060

Bybee, Cressinda

From: Farber, Tim <TFarber@lockelord.com>
Sent: Tuesday, September 18, 2018 4:21 PM
To: Bybee, Cressinda
Cc: aboateng@pamedsoc.org
Subject: RE: CVS / Aetna - Public Comment from PA Medical Society
Attachments: PAResponse.PDF

Ms. Bybee:

On behalf of CVS Health Corporation ("CVS Health"), attached please find a response to the Pennsylvania Medical Society public comment letter.

Thank you again for your consideration in this matter. If you have any questions please do not hesitate to contact me.

Best Regards,

Tim

Tim Farber
Locke Lord LLP
111 South Wacker Drive
Chicago, IL 60606
(312) 443-0532 Direct
tfarber@lockelord.com

From: Bybee, Cressinda [mailto:cbybee@pa.gov]
Sent: Monday, September 10, 2018 2:14 PM
To: Farber, Tim
Subject: CVS / Aetna - Public Comment from PA Medical Society

The attached public comment relating to the subject filing is being forwarded to you for appropriate response.

Thank you,
Cris

Cressinda E. Bybee | PIR | Chief, Company Licensing Division
Insurance Department | Bureau of Company Licensing and Financial Analysis
1345 Strawberry Square | Hbg, PA 17120
Phone: 717.783.2144 | Fax: 717.787.8557
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From: Boateng, Angela [mailto:aboateng@pamedsoc.org]
Sent: Friday, September 07, 2018 2:48 PM
To: Bybee, Cressinda <cbybee@pa.gov>
Cc: Feather, Karen <kfeather@pa.gov>; Frantz, Jodi (Insurance) <jodfrantz@pa.gov>
Subject: RE: Hearing for CVS/Aetna Merger

Criss:

My apologies the last line was cut off on the first page. Please see attached for the updated version.

Regards,

Angela

Angela O. Boateng

Return to the Art of Medicine

Let's courageously stand together so fellow physicians can confidently stand alone. See how at www.pamedsoc.org/ArtofMedicine

From: Boateng, Angela
Sent: Thursday, September 6, 2018 12:25 PM
To: Bybee, Cressinda <cbybee@pa.gov>
Cc: Feather, Karen <kfeather@pa.gov>; Frantz, Jodi (Insurance) <jodfrantz@pa.gov>
Subject: Hearing for CVS/Aetna Merger

Good Afternoon Cressinda:

Once again, thank you for your assistance a few weeks ago. A hard copy of the attached letter will be sent to Insurance Commissioner Altman on behalf of the Pennsylvania Medical Society's (PAMED) President, Dr. Theodore Christopher, MD, FACEP.

The attached letter articulates PAMED's concern regarding the proposed merger of CVS Health Corporation (CVS) and Aetna Inc. (Aetna). PAMED believes that the proposed merger of CVS and Aetna would have anti-competitive effects that are not be in the best interest of Pennsylvania's patients, providers, and health care market.

If you have any questions, please feel free to contact me.

Regards,

Angela O. Boateng, Esq.
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Pennsylvania Medical Society
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September 18, 2018

VIA EMAIL FED EX

Cressinda E. Bybee
Chief, Company Licensing Division
Pennsylvania Insurance Department
Bureau of Company Licensing and Financial Analysis
1345 Strawberry Square
Harrisburg, Pennsylvania 17120

RE: Form A Statement Regarding the Acquisition of Control of Aetna Inc. by CVS Health Corporation: Response to Public Comment From the Pennsylvania Medical Society (PAMED)

Dear Ms. Bybee:

On behalf of CVS Health Corporation ("CVS Health"), enclosed please find a response to the PAMED public comment letter you forwarded to me by email on September 10, 2018.

Thank you again for your consideration in this matter. If you have any questions please do not hesitate to contact me by phone at 312-443-0532 or by email at tfarber@lockelord.com.

Very truly yours,

LOCKE LORD LLP

Tim Farber

Tim Farber

Enclosure

cc: Angela Boateng, General Counsel, PAMED

9/18/18

CVS Health Corporation Response to Pennsylvania Medical Society Public Comment Letter

I. The Merger Is in the Best Interest of Pennsylvania Consumers

In its filing with the Department, the Pennsylvania Medical Society (PAMED) raises various concerns regarding the proposed merger, but relies entirely on the letters submitted to the U.S. Department of Justice by the American Medical Association (AMA)[1] and California Department of Insurance (CDI).[2] As discussed below, the claims in those letters are unfounded and lack any evidentiary basis. The available data and real-world market experience refute the proffered vertical theories of harm and the supposed dominance of CVS and Aetna in any appropriately-defined market. The horizontal theories of harm fare no better, with inaccurate and incomplete assertions serving as the basis of the arguments in the letters. Rather than harming competition, the proposed merger will yield substantial cost savings and other consumer benefits in Pennsylvania and throughout the country, injecting much-needed change and innovation into the health care system.

A. The Merger Will Benefit Consumers Substantially By Lowering Costs, Improving Quality of Care, and Making Care More Convenient

Consumers in Pennsylvania and elsewhere will benefit substantially from the proposed combination, including through lower medical costs, more convenient care, and enhanced health care products and services. Combining CVS and Aetna will create a new, open health care model that will help consumers improve their health and simplify their health care experience. First, the new model will put consumers at the center of their care, providing them the information and resources they need to better manage their own health and access care in more convenient community settings at an affordable price. Second, the new model will focus on prevention, chronic conditions, and primary care; it will engage patients at the pharmacy and elsewhere in their communities, earlier and more often, to help prevent and manage illness more effectively. Third, the combined CVS-Aetna will be better able to address the rising costs and fragmentation of care that plague the current health care system.

A key driver of consumer benefits from the merger is the ability to combine CVS's pharmacy data and expertise with Aetna's medical data and expertise. By enhancing access to data and improving the use of predictive analytics, the combined company will create targeted interactions with patients that will provide:

- Greater access to health care through convenient, lower-cost sites of care, including walk-in clinics and home infusions;

[1] Letter from James L. Madara, Executive Vice President & CEO, American Medical Association, to the Hon. Makan Delrahim, Assistant Attorney General, U.S. Department of Justice (Aug. 7, 2018).

[2] Letter from David Jones, Insurance Commissioner, California Department of Insurance, to the Hon. Jeff Sessions, Attorney General, and the Hon. Makan Delrahim, Assistant Attorney General, U.S. Department of Justice (Aug. 1, 2018). CDI issued this letter after holding a hearing on the proposed merger on June 18, 2018.

- Better coordination of care across providers, including physicians and pharmacists, particularly for patients with chronic conditions; and
- Post-discharge support by pharmacists and other providers to increase medication adherence and reduce hospital readmissions.

Together, these increased patient interactions will help eliminate gaps in health care, increase medication adherence, and more effectively treat members with chronic conditions, thereby lowering medical costs for consumers.

Consumers will also benefit from the cost savings and other synergies that the parties expect to result from the merger. CVS projects that in the near term it will achieve about $750 million in annual recurring cost savings. These savings will include lower costs resulting from combining the two companies' operations in the pharmacy benefit management (PBM) and Medicare areas, aligning the companies' drug formularies, and streamlining redundant corporate functions. Over the longer-term – three to five years post-closing – CVS expects to achieve substantial additional savings in the form of medical cost reductions from improved care management and optimizing the site of care to make better use of lower-cost, more convenient sites when appropriate.

Short of a merger, no feasible commercial arrangement with Aetna – including its long-term PBM services contract – will provide CVS with sufficient financial incentives to make the investments necessary to obtain the substantial cost savings and other consumer benefits that will accrue from the proposed transaction.

B. The Vertical Integration from the Combination Will Not Lessen Competition in Any Market

The AMA and CDI letters cited by PAMED raise concerns about the vertical integration of the CVS and Aetna businesses. These concerns are premised on assertions about market dominance that are unsupported by any evidence and are contradicted by commercial realities and actual market data. In fact, neither CVS nor Aetna is dominant in any area of its business, and the combined company will continue to have strong commercial incentives to win and maintain the business of competing health plans and consumers alike. As discussed below, the facts show that CVS is not a "dominant" PBM or pharmacy, that Aetna is not "dominant" in health insurance, and that the combined firm will have every need and incentive to compete vigorously to the benefit of consumers in all markets.

Despite the unsupported assertions in the AMA and CDI letters that the PBM industry is not competitive, a look at the PBMs serving the top 10 health plans in Pennsylvania shows just how competitive the PBM area is, with 6 different PBMs serving those top 10 accounts:

PBMs for Top Health Plans in Pennsylvania[3]

Rank	Health Plan	Enrollment	PBM
1	Highmark	2,661,050	Express Scripts
2	Independence Blue Cross	2,647,212	FutureScripts/OptumRx
3	Aetna	1,919,488	CVS Caremark
4	UPMC Health System	1,056,483	Express Scripts
5	United	715,415	OptumRx
6	Capital BlueCross	706,337	CVS Caremark
7	Geisinger	571,212	MedImpact
8	Cigna	316,807	OptumRx
9	Health Partners of Philadelphia	282,786	Argus
10	Humana	46,565	Humana

One witness affiliated with members of the plaintiffs' bar asserted at the California hearing that "smaller PBMs . . . are not good options."[4] Yet, the data plainly contradict that claim. In Pennsylvania alone, PBMs such as MedImpact and Argus currently serve and presumably are good options for even the largest of customers. The commercial reality faced by CVS is as the FTC has described it: "a competitive market for PBM services characterized by numerous, vigorous competitors who are expanding and winning business from traditional market leaders."[5] To that point, over just the past year, CVS has lost business to more than ten different PBM competitors.

With respect to pharmacy competition, the opposing witness testimony at the California hearing was simply inaccurate. One witness argued that the combination "will further strengthen the already dominant position of CVS in the pharmacy market."[6] However, CVS's share of retail pharmacy stores in Pennsylvania is 17% and nationally is 16%. Health plans have many viable pharmacy options, as demonstrated by the fact that those plans can, and regularly do, assemble retail pharmacy networks that exclude CVS. For example, in 2017, CVS was made a non-preferred pharmacy in the majority of the largest Part D plans.[7] Even Caremark largely relies on other retail pharmacies, which accounted for a majority of its retail commercial prescription

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[3] Enrollment data from Mark Farrah Associates (as of fourth quarter 2017); identity of PBMs from CVS internal information.

[4] Diana Moss, California Department of Insurance Hearing Transcript at 147 (June 19, 2018).

[5] Statement of the Federal Trade Commission Concerning the Proposed Acquisition of Medco Health Solutions by Express Scripts, Inc., at 2 (Apr. 2, 2012), https://www.ftc.gov/public-statements/2012/04/statement-federal-trade-commission-concerning-proposed-acquisition-medco.

[6] Written Testimony of Neeraj Sood, California Department of Insurance Hearing, at 13, CDIx091 (June 19, 2018).

[7] Drug Channels Institute, Walgreen's Plays to Win: Our Exclusive Analysis of 2017's Part D Preferred Pharmacy Networks (Oct. 25, 2016) (CVS preferred in only one SilverScript and one Magellan plan among 17 major Part D plans), https://www.drugchannels.net/2016/10/walgreens-plays-to-win-our-exclusive.html.

claims last year. The assertion that "once a health insurer has contracted with a particular PBM, subscribers are limited to the affiliated pharmacy services"[8] is contrary to fact.

Another witness sponsored by the AMA expressed concern at the California hearing that the CVS-Aetna combination "might . . . [r]educe reimbursement to competing pharmacies,"[9] including independent pharmacies. There was no data presented to support that concern. The actual data show Caremark reimburses independent pharmacies at higher levels than CVS retail pharmacies. A recent study published by the State of Ohio found just that: "In the aggregate, CVS paid independent pharmacies more than they paid CVS pharmacies."[10] The difference was 3.6% for branded drugs and 3.4% for generics[11] – not trivial numbers, given the low margins for retail pharmacies.

The reality in the pharmacy area is far closer to the description offered by another AMA-sponsored witness: "Retail pharmacies face mounting competition from mass merchandisers (e.g. discount stores, supercenters and warehouse clubs), mail-order prescription providers, online pharmacies, convenience stores, wholesalers (e.g. Costco) and other health clinics (e.g., urgent care centers)."[12] There are more than 60,000 retail pharmacies in the United States to choose from, in a highly competitive industry with many options.[13] And this does not even count the potential disruption by online pharmacies (for example, see Amazon's June 28 announcement that it is buying online pharmacy PillPack).

On the insurance side, Aetna's health insurance share nationally is 8%, while its share in Pennsylvania is 17.6%.[14] Highmark and Independence Blue Cross, with 24% shares each, are over 30% larger than Aetna in Pennsylvania.[15] Aetna's relatively small share – both nationally and in Pennsylvania – presumably underlies one of the AMA witness's observation about the likelihood of CVS successfully increasing the cost of PBM services to insurers other than Aetna: "Although Aetna is the third largest insurer in the United States, foreclosure may be a risky strategy, as it involves not aggressively bidding for a large fraction of the market."[16]

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[8] Written Testimony of American Antitrust Institute, June 19, 2018 California Department of Insurance Hearing, at 5, CDIx100.

[9] Presentation of Neeraj Sood, California Department of Insurance Hearing, at CDIx039 (June 19, 2018).

[10] Ohio Department of Medicaid, Report on MCP Pharmacy Benefit Manager Performance, at 5 (June 15, 2018), http://www.healthtransformation.ohio.gov/Portals/0/Press%20Releases/PBM%20HDS%20Final%20Report%20Executive%20Summary.pdf?ver=2018-06-21-114617-170.

[11] *Id.*

[12] Written Testimony of Lawton R. Burns, California Department of Insurance Hearing, at 13, CDIx138 (June 19, 2018).

[13] https://www.humana.com/individual-and-family-support/tools/network-providers/pharmacies.

[14] Shares are based on Mark Farrah Associates data on commercial, Medicare, and Medicaid enrollment (as of fourth quarter 2017).

[15] *Id.*

[16] Written Testimony of Amanda Starc, California Department of Insurance Hearing, at 10, CDIx115 (June 19, 2018).

The commercial realities undermine the vertical theories of harm presented in the AMA and CDI letters put forward by PAMED. An increase in the prices to health plans for PBM or pharmacy services would fail. As the data show, health plans that compete against Aetna have a number of very good alternatives to CVS for those services. And, given Aetna's small health insurance share, Aetna would likely capture only a small portion of any members switching away from rival health plans, in the unlikely event CVS were able to increase another health plan's costs.

C. Post-Merger, CVS Will Continue to Have Strong Commercial Incentives to Win Health Plan Business

Following its combination with Aetna, CVS will continue its long-standing efforts to win and maintain the PBM business of health plans and other insurers, including those that may compete with Aetna. CVS has strong commercial incentives post-merger to maintain and grow its health plan business, which accounts for a substantial portion of its revenue that it cannot afford to lose. After acquiring Aetna, CVS will continue to serve its Medicare Part D and other health plan clients as it does today – with the objective of providing competitive pricing, exceptional service, and innovative solutions.[17]

CVS/Aetna will not be the first combination of a health plan and a PBM. As the CDI Commissioner noted during the California hearing, "We have an example in United and Optum of a vertically integrated health insurer and health plan with a PBM."[18] Per a witness opposed to the merger, the UnitedHealth/OptumRx combination has not harmed competition: "United Healthcare and Optum have kept the doors open. They will deal with all comers. They have not gone to a[n] … exclusivity model."[19] CVS's plans are consistent with this real-world example and commercial realities, which refute the hypothetical arguments of the AMA. CVS has testified to Congress about its intention to make its offerings "available, in an 'open source' environment, to all our business, labor, and public and private health plan clients" just as it does today.[20]

CVS expects health plans in Pennsylvania and elsewhere to benefit from these offerings as a result of the proposed merger. The merger will combine the convenience, community presence, and pharmacy expertise of CVS with Aetna's health plans, analytics capabilities, and extensive

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[17] *See* CVS Health, CVS Health Corporation to Acquire Aetna Inc., Transcript of Joint Conference Call, at 4 (Dec. 4, 2017) (comments of Larry J. Merlo, President & CEO, CVS Health Corp.) ("[T]his transaction will not, in any way, diminish the strong relationships CVS and Aetna have with our clients and their health care partners, nor will it reduce the value that we both create for them every day. CVS has a long history of developing solutions that deliver on the cost quality access goals of our partners, and we see no reason for that not to continue into the future."), http://otp.investis.com/clients/us/cvs_caremark1/SEC/sec-show.aspx?Type=html&FilingId=12415274&CIK=0000064803&Index=10000.

[18] Commissioner David Jones, California Department of Insurance Hearing Transcript at 170 (June 19, 2018).

[19] Diana Moss, California Department of Insurance Hearing Transcript at 170-71 (June 19, 2018).

[20] Testimony of Thomas M. Moriarty, EVP, Chief Policy and External Affairs Officer, and General Counsel, CVS Health Corp., Hearing on "Competition in the Pharmaceutical Supply Chain: the Proposed Merger of CVS Health and Aetna," before Subcommittee on Regulatory Reform, Commercial and Antitrust Law of U.S. House of Rep. Committee on the Judiciary, at 6-7 (Feb. 27, 2018), https://judiciary.house.gov/wp-content/uploads/2018/02/Moriarty-REVISED-Testimony.pdf.

network of health care providers, allowing the combined company to bring enhanced and innovative products and services to its health plan clients.

CVS's existing vertical relationships in Part D provide a real-world preview of how health plans can and will benefit from the proposed merger. Caremark currently provides PBM services to various health plans that sell Part D plans. Those health plans compete with CVS's Part D business, SilverScript. Yet, those health plans chose, and continue to use, Caremark as their PBM because of Caremark's competitive product and service offerings. Far from "harming" these customers, Caremark's health plan clients have outperformed the overall marketplace in terms of Part D enrollment growth.[21] In terms of service quality, more than 80% of Medicare lives served by Caremark's PBM are in four-star or five-star plans – the highest of any PBM serving Medicare Part D.[22] In short, Caremark is helping its health plan clients (including competitors to SilverScript) to be more competitive in the marketplace today, and this will continue – the addition of Aetna's Part D plans will not change this dynamic.

D. The Combination Will Not Lessen Competition in Medicare Part D

Concerns about anticompetitive effects in Medicare Part D raised in the AMA and CDI letters are based virtually entirely on market concentration levels. Yet, concentration levels for Part D show that the marketplace is not highly concentrated using the Herfindahl-Hirschman Index (HHI) calculations.[23] Regardless, shares and concentration levels are only the beginning point for any meaningful antitrust analysis. Yet at the California hearing the AMA and its sponsored witnesses presented market share calculations as virtually the entire analysis, ignoring significant evidence that Part D markets are and will remain highly competitive. In fact, the Centers for Medicare & Medicaid Services (CMS) data show that Part D premiums in a region are not correlated with the shares of Part D plans in that region.[24]

In addition, when one looks deeper into the evidence, it becomes clear that CVS's proposed acquisition of Aetna will not lessen the substantial competition that currently exists in Medicare Part D. The combined company will continue to face competition from:

- Six national firms (assuming both the CVS/Aetna and Cigna/Express Scripts transactions are completed) competing in every Part D region established by CMS, including Region 6, which includes Pennsylvania;

[21] *See* Jon Roberts, Meeting the Health Care Challenges of Tomorrow, CVS Health 2016 Analyst Day, at 13 (Dec. 15, 2016), http://investors.cvshealth.com/~/media/Files/C/CVS-IR-v3/documents/12-15-2016/2016-analyst-day-jon-roberts-presentation.pdf.

[22] *See* Testimony of Thomas M. Moriarty, EVP, Chief Policy and External Affairs Officer, and General Counsel, CVS Health Corp., Hearing on "Competition in the Pharmaceutical Supply Chain: the Proposed Merger of CVS Health and Aetna," before Subcommittee on Regulatory Reform, Commercial and Antitrust Law of U.S. House of Rep. Committee on the Judiciary, at 7 (Feb. 27, 2018), https://judiciary.house.gov/wp-content/uploads/2018/02/Moriarty-REVISED-Testimony.pdf.

[23] Written Testimony of Richard M. Scheffler, California Department of Insurance Hearing, at 5-9, CDIx073-CDIx077 (June 19, 2018).

[24] Analysis of CMS Part D premium and enrollment data.

- Several Part D firms with regional strengths; and
- Sponsors of Medicare Advantage Part D (MAPD) plans.

In Pennsylvania, there are currently 12 competitors offering 26 Part D plans for seniors to choose among. A marketplace with so many competitors and options for seniors does not lack competition.

There are eight national, Fortune 200 firms marketing Part D plans in every CMS region, covering all fifty states and the District of Columbia. In addition to CVS and Aetna, national Part D firms include Cigna, Express Scripts, Humana, Rite Aid, United, and WellCare. These participants are large, well-funded, sophisticated firms that compete vigorously to serve the rapidly growing senior population. These national players create a highly competitive and commoditized environment for Part D plans. It is hard to find a marketplace in the health care sector (or almost any sector) with so many significant companies in every geographic market.

Post-merger, the combined company also will face significant, additional competition from several Part D players with regional strengths. Regional players offering Part D plans in Pennsylvania include Capital BlueCross, Highmark, Magellan, and MII Life.

The vigorous competition in Part D is further facilitated by Medicare's Plan Finder website, which allows beneficiaries to compare premiums, deductibles, and other attributes of competing Part D and MAPD plans.[25] With Plan Finder, pricing, quality (measured by Medicare star ratings), and benefit design are fully transparent to Medicare beneficiaries. During each year's annual open enrollment period, seniors can use the site to compare plans and switch to another plan with more favorable attributes. In Pennsylvania, seniors seeking standalone Part D coverage can use Plan Finder to choose among 12 providers and 26 plans available to them in the state (listed in the table below).

[25] Medicare Plan Finder, https://www.medicare.gov/find-a-plan/questions/home.aspx.

Standalone Part D Plans Offered in Pennsylvania for 2018

Company	# of Plans	Plan Name
Aetna	3	• Aetna Medicare Rx Select • Aetna Medicare Rx Saver • First Health Part D Value Plus
Capital BlueCross	2	• SecureRx - Option 1 • SecureRx - Option 3
Cigna	2	• Cigna-HealthSpring Rx Secure • Cigna-HealthSpring Rx Secure-Extra
CVS Health	2	• SilverScript Choice • SilverScript Plus
Express Scripts	3	• Express Scripts Medicare - Saver • Express Scripts Medicare - Value • Express Scripts Medicare - Choice
Highmark	2	• Blue Rx PDP Plus • Blue Rx PDP Complete
Humana	3	• Humana Walmart Rx Plan • Humana Preferred Rx Plan • Humana Enhanced
Magellan	1	• Magellan Rx Medicare Basic
MII Life	1	• Basic Blue Rx
Rite Aid	1	• EnvisionRxPlus
United	4	• AARP MedicareRx Walgreens • AARP MedicareRx Saver Plus • AARP MedicareRx Preferred • Symphonix Value Rx
WellCare	2	• WellCare Classic • WellCare Extra

There is ample competition among Part D firms. But in addition to the many national and regional Part D firms, CVS and Aetna face competition from sponsors of MAPD plans. CMS data recording switches between Part D and MAPD plans show that, over the last three years, MAPD plans account for large amounts of business won and lost by CVS's Part D plans. More than half of CVS's Part D enrollment losses were to MAPD plans during this time period. In addition, CVS's new enrollment from MAPD also exceeded the amount of new enrollment from Aetna and all other Part D competitors, except United and Humana.

When accounting for all Part D competition (including MAPD), the combined firm's share is only 22% nationally and 25% in Pennsylvania.

Pennsylvania Individual Part D Shares[26]

Competitor	Part D Share	Part D+MAPD Share
CVS Health	25.9%	13.0%
United	19.7%	12.1%
Humana	18.2%	11.4%
Rite Aid	8.6%	4.3%
Aetna	7.6%	12.1%
WellCare	5.9%	3.0%
Express Scripts	5.8%	2.9%
Cigna	4.0%	4.4%
Highmark	3.2%	11.1%
MII Life	0.5%	0.2%
Capital BlueCross	0.4%	1.8%
Magellan	0.2%	0.1%
Other	-	23.6%

*   *   *

The assertions of PAMED – like those of the AMA and CDI, on which they rely – are not only unsupported by rigorous analysis or evidence, but are directly contradicted by the facts. Publicly-available data and actual market experience show that the combination of CVS and Aetna will not lessen competition in any market. Instead, it will result in substantial benefits to consumers in Pennsylvania and across the country, and is a step toward creating a new business model that can help fix the broken status quo of today's health care system.

II. A Public Hearing In This Matter Is Unnecessary and Prejudicial

For the reasons set forth above and further provided in the Applicant's Form A Application and subsequent information provided to the Department, the Applicant respectfully suggests a hearing in this matter is unnecessary because Applicant meets the statutory standards for approval in 40 P.S. s 991.1402-1403 and with this filing has also responded to the PAMED letter. In addition, the notice in the Pennsylvania Bulletin regarding CVS Health's Form A Application was published on February 3, 2018 and provides:

[26] Based on August 2018 CMS plan enrollment data. Although CVS presents Part D shares for the state of Pennsylvania, as recognized in the AMA letter (at 4), the relevant geographic markets in Part D are the CMS regions. In any case, the shares for Region 6, which includes Pennsylvania and West Virginia, do not differ materially from the Pennsylvania-specific shares.

> Persons wishing to comment on this acquisition are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of publication of this notice in the Pennsylvania Bulletin.

PAMED submitted its letter over six months after the comment period ended as CVS seeks to expeditiously close this transaction. Such a late hearing would prejudice the timeliness and certainty of Applicant's closing of this transaction, thus harming Pennsylvania consumers, while also contravening the rationale for promptness of written comments. For all these reasons, the Applicant respectfully requests the Department not hold a hearing in this matter.