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Senate of Pennsylvania

October 18, 2004

The Honorable Estelle Richman
Secretary, Department of Public Welfare
Health and Welfare Building, Room 333
7th and Forster Streets
P.O. Box 2675
Harrisburg, PA 17105

Re: Proposed Rules for Bureau of Hearings and Appeals

Dear Secretary Richman:

As you may know, I was actively involved in discussions around the negotiated settlement that resulted in Act 142 of 2002 which authorizes and requires the Proposed Rules for the Bureau of Hearings and Appeals. It has come to my attention that many of the provisions in the rules proposed on August 13, 2002 may conflict with both the letter and the spirit of the legislation. In particular, I am concerned about the following:

- Provisions which undermine the Providers' rights to a De Novo Review
- Rules that improperly shift the burden of proof to Providers
- Provisions concerning supersede as appear to be inconsistent with Act 142
- Notice, Pleading, and Discovery requirements appear to be unfair to Providers

I hope you will be able to personally review the Provider comments to these regulations and discuss them with your staff. The rules proposed on August 13, 2002, 34 PA Bull 4447, represent something that is closer to what the Ridge Administration originally proposed, rather than the legislation that was finally enacted.

Thank you for your attention to this matter.

Sincerely yours,

A handwritten signature in black ink, appearing to read 'V. Fumo', with a long horizontal line extending to the right.

VINCENT J. FUMO
State Senator

cc: Mr. John Hewitt
Regulatory Analyst
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101