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Bybee, Cressinda

From: Samuel R. Marshall <smarshall@ifpenn.org>
Sent: Tuesday, February 24, 2015 4:51 PM
To: Bybee, Cressinda
Subject: Highmark/NEPA merger application
Attachments: highmarknepaltr2.doc

Attached is a brief response to Highmark's February 19 letter in the above proceeding. A copy will be mailed to Highmark's counsel, too.

Thanks,

Sam Marshall

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The Insurance Federation of Pennsylvania, Inc.

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Samuel R. Marshall
President & CEO

February 24, 2015

Cressinda Bybee
Senior Insurance Company Licensing Specialist
Company Licensing Division
Pennsylvania Insurance Department
1345 Strawberry Square
Harrisburg, PA 17120

Re: The proposed merger of Highmark and NEPA – Highmark's February 19 response

Dear Ms. Bybee:

Highmark's February 19 response to the Insurance Federation's February 2 letter casts aspersions on the Federation's motives for raising questions about its merger. That makes for great theatre but not sound regulation. Our comments were filed within the time constraints set by the Department and stay within the criteria set forth in the Insurance Holding Companies Act. The review process should allow for hard blows, not low ones.

Highmark obscures the Federation's two main points. First, the Department should look at Highmark's most recent financial results, and the results of its newly acquired health system, to examine the fiscal soundness of this merger. Highmark doesn't address this in its response, but the Department should: 2014 was a year of dramatic transformation at Highmark. This review should consider where things stand now and for all of Highmark, not just when the application was filed and for only the insurance side of Highmark.

Many of our members are no longer simply Highmark's competitors – we are now clients or partners to the extent we have provider contracts with its hospital system. We raise the need to look at Highmark's most recent and most complete

Page two

results in large part because of our interest in seeing its hospital system thrive; we don't want to see this merger have a detrimental effect on that part of the new Highmark, and we want the Department to consider this. Our own competitive status, and the well-being of our policyholders, depends on that. So does sound regulatory oversight.

Second, the Department should consider the competitive abilities of other insurers in analyzing whether this merger would "substantially lessen" competition in the relevant market. The Department's expert focused more on the competition between Highmark and NEPA than the competition of other insurers – namely, the full market.

We believe the competitive analysis required in the Insurance Holding Companies Act goes beyond whether the two parties to the merger might have competed and whether the merged entity will be stronger (otherwise, why merge?). We believe the required analysis includes consideration of a merger's impact on the general competitive abilities of the market, which inherently includes other competitors. From what we've read in the Department's expert report, that aspect seems largely overlooked.

Questions, recommendations and even disagreements can be raised in a way that invites better regulatory review. Sometimes a competitor's instincts take over, and the resulting rhetoric can obscure a proper regulatory review of the core questions. We submit this letter to emphasize the core of our earlier concerns, we hope without the rancor and accusations from all sides that have too often been part of the regulatory oversight of the evolutions at Highmark.

Sincerely,

Samuel R. Marshall

C: Honorable Donald C. White, Chairman
Honorable Matt Smith, Democrat Chairman
Senate Banking and Insurance Committee

Honorable Tina Pickett, Chairman
Honorable Anthony M. DeLuca, Democrat Chairman
House Insurance Committee

Page three

Honorable Kathleen Kane
Attorney General