**State Protest Committee**

**Summary of Decision, 12/21/17 Re: Appeal of Protest of**

**Solicitation No. 31865-00465 (Pharmacy Benefits Management)**

The Central Procurement Office issued Solicitation No. 31865-00465 (Pharmacy Benefits Management)(the “RFP”) on June 13, 2017. The State completed the evaluations on August 24, 2017, and the State provided its Notice of Intent to Award the contract to OptumRx. On September 1, 2017, Magellan Medicaid Administration, Inc. (Magellan) filed a protest of that determination with Chief Procurement Officer Mike Perry. On November 1, 2017, the Chief Procurement Officer issued his decision upholding Magellan’s protest. OptumRx appealed the Chief Procurement Officer Perry’s decision to the State Protest Committee on November 8, 2017.

The State Protest Committee convened on December 21, 2017 to hear OptumRx’s appeal. The issues before the Committee were as follows:

1. Dr. Williams-Clark has no conflict of interest or bias.
2. The Nondisclosure was harmless error, and Magellan was not prejudiced.
3. The CPO’s decision is inequitable and contrary to the public interest.

The State Protest Committee unanimously determined that the Chief Procurement Officer’s decision to cancel the RFP should be upheld and directed the Bureau of TennCare to reprocure the services sought in the RFP if the services are still necessary. The State Protest Committee determined that the failure to disclose the evaluator, Dr. Williams-Clark’s, previous employment with Magellan:

1. Violated mandatory CPO policy for disclosure;
2. Did not give CPO the opportunity to review or investigate the conflict to see if actual conflict existed;
3. Concerned the Committee about the appearance of impropriety and harm to policy if not followed;
4. Was in the public’s interest by upholding the law, and
5. Based on foregoing, the CPO had a rational basis to cancel and rebid the RFP.

The appeal of Optum RX was denied. The State Protest Committee also found that no sanctions were warranted and the protest bond should be returned.