

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2  
3 In the Matter of:

4 Maricopa Ambulance, LLC

No. 2015A-EMS-0190-DHS

**CASE MANAGEMENT ORDER No. 20**

**Order Amending Case Management  
Order No. 19 and Overruling the  
Rural/Metro Intervenors' Objection to  
Maricopa Ambulance Submitting into  
Evidence their Parent Corporation's  
Audited 2014 Financial Statement**

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12 The Rural/Metro Intervenors have filed their memorandum regarding whether or  
13 not their parent corporation's financial statement is relevant in this proceeding and  
14 even if it is, whether Case Management Order No. 19 allows the financial statement to  
15 be submitted into evidence as a public exhibit. Maricopa Ambulance has filed a  
16 response to the Rural/Metro Intervenors' memorandum.

17 **1. Whether the Rural/Metro Intervenors' Parent Corporation's 2014 Audited  
18 Financial Statement Is Relevant**

19 The ARCR form promulgated by the ADHS/BEMSTS requires financial  
20 information only from the applicant for or holder of a CON, not its parent corporation,  
21 even if it is a wholly owned subsidiary of a corporation that operates numerous  
22 operations nationwide, like Maricopa Ambulance, the Rural/Metro Intervenors, and  
23 Intervenor AMR Maricopa. Nonetheless, especially where wholly owned subsidiaries'  
24 finances are not wholly independent of their parent corporation's finances, the parent  
25 corporation's financial health may affect the wholly owned subsidiary.

26 For this reason, the ALJ's recommended and the Director of ADHS's final  
27 decisions in Case No. 2014A-EMS-0305-DHS determined that the Rural/Metro  
28 Intervenors' parent corporation's financial instability supported a grant of a CON to  
29 AMR Maricopa. Similarly, the parties' attorneys have spent substantial time at the  
30 hearing in this matter inquiring into the circumstances of the bankruptcies of First Med,  
the predecessor to Maricopa Ambulance's parent corporation, and the Rural/Metro

1 Intervenor's parent corporation as relevant to the determination of whether Maricopa  
2 Ambulance is a fit and proper applicant and whether public necessity supports granting  
3 a CON to it.

4 Maricopa Ambulance's response to the Rural/Metro Intervenor's memorandum at  
5 pp. 3-5 sets forth additional reasons why the Rural/Metro Intervenor's parent  
6 corporation's 2014 audited financial statement is relevant. Although other providers  
7 have entered the market in Maricopa County, the Rural/Metro Intervenor's parent  
8 corporation's 2014 audited financial statement is still highly relevant to the issue of  
9 whether there is public necessity for granting a CON to Maricopa Ambulance.

10 **2. Whether Case Management Order No. 19 Precludes Maricopa Ambulance's**  
11 **Submission of the Rural/Metro Intervenor's Parent Corporation's 2014 Audited**  
12 **Financial Statement as a Public Exhibit**

13 On Friday, October 16, 2015, the Superior Court required the Rural/Metro  
14 Intervenor to produce documents responsive to Maricopa Ambulance's subpoena  
15 duces tecum in this matter by 12:00 p.m. on October 21, 2015, or appear at a contempt  
16 hearing on October 23, 2015. When the hearing in this matter resumed on October 19,  
17 2015, as an accommodation, the ALJ invited the Rural/Metro Intervenor's attorney to  
18 craft a protective order that would protect his clients while providing the requested  
19 information to Maricopa Ambulance.

20 On the morning of October 20, 2015, a discussion was held on the record that  
21 specifically concerned CAD system data and net scheduling data, which were  
22 requested, respectively, in Nos. 30 and 31 of Maricopa Ambulance's subpoena. The  
23 Rural/Metro Intervenor's attorney did not specifically mention financial data, except to  
24 note that the Rural/Metro Intervenor as wholly owned subsidiaries do not keep  
25 separate audited financial statements and that the Rural/Metro parent corporation's  
26 fiscal year is the same as the calendar year and does not run from July 1 to June 30, as  
27 Maricopa Ambulance's attorneys had assumed.

28 On the morning of October 21, 2015, as an additional accommodation to the  
29 Rural/Metro Intervenor's attorney, to meet the superior court's deadline, the ALJ and  
30 the other parties' attorneys spent most of the morning crafting a protective order. At  
that time, the Rural/Metro Intervenor's attorney requested that the scope of the third  
paragraph be expanded to include Maricopa Ambulance's request no. 9, which sought  
audited financial statements. All of the discussions that lead to subparts (1)-(3)

1 concerned the voluminous and proprietary information that was responsive to requests  
2 30 and 31. Audited financial statements were not mentioned.

3 The ALJ did not intend in Case Management Order No. 19 to foreclose Maricopa  
4 Ambulance from submitting the Rural/Metro Intervenors' parent corporation's 2014  
5 audited financial statement as an exhibit, even though the three subparts relate to  
6 Maricopa Ambulance's request nos. 9, 30, and 31. According to Maricopa Ambulance's  
7 response to the Rural/Metro Intervenors' memorandum, Maricopa Ambulance's  
8 attorneys did not mean to agree that they could not submit as an exhibit the  
9 Rural/Metro Intervenors' parent corporation's 2014 audited financial statement.

10 Maricopa Ambulance's response to the Rural/Metro Intervenors' memorandum at  
11 pp. 5-7 sets forth additional reasons and legal authorities supporting its right to submit  
12 as a public exhibit the Rural/Metro Intervenors' parent corporation's audited financial  
13 statement and the ALJ incorporates these reasons and authorities by reference. For all  
14 the foregoing reasons,

15 **IT IS ORDERED** amending Case Management Order No. 19 to allow Maricopa  
16 Ambulance to submit as an exhibit the Rural/Metro Intervenors' parent corporation's  
17 2014 audited financial statement. In all other respects, the protections afforded in  
18 Case Management Order No. 19 are unchanged.

19 Done this day: October 28, 2015.

20 /s/ Diane Mihalsky  
21 Administrative Law Judge

22 Copy e-mailed this 28<sup>th</sup> day of October, 2015, to all parties and interested persons on  
23 the approved mailing list.

24 By: autogenerated and posted to <https://portal.azoah.com/oedf/documents/2015A-EMS-0190-DHS/index.html>  
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