



Blair W. Todt

Senior Vice President, Chief Legal and Administrative Officer

August 27, 2015

VIA ELECTRONIC FILING

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Application of the Telephone Consumer Protection Act (“TCPA”) and Omnibus Declaratory Ruling and Order to Managed Healthcare Plans, CG Docket No. 02-278, WC Docket No. 07-135

Dear Ms. Dortch:

On August 25, 2015, the undersigned, representing WellCare Health Plans, Inc. (“WellCare”), met with several members of the Federal Communications Commission (“FCC”), including John B. Adams, Deputy Chief, Consumer Policy Division, Consumer and Governmental Affairs Bureau; Kristi Lemoine and Jerusha Burnett, Attorney Advisors, Consumer Policy Division, Consumer and Governmental Affairs Bureau. Joining me at this meeting were Michelle Turano, VP, Federal Government Affairs, WellCare; A. Courtney Cox, Vice President, Litigation, WellCare; Mike Merola and Michael McMenamain, Winning Strategies Washington. At the meeting, we discussed the FCC’s TCPA Omnibus Declaratory Ruling and Order, released July 10, 2015 (hereafter “2015 Order”). WellCare noted the following:

Government-sponsored managed healthcare providers have a unique role within the healthcare industry and support critical public policy goals by ensuring effective and efficient care to at-risk populations. WellCare operates in a unique space within the healthcare industry. WellCare provides solely government-sponsored managed care health plans to over 3.7 million members primarily through its Medicare Advantage, Prescription Drug, and Medicaid products. By focusing exclusively on the most challenging and neediest populations, WellCare has statutory and contractual mandates from our Federal and State government partners to improve the health outcomes of our members. WellCare’s business is sustained through the delivery of quality care to a difficult to serve populations.

Government sponsored managed healthcare providers like WellCare have statutory, contractual, and clinical obligations to contact members for critical healthcare

purposes. As a result of the needs of the particular population served by government-sponsored managed healthcare providers, a large part of our services, which are oftentimes required by government contract, focus on affirmative outreach and include essential communications relating to appointment and exam confirmations and reminders, wellness checkups, hospital pre-registration instructions, pre-operative instructions, lab results, post-discharge follow-up intended to prevent readmission, prescription notifications and home healthcare instructions. WellCare, as a government-sponsored managed care provider, should not be prohibited from fulfilling these obligations to place time-sensitive healthcare calls to members to support and enhance critical healthcare services and to ensure that members have all of the information necessary to make well-informed decisions regarding their healthcare. Failure to engage in outreach to our members can result in WellCare being assessed fines and sanctions for failure to comply with statutory and contractual obligations; more importantly, failing to contact our members regarding critical healthcare needs will negatively affect their overall health outcomes.

Autodialers are a critical technology for managed healthcare plan outreach.

WellCare must be able to utilize efficient calling solutions to reach its members. Automated calling technologies provide the best solution to ensure a consistent, reliable, and accurate method of staying in contact with WellCare's members regarding vital health issues. These technologies also reduce the chance of human dialing errors. Other calling solutions involving hand dialing are enormously time intensive, costly and prone to error.

The FCC should clarify that managed healthcare providers may make calls consistent with the healthcare provider exemption clarification in the 2015 Order. The FCC's 2015 Order, among other points, (1) clarified that "the provision of phone number to a healthcare provider constitutes prior express consent for healthcare calls subject to HIPAA by a HIPAA-covered entity ... if the covered entities ... are making calls within the scope of the consent given, and absent instructions to the contrary," 2015 Order ¶ 141; (2) clarified that "a caller may make healthcare calls subject to HIPAA during [the] period of incapacity, based on the third party's prior express consent," 2015 Order ¶ 142; and (3) created an exemption for calls made by or on behalf of a healthcare provider so long as 7 conditions are met, 2015 Order ¶ 147. The sound public policy reasons supporting the clarifications to the healthcare exemption in the 2015 Order apply equally, and perhaps even more forcefully, to managed healthcare providers such as WellCare in its mission to provide efficient and high-quality healthcare services to its members, including at risk populations such as dual eligible (Medicare and Medicaid) members. Excluding managed care providers from the healthcare provider exception furthers no legitimate public policy interest and undercuts the efficiency and effectiveness of the care delivered through government sponsored programs to economically-challenged, disabled and elderly individuals.



In accordance with Section 1.1206(b)(1) of the Commission's rules, this letter is being filed electronically with your office. Please contact the undersigned with any questions in connection with this filing.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Blair Todt", written over a horizontal line.

Blair Todt
Senior Vice President,
Chief Legal and Administrative Officer

cc:

John B. Adams
Kristi Lemoine
Jerusha Burnett