

**BEFORE THE INSURANCE DEPARTMENT  
OF THE  
COMMONWEALTH OF PENNSYLVANIA**

Statement Regarding the Request for Modification of the Commissioner's Approving  
Determination and Order (Order No. ID-RC-13-06)

By Highmark Health (f/k/a UPE)

**Response of Highmark Health to Comment on Behalf of Penn Medicine,  
Dated February 9, 2024**

Highmark Health on behalf of itself and Highmark Inc. (hereinafter "Highmark") responds to the comment from Andrew Sharp, Director of State Government Relations for Penn Medicine dated February 9, 2024 ("Penn Medicine Comment"), regarding Highmark's Request for Modification ("Request") to the Determination and Order No. ID-RC-13-06 (the "Order"). The Penn Medicine Comment is numbered as Document 16 on the Highmark Request for Modification page of the Pennsylvania Insurance Department (the "Department") website.

Penn Medicine points out that we are in a unique, transformative moment in healthcare, and it encourages a careful examination of current market realities in Pennsylvania. Highmark agrees. The current market realities warrant the Department's removal of the Conditions. Since the Department implemented the Order more than 10 years ago, any risk of anticompetitive effects from the transaction that created Highmark Health has dissipated. Compass Lexecon's May 2023 Report is replete with evidence of robust competition in insurance markets from both local and national competitors. *See, e.g.*, Compass Lexecon Report at 18-19; 28-29; 72-74. None of Highmark's competitors, however, are subject to the sort of overlapping regulatory burdens embodied in the Order. The Department should dissolve the Order and allow Highmark to compete fairly during this transformative moment in healthcare.

Penn Medicine adds that the Department "must possess the information required to oversee and monitor the financial standing of" integrated delivery networks. As noted in the Request, the Department will continue to have substantial insight into and oversight of Highmark's financial condition without the remaining Financial Conditions of the Order. Highmark Health must already file audited financial statements and does so in its public Form 990 filings.<sup>1</sup> Highmark Inc. must also file audited financials.<sup>2</sup> AHN provides audited financials publicly through the Electronic Municipal Market Access (EMMA) system. The Department already has significant oversight with respect to Highmark Inc. (and its interactions with AHN and Highmark Health).<sup>3</sup> The remaining Financial Conditions should not be maintained to impose duplicative financial monitoring obligations on Highmark that do not apply to other integrated delivery systems. To the extent the Department seeks to augment its regulation of

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<sup>1</sup> 26 U.S.C §§ 6001, 6033.

<sup>2</sup> 40 Pa. Stat. § 443.

<sup>3</sup> This includes through: Risk-Based Capital requirements, 40 Pa. Stat. § 221.2-B; CHR reporting activities, 40 Pa. Stat. § 991.2502; 10% of surplus limitation on the distributions from Highmark Inc., Pa. Stat. § 459.8; 31 Pa. Code § 25.22; market conduct exams, 40 Pa. Stat. § 323.3; examination and audit authority, 31 Pa. Code § 147.3; 40 Pa. Stat. § 323.3; and annual required filings, 40 Pa. Stat. § 443, among other things.

integrated systems, as other commenters have sought, that is outside the scope of the Department's review of Highmark's Request.

Penn Medicine concludes by noting that “the Department should undertake an independent, transparent assessment of this request to ensure a suitable level of oversight, a careful review of detailed operating disclosures, and guarantee fair competition in the state's health care sector.” Highmark wholeheartedly agrees. Highmark would add that such an independent, transparent assessment must be conducted within and pursuant to the Department's statutory authority. Such an assessment will confirm that the Conditions should be removed to guarantee fair competition in Pennsylvania's insurance delivery and health care sectors. Highmark should not be the sole entity burdened with costly and duplicative requirements that limit its ability to innovate. Only by granting Highmark's Request can the Department ensure that all similarly situated integrated systems can fairly compete in Pennsylvania. After more than ten years since the formation of Highmark Health, the “vibrant and competitive healthcare marketplace” that Penn Medicine seeks will be best fostered by eliminating selective regulations that curtail the activities of Highmark alone.

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February 15, 2024