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February 14, 2024

Mr. Michael Humphreys, Commissioner
Insurance Department
1326 Strawberry Square,
Harrisburg, PA 17120

Dear Commissioner Humphreys,

I write in response to Highmark's request to modify the PID's approving determination and order dated April 19, 2013, and modified on July 20, 2017.

As Chair of the Health Committee and as a Representative from Pittsburgh, I've had an up-close seat to the changes into the healthcare marketplace, with the creation of integrated delivery networks and intensive consolidation of health care systems.

AHN and Highmark are far from the only integrated delivery network in Pennsylvania. UPMC is also a combined insurer and provider, as is Geisinger and the Jefferson Health System. It's widely recognized that ongoing consolidation is giving hospital systems broadly excessive market power and limiting competition. That is true for health systems across the board, as well as for these integrated systems. Looking at the landscape broadly, it seems unjust that only one combined hospital system and insurer is subject to oversight that should rightly apply to all hospitals and system. No matter how good the rules, they are not appropriate if not applied fairly across all parties.

To be clear, I applaud the Insurance Department for the specific requirements of the Highmark/AHN integrated delivery network. In particular, I believe the requirements related to most-favored nation status, allowing providers to contract with other insurers, and the prohibition on contracts that limit anti-tiering and anti-steering provisions would be incredibly impactful in the realms of both consumer protection and market stabilization if they were applied to the whole market equally; my understanding is that Highmark supports these provisions as well.

As hospitals consolidate to gain market share, they have outsized influence in contracts with insurers. We know from the data that they often use this influence to increase rates with insurers – costs that get passed on to consumers. These practices are even more problematic when the hospital and insurer are affiliated. Hospitals can easily grant their affiliated insurance plans highly competitive rates and subsidize their insurance products with the rates charged to their competitors.

I'd like to see these protections related to insurance-hospital contracting put in place across the board and would welcome a conversation to make that possible. That said, as mentioned, I question the fairness of enforcing requirements on one integrated delivery network, only, given that two others exist in the state. It seems an accident of origin that only Highmark-AHN falls under insurance department oversight -- since the insurance company purchased the hospital, rather than the hospital spawning the insurance company.

While I vigorously support the mechanisms included in the Insurance Department's oversight of Highmark-AHN, I would hope that the department would consider the fairness of one party being subject to specific regulatory conditions that should be applicable to all.

As mentioned, I'd welcome further conversations about that oversight expansion, as you consider whether it is justified to single out one system.

Thank you for your consideration of my feedback.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Dan B. Frankel". The signature is written in a cursive, flowing style.

Dan B. Frankel, Majority Chairman,
House Health Committee
23rd Legislative District