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July 9, 2008

Robert Brackbill
Chief, Company Licensing Division, Insurance Department
1345 Strawberry Square
Harrisburg, PA 17120

Dear Mr. Brackbill:

On behalf of 900 orthopaedic surgeons and their patients in Pennsylvania, thank you for the opportunity to provide testimony on the proposed merger of Highmark and Independence Blue Cross

The proposed transaction will create one dominant company providing the most basic and important access to medical services to seven million Pennsylvania's citizens or approximately 56% of the state population. In addition to being one of the largest insurance companies in the nation, the new company will – intentionally or unintentionally – stifle competition from other insurers in Pennsylvania's largest two markets. Further unintended consequences will be difficult to correct and many fear the sheer size of the new company will invoke undue influence on regulatory and legislative actions in Harrisburg.

The surgeons treating bone, joint and muscle injuries and disease ask for consideration of the impact this merger will have on physician supply, as well as patient access to specialty medical care.

Our position is that no informed comment on the proposed merger can be done until there is complete transparency and all information, specifically the consolidation documents identified by the Insurance Department as confidential, from the companies involved is available to adequately assess the impact on patient care and the practice of medicine in the Commonwealth.

Creation of a Super Dominant Health Insurer

While it may not fulfill the technical definition of monopolistic, the proposed merger will create an even larger version of the two insurers who currently dominate their respective markets, thus increasing the

problems which presently exist. For example, one of the largest barriers to recruiting and keeping needed physicians in Pennsylvania is the low reimbursement rates from commercial insurers and particularly Highmark and Independence Blue Cross. Physicians have little ability to negotiate now on their contracts with these insurers, our voice will be weakened with the larger company.

Similarly, we have grave concerns that “the only game in town” will eliminate competition and choice for health insurance coverage, increasing premiums and making health insurance less affordable for individual and group subscribers.

A recent Pennsylvania Orthopaedic Society (POS) survey of member physicians who are providers for Highmark or IBC recited several areas of concern. In particular the following items should be addressed as part of the merger:

- 5 Modality Credentialing and Pre-Certification
- Improve Navinet services
- Improve appeal and pre-determination policy
- Tolerable reimbursement rates
- Assurances that there will be no disruption of services and providers will be protected from "strong-arm" tactics and mandates of participation given the number of lives the merged entity will cover.

Market Concentration

According to the Pennsylvania Medical Society, data presented by the American Medical Association reveals that the Pennsylvania statewide Herfindahl-Hirschman Index (HHI), a calculation which measures how much market share is concentrated in one or a few large health plans, for all HMO and PPO products is 1513. This would make the market “concentrated” based on the 1997 Federal Trade Commission/Department of Justice Horizontal Merger Guidelines (FTC/DOJ guidelines). This number is probably low since it is very difficult to obtain accurate PPO numbers. Under these guidelines a merger in these markets that raises the HHI by more than 100 points raises significant competitive concerns. If a market exceeds an HHI of 1800, which the Pennsylvania statewide market may if accurate PPO numbers were known, that market is considered “highly concentrated” under the guidelines. **Therefore, we strongly support the imperative request of the Pennsylvania Medical Society that the Insurance Department collect accurate HMO and PPO numbers to determine the correct HHI for the Pennsylvania statewide market. Also according to the Medical Society, the merger of IBC and Highmark would not be permitted under FTC/DOJ guidelines if the HHI index were found to be above 1900.**

We further support the Pennsylvania Medical Society’s assertions that a transaction of this magnitude will create multiple barriers to entry by other health plans, will reduce competition in border counties, and will create diseconomies of scale.

Several class action lawsuits in Pennsylvania, while unrelated to the merger, itself, help to illustrate the concerns of Pennsylvania small businesses, which include physician practices, about health insurer dominance in Pennsylvania. Each of the four cases assert that Pennsylvania’s four Blues plans have excess reserves and surpluses, which have accumulated in part as a result of exorbitant premiums charged to Pennsylvania companies. Courts across the state certified these classes before the proposed merger was announced. If the Courts have affirmed that the concerns of these businesses about insurer

dominance were valid, what does that say about the dominance which will be realized if the proposed merger is approved?

We respectfully request a careful review of the proposed merger for the impact it will have on patients, providers, and competing insurers and that *all* documents related to the merger be made available to the public.

Thank you for this opportunity to provide comments.

A handwritten signature in black ink that reads "Chip Hummer". The signature is written in a cursive style with a large initial "C" and a long, sweeping underline.

Chip Hummer, MD
Past President