

January 14, 2016

Jack M. Stover, Esquire
Buchanan Ingersoll & Rooney PC
409 North Second Street
Suite 500
Harrisburg, PA 17101-1357

RE: Final AHN Corrective Action Plan

Dear Mr. Stover:

The Department has completed its initial review of the Final AHN Corrective Action Plan (the "Corrective Action Plan" or the "CAP") filed pursuant to Condition 15 of the Department's Approving Determination and Order (Order No ID-RC-13-06) (the "2013 Order") and Condition H ("Condition H") of the Department's June 19, 2015 letter approving certain Financial commitments of Highmark Inc. ("Highmark") as provided therein (the "Approval Letter"). Capitalized terms not defined in this letter will have the meaning ascribed to them in the Approval Letter.

As discussed in Section II below, the Department has concluded that the Corrective Action Plan and the information submitted with the CAP do not provide the "information necessary to make such plan full, accurate and complete" as required by Condition H. In response to this, the Department requires Highmark Health to provide the Department with full, accurate and complete information regarding Highmark Health's new five year strategic plan (the "Strategic Plan") as discussed in Section III below.

Once the Department reviews the Strategic Plan and the material to be submitted with the Strategic Plan, the Department may request additional information regarding the Corrective Action Plan, or take other appropriate action.

I. **Background**

On March 9, 2015, Highmark filed with the Department a request for approval of a Financial Commitment (as defined in the 2013 Order) in the form of a grant or grants of up to \$175 million to AHN (the "\$175M Highmark Grants"). Following a public informational hearing, the Department approved the Financial Commitment subject to certain conditions in the Approval Letter.

Among other things, the Approval Letter required the filing with the Department of: (1) the Specific Scheduled Uses contemplated by the Financial Commitment; (2)

periodic AHN Financial Expenditure Reports; and 3) a corrective action plan, pursuant to Condition H, which is the subject of this Letter.

Condition H required Highmark Health to submit to the Department a “full, accurate and complete” Corrective Action Plan for AHN in two phases, a Preliminary Plan on or before July 15, 2015 (the “Preliminary Plan”), and the final version of the Corrective Action Plan (called the “AHN Corrective Action Plan” in the Approval Letter) by September 30, 2015.

On July 15, 2015, Highmark Health submitted public and confidential versions of the Preliminary Plan. Following its review of the Preliminary Plan, the Department issued a letter dated August 21, 2015 providing its initial comments to the Preliminary Plan and including (as Exhibit A) a schedule listing the Condition H requirements and indicating the categories of information with respect to which Highmark Health had not responded to certain items.

On September 30, 2015, public and confidential versions of the Corrective Action Plan were submitted to the Department. Representatives of the Department have conducted a preliminary review of the Corrective Action Plan and have met with representatives of Highmark Health and AHN to better understand the CAP.

II. **The Corrective Action Plan Does Not Fully Comply With Condition H**

Despite the comments provided by the Department in its August 21, 2015 letter, the Corrective Action Plan does not meet the “full, accurate and complete” standard mandated by Condition H. Attached to this letter as Exhibit 1 (“Exhibit 1”) is a schedule listing specific Condition H requirements and noting areas where an inadequate response or no response has been provided in the Corrective Action Plan.

While one of the purposes of this letter is to identify generally the areas in which the CAP fails to comply with Condition H, we want to be clear that our identification of certain issues in Exhibit 1 is not necessarily intended to constitute an exclusive list of all areas where the CAP fails to address or satisfy Condition H.

III. **Additional Required Action - Full, Accurate and Complete Information Regarding Highmark Health’s New Five Year Strategic Plan Must Be Provided to the Department**

A. Page 9 of the public version of the Corrective Action Plan states:

. . . the Highmark Health enterprise currently is in the process of refining and finalizing a long term strategy. . . . Highmark Health is submitting this Corrective Action Plan in advance of the finalization of this long-term strategic planning process. It is important to view the Corrective Action Plan in the context of the evolving business strategy. It is possible that Highmark Health’s strategic decisions will affect assumptions or the projections included in the CAP. . . . Highmark Health is fully

committed to keeping the Department fully informed of all relevant developments.

B. The Corrective Action Plan does not include the list of additional Financial Commitments (including donations) required to be included in the CAP. Instead, page 44 of the CAP states:

Highmark Health is currently engaged in a comprehensive strategic planning process. . .As the company gains clarity regarding the strategic direction for the next five years, and the tactics and actions to be taken in conjunction with this work, the projections contained in this Corrective Action Plan will be updated. . . .

To the extent that Highmark Health's updated strategy results in the identification of any additional Financial Commitments, such information will be communicated to the Department in a timely fashion.

C. Information about future planned or contemplated Financial Commitments (including Donations) is essential to the Department's evaluation of the CAP under the 2013 Order and the Approval Letter. Such information also is relevant with respect to the Department's evaluation of any potential negative effects of any additional Donations or other Financial Commitments on the financial stability and liquidity of Highmark or any other Domestic Insurer and on policyholder interests. See Condition 28 of the 2013 Order.¹

D. Thus, within ten (10) days after the adoption of all or part of Highmark Health's new five year strategic plan (the "Strategic Plan"), Highmark Health must provide the Department with:

1. A copy of the entire final Strategic Plan along with all exhibits and/or supplements, together with a summary of the prior versions of the Strategic Plan that were not approved by Highmark Health's Board of Directors or any committee thereof and the specific reasons therefor;
2. All information or presentations about the Strategic Plan distributed or shown to the Highmark Health Board (or to any Highmark Health subcommittee or task force) in its consideration of the Strategic Plan;
3. Any reports by consultants provided to the Board or used by Highmark Health, Highmark, Inc. or AHN to develop all or part of the Strategic Plan;
4. A copy of all projections provided or delivered to the Board of Highmark Health, or Highmark (including any committee thereof) relating

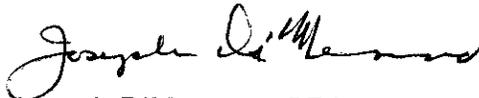
¹ Condition 28 reserves to the Commissioner the right to impose additional conditions, if (among other things) ". . .the Commissioner finds that actions taken or proposed to be taken by any UPE Entity might jeopardize the financial stability of a Domestic Insurer or prejudice the interest of policyholders of a Domestic Insurer."

to AHN, including those not approved and for those not approved a summary of the basis for non-approval;

5. A summary of the alternative plans relating to or affecting the AHN that were considered and not adopted by the Highmark Health Board or any committee thereof, together with the reasons for and the effects of the non-adoption of each; and
6. A description of the specific dates during which presentations were made or information was provided to the boards or committees described in item 4 relating to the CAP or the Strategic Plan; identification of those making the presentations or providing the information; and a summary of any oral presentations or information provided and responses from the boards or committees to which the presentations were made or the information provided.

We look forward to promptly receiving responses to the additional action required by this letter.

Sincerely,



Joseph DiMemmo, CPA
Deputy Insurance Commissioner,
Office of Corporate and Financial Regulation

EXHIBIT 1

Listing of Certain Condition H Requirements Still Outstanding in Highmark's Final AHN Corrective Action Plan

Condition H Requirement	Final Plan ²
(1)(b) The specific results or benefits/cost savings obtained to date in comparison to those anticipated as of the date that such Changes Implemented ³ were incurred or implemented.	<u>Not Fully Responsive</u> . The Plan includes some examples of reductions to health care costs via the IDFS model and network products, but does not link specific cost savings to Changes Implemented or dates.
(1)(d) The specific objectives or goals of all strategies, plans, and actions comprising the AHN Corrective Action Plan, including the timeline for the accomplishment of these objectives (the "Plan Objectives").	<u>Not Fully Responsive</u> . The Plan includes the Objectives but does not include a timeline for the accomplishment of the Plan Objectives. ⁴
(1)(e) Detailed operating and financial projections on a quarterly basis for the period of July 1, 2015 through December 31, 2017 and the following operating and financial projections, together with a description of the assumptions underlying such projections which must be reasonable and likely attainable: (i) Projected inpatient discharges and outpatient registration volume for each AHN Entity along with projected occupancy rates and in connection therewith: (A) Provide written commentary explaining why the Board of Directors of Highmark Health and the Board of Directors of AHN and their management believe these volumes to be achievable; and (B) Discuss the impact of the current UPMC Consent Decree upon these projections.	<u>Not Fully Responsive</u> . Requirement (1)(e)(i)(A) is not covered in sufficient detail. The Plan provides only an abbreviated description of factors affecting these projections and no explicit commentary as to why these assumptions are reasonable.
(1)(e)(v) A detailed schedule of anticipated capital expenditures for all of the AHN Entities facilities, including: (A) for each AHN facility, a specific list of significant projects and the timing of these projects, including each Specific Scheduled Use; (B) A list of strategic initiatives, including potential acquisitions of other businesses or entities, including, hospitals, physician groups, laboratories or other enterprises; and (C) A schedule of	<u>Not Fully Responsive</u> . The Plan contains anticipated capital expenditures for AHN facilities in general, but does not provide any information with respect to requirements (1)(e)(v)(A), (1)(e)(v)(B), or (1)(e)(v)(C). ⁵

² Unless otherwise stated, references or citations herein to "the Plan" or "Final Plan" refers to the Public Version of the Plan. Generally speaking, the Department's concerns with the Public Version of the Plan (as detailed herein) are not cured by the Confidential Version of the Plan.

³ Capitalized terms used herein have the same meaning as set forth in the letter attached hereto.

⁴ The Plan includes only an outdated Timeline. See Plan at p. 60.

⁵ The Capital Investments Detail summary table at p. 59 of the Plan contains only cursory information and does not set forth any detail relating to timing, Specific Scheduled Uses, strategic initiatives, or the strategic rationale for future spending by AHN.

Condition H Requirement	Final Plan ²
anticipated future spending by AHN or any AHN Entity for its or their affiliated community hospitals and the strategic rationale for such spending.	
(1)(e)(vi) A schedule of projected salaried and non-salaried employees on a full-time equivalent basis for the AHN Entities in total and for each primary AHN Entity operating segment or component, together with an explanation of how each primary operating segment or component is defined.	<u>Not Included.</u>
(1)(e)(vii) A description of any plans to downsize, close, or repurpose, in whole or in part, any facility or operation owned or operated by any AHN Entity and provide a schedule of the timing and cost/benefit analysis associated with these plans.	<u>Not Included.</u>
(1)(e)(viii) A schedule of any anticipated future Financial Commitments from any Domestic Insurer to any direct or indirect AHN Entity along with the purpose of such Financial Commitments.	<u>Not Included.</u> ⁶
(1)(e)(xii) A list of any projected future changes in Specific Scheduled Uses of the AHN Financial Commitment.	<u>Not Included.</u>
(5) Specifically identify any Financial Commitments contemplated by the Final AHN Corrective Action Plan.	<u>Not Included.</u> ⁷

⁶ Indeed, p. 44 states that the Plan does not include any additional Financial Commitments and that "Highmark Health is currently engaged in a comprehensive five year strategic planning process." Condition H requires that the Department be provided (via the Plan) with some insight into that "strategic planning process."

⁷ See footnote 8.