

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

**Statement Regarding the Acquisition of Control of or Merger with
Domestic Insurers:**

**Hospital Service Association of Northeastern Pennsylvania
d/b/a Blue Cross of Northeastern Pennsylvania;
First Priority Life Insurance Company, Inc.;;
HMO of Northeastern Pennsylvania, Inc.,
d/b/a First Priority Health**

By Highmark Inc.

**HIGHMARK INC. (“Highmark”) RESPONSE TO INFORMATION
REQUEST 5.4.5 FROM
THE PENNSYLVANIA INSURANCE DEPARTMENT**

REQUEST 5.4.5:

**Discuss any termination provisions contemplated by the Transaction,
including any payments, terms or financial arrangements that may result from a
termination of the Merger Agreement or other termination of the Transaction.**

RESPONSE:

Highmark certifies as follows:

The Merger Agreement provides that it may be terminated at any time prior to the Effective Time (as such term is defined in the Merger Agreement): (a) by mutual written consent of BCNEPA and Highmark; (b) by either BCNEPA or Highmark by giving written notice to the other party, if the Merger has not been consummated within 18 months of the date of the Merger Agreement (but a party shall not be entitled to terminate pursuant to this provision if the failure of the Merger to have been consummated is due principally to the failure of such party to perform any obligations under the Merger Agreement required to be performed at or prior to the time of termination); (c) by Highmark by giving written notice to BCNEPA if the Member Approval (as such term is defined in the Merger Agreement) has not been obtained by the 60th

day after the date of the Merger Agreement; (d) by either BCNEPA or Highmark by giving written notice to the other party, if any Government Entity (as such term is defined in the Merger Agreement) of competent jurisdiction has issued an order, decree or ruling or taken any other action restraining, enjoining or otherwise prohibiting the Merger and such order, decree, ruling or other action is or has become final and nonappealable; (e) by BCNEPA by giving written notice to Highmark, if prior to the Closing Date there has occurred a material breach of any covenant or agreement on the part of either Highmark Entity contained in the Merger Agreement or any representation or warranty of Highmark has become untrue, in any material respect, after the date of the Merger Agreement, which breach or untrue representation or warranty (A) would, individually or in the aggregate with all other such breaches and untrue representations and warranties, give rise to the failure of a condition set forth in Section 5.2(a)(i) of the Merger Agreement and (B) is either: (1) incapable of being cured prior to the Closing Date (as such term is defined in the Merger Agreement), or (2) not cured within sixty (60) days following delivery of written notice to Highmark of such breach; provided that if such breach or untrue representation or warranty cannot reasonably be cured within such period but is susceptible of cure within one hundred twenty (120) days, then Highmark shall have an additional sixty (60) days to effect such cure so long as Highmark is diligently pursuing such cure; (f) by Highmark by giving written notice to BCNEPA, if prior to the Closing Date there has occurred a material breach of any covenant or agreement on the part of BCNEPA contained in this Agreement or any representation or warranty of BCNEPA has become untrue, in any material respect, after the date of the Merger Agreement, which breach or untrue representation or warranty (A) would, individually or in the aggregate with all other such breaches and untrue representations and warranties, give rise to the failure of a condition set forth in Section 5.3(a)(i) of the Merger Agreement and (B) is either: (1) incapable of being cured prior to the Closing Date, or (2) not cured within sixty (60) days following delivery of written notice to BCNEPA of such breach; provided that if such breach or untrue representation or warranty cannot reasonably be cured within such period but is susceptible of cure within one hundred twenty (120) days, then BCNEPA shall have an additional sixty (60) days to effect such cure so long as BCNEPA is diligently pursuing such cure; (g) (i) by Highmark by giving written notice to BCNEPA, if a Governmental Consent (as such term is defined in the Merger Agreement) shall have been obtained and be in full force and effect that is conditioned upon or shall be proposed, in writing, by such Governmental Entity to include a Highmark Materially Burdensome Condition (as such term is defined in the Merger Agreement) or (ii) by BCNEPA by giving written notice to Highmark, if a Governmental Consent shall have been obtained and be in full force and effect that is conditioned upon or shall be proposed, in writing, by such Governmental Entity to include a BCNEPA Materially Burdensome Condition (as such term is defined in the Merger Agreement).

A party who would be entitled to terminate the Merger Agreement under Section 7.1(e) or (f) of the Merger Agreement may elect to either (i) terminate the Merger Agreement and to receive, and the breaching party shall pay to such terminating party, a fee in the amount of ten million dollars, or (ii) not terminate the Merger Agreement and to seek specific performance of the breaching party's obligations under the Merger Agreement.

In addition, pursuant to Section 7.4 of the Merger Agreement, upon termination of the Merger Agreement, Highmark agrees that the time period during which BCNEPA can give notice of its exercise of the change of control option which allows BCNEPA to purchase and/or cause FPH and FPLIC, as the case may be, to purchase all of the shares of common stock of FPH and FPLIC owned (of record or beneficially) by Highmark or to sell to Highmark all of the shares of common stock of FHP and FPLIC owned by BCNEPA is further extended until 10 days after the effective date of such termination of the Merger Agreement.

**Highmark Inc.
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120 Fifth Avenue
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