only one operation.” On page 6, DCBS expressed concern that PSCS-MP “may not have the financial resources available to operate such a large business entity”. DCBS found on page 6 that it is “unsure” how PacificSource Community Solutions would raise in excess of \$200 million of capital and surplus which would be needed to support all four applicants. DCBS further found on page 6 that the RBC calculation with respect to PSCS-MP would not meet OHA’s standards. OHA found twice, on pages 9 and 10, that PSCS-MP is “quadruple counting” most of its capital and surplus, which “suggests OHA consider denying one or both new PSCS applications.” On page 10, OHA found that PSCS needs to contribute an additional \$163 million into the four CCOs at the beginning of 2020, and that “the capital funding is questionable given the large dollar amount.” The PSCS-MP application is nonresponsive with respect to Finance and must be denied, and the MPCC Application must be approved.

4.8.4 ORS 414.625(1) does not provide any statutory authority to OHA or DCBS to approve a single entity such as PSCS to operate multiple CCOs as unincorporated divisions, and it does not provide any statutory authority for “a consolidated pool of capital” in which each unincorporated division has exclusive and unallocated access to PSCS’s entire resources. See ORS 414.625(1) which provides “a” CCO may be “a single corporate structure”, which means that each of the four PSCS CCO applicants must each be separately incorporated, and each must have its own restricted reserves and each must separately meet the restricted reserve and net worth requirements in ORS 414.625(1)(b)(A) and (B). This is proven by the fact that the restricted reserve requirement in ORS 414.625(1)(b)(A) is based on a specific CCO’s “total actual or projected liabilities above \$250,000.” The restricted reserve requirements is not based on the total actual or projected liabilities above \$250,000 of other CCOs such as PSCS-Columbia Gorge and PSCS-Central Oregon.

4.8.5 Accordingly, OHA’s evaluation of the PSCS-MP proposal and/or its subsequent determination of award to PSCS-MP on July 9, 2019 violates ORS 414.625(1) and will be subject to reversal, or remand to OHA under ORS 279B.415(6)(d) and/or under ORS 183.484(5)(b)(C), because it violates this statutory provision.

4.9 The MPCC Proposal is Responsive. As documented in #4.4 above, the MPCC proposal is responsive. Without waiver of the fact that OHA failed to reject MPCC's proposal as nonresponsive, the OHA Evaluation of MPCC contains a finding on page 7 that "No information was provided that would indicate additional sources of capital or cash infusion for liquidity needs, if the need arises." This finding is incorrect. The MPCC Application provides in Attachment 12 (Cost and Financial Questionnaire) on page 6 in Section I.2 and page 7 in Section I.4 that Salem Health will support MPCC with needed additional capital in the event additional capital is needed or required to meet solvency and RBC requirements, or to otherwise meet financial targets. Section I.2 further provides that Salem Health has ample resources to ensure that MPCC's capital requirements are met. Attachment 12 to the MPCC Application contains a statement that MPCC will submit audited financial statements of Salem Health if requested. Moreover, Section I.3 provides that:

"I.3 MPCC will track monthly budget vs. actual financial results. The budget process will take into account the capital needs and targeted net income required to meet solvency levels. Should monthly financials show trends that are not meeting targets, MPCC will be able to adjust provider payments to ensure targets are being met."

This allows a net income target to be met by lowering compensation. MPCC reasonably assumed that in readiness review, there will be dialogue with OHA over capital requirements.

ADDITIONAL GROUNDS FOR PROTEST

5. The RFA does not set forth the criteria under which the CCO 2.0 applications would or will be evaluated. RFA Section 4.12 provides that "Evaluators will assign a pass or fail score for each evaluation criterion", but it does not say what the criteria are, other than to provide at the end of Section 4.12 that Minimum Qualifications and Application Requirements "will be scored on an initial pass/fail basis." As demonstrated in #4.6.1 through #4.6.5 above, MPCC meets all of the foregoing requirements and must be scored as a "Pass", based on OHA's own RFA. OHA "failed to conduct the evaluation in accordance with the criteria or processes described in the solicitation materials." ORS 279B.410(1)(b)(B).

6. OHA's RFA and Notice of Intent to Award, and rejection of the MPCC proposal contravene the policy of the State of Oregon that the public contracting process with respect to CCO 2.0 must "instill public confidence through ethical fair dealing, honesty, good faith on the part of government officials and those who do business with the government." ORS 279A.015(2).

7. OHA's RFA and Notice of Intent to Award and rejection of the MPCC proposal also contravene the requirement that the public contracting system "allow impartial and open competition, protecting both the integrity of the public contracting process and the competitive nature of public procurement", as provided in ORS 279A.015(5). This statute further provides

that “service and product quality” should be considered in arriving at best value. ORS 279A.015(5). Specifically, WVCH, and its successor, MPCC, perform materially better in quality measures than PacificSource-Central Oregon, based on OHA’s CCO Metrics 2018 Final Report, which was “embargoed until July 2, 2019”. This report demonstrates that plan managed by MPCC performed significantly better than PacificSource-Central. Of the 17 metrics that evaluated, the MPCC managed plan performed better than PacificSource-Central in 12 out of the 17 metrics. The notable differences in performance are as follows:

- Adolescent Well Care Visits – MPCC managed plan performed better by 10.2%
- Childhood Immunizations – MPCC managed plan performed better by 8%
- Diabetes Care: HbA1c Good Control – MPCC managed plan performed better by 9.5%
- Controlling Hypertension – MPCC managed plan performed better by 22.2%
- Dental Sealants on Kids 6-9 – MPCC managed plan performed better by 6.7%
- Dental Sealants on Kids 10-14 – MPCC managed plan performed better by 3.4%
- Emergency Room Utilization – MPCC managed plan performed better by 3.1%

8. OHA awarded PacificSource Community Solutions up to a maximum of 263,000 lives for its four applications, based on page 32 of the MPCC Evaluation. This amount of lives is not viable, because it represents 33.5% of the total OHP 785,144 Medicaid lives, which total appears on the last page of both Evaluations.

9. OHA applied disparate treatment to the MPCC Application as compared to the PSCS-MP Application, in a manner which is unreasonable or undue. The “criteria” were applied unevenly as between MPCC and PSCS-MP, as documented in this protest.

10. MPCC has 29 letters of support, including support from 16 nonprofit organizations who do not necessarily provide medical services. They were identified as partners of MPCC who will address social determinants of health. PSCS-MP has a total of 16 letters of support, which included only one letter of recommendation from a nonprofit agency that might assist with social determinants of health. However, MPCC was scored as a “Fail” with respect to community engagement, whereas PSCS-MP scored a “Pass”.

11. On page 16 of the MPCC Evaluation, OHA found that for EHR adoption, there are “no roadmaps”. However, MPCC provided a HIT roadmap in Attachment 9, together with an extensive discussion (16 pages) with respect to MPCC’s HIT capabilities.

12. On page 15 of the MPCC Evaluation, OHA states that “As a whole, the value-based payment aspect of MPCC’s Application is satisfactory. However, there is limited detail to sufficiently address PCPCH spending requirements, no increases discussed, and no explanation of rate development process and theory. This finding is erroneous. MPCC’s Attachment 8 – Value Based Payment Questionnaire and the VBP Data Template and the Model Descriptions in tab 4 show the high degree of sophistication of the MPCC VBP Model. On the other hand, the PSCS-MP Evaluation provides on page 15 that: “There are no concerns regarding VBP.” This

again shows the disparate treatment, which is unreasonable and undue, which OHA applied with respect to the MPCC Application as compared to the PSCS-MP Application.

13. On page 4 of the MPCC Evaluation, OHA scored a “Fail” with respect to Community Engagement. The community engagement plan of MPCC is in Attachment 10 to the MPCC Application, and contains an extensive discussion of MPCC’s capabilities with respect to community engagement and its plan for community engagement. This should have been scored as a “Pass” if OHA had applied its processes evenly as between MPCC and PSCS-MP.

14. On page 17 of the MPCC Evaluation, under the heading Social Determinants of Health, it provides that any deficiencies “could be remedied relatively quickly.” This should result in a “Pass” recommendation, but instead OHA recommended a “Fail” with respect to Business Administration, which includes Social Determinants of Health. The Evaluation on pages 15 and 16 demonstrates that OHA “marked down” MPCC, because it is currently not a CCO. This demonstrates a lack of appreciation by OHA that MPCC is “an entity newly formed” from a CCO, which is clearly permitted in RFA Section 3.1b(5). This finding demonstrates a bias against newly formed entities such as MPCC. MPCC has documented that it meets the Responsibility requirements, without waiver of the fact that OHA failed to make a determination that MPCC’s proposal is nonresponsive or that MPCC is “not responsible” which is required under ORS 279B.110(1) in the event that OHA intended to make such a determination. As a matter of law, MPCC is responsible, and meets the Responsibility requirements.

CONCLUSION

In conclusion, MPCC respectfully requests that OHA provide the Relief Requested in #1 of this protest. MPCC will provide the “best value” to OHA and the OHP Medicaid enrollees, as provided in ORS 279A.015(5). MPCC management and providers have proven over the last 20 years an ability to effectively manage the OHP benefits for patients and providers in our community via Marion Polk Community Health Plan, Willamette Valley Community Health, and now Marion Polk Coordinated Care. There is no question, if this decision to reject MPCC’s Application is upheld, that patients, providers, MPCC, and our entire community will be seriously adversely affected and negatively impacted.

Respectfully submitted,



Dean Andretta
Executive Director
Authorized Representative

cc: Patrick Allen
Theodore C. Falk