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CSMS, AMA and patient advocates testify to oppose HealthNet-UHC acquisition

(Hartford) – Physician leaders from the Connecticut State Medical Society and representatives from the American Medical Association, Physicians Advocacy Institute and the Connecticut Health Policy Project joined at a hearing Monday before the Connecticut Department of Insurance to express their deep-seated concerns about the effects of UnitedHealthcare’s proposed acquisition of HealthNet of the Northeast. The potentially precedent-setting transaction calls for UHC to purchase the “renewal rights” to more than 220,000 Connecticut patients. As such, these groups believe the companies are paving the way to “cherry-picking” employee groups with lower medical costs, leaving thousands without insurance when their employer policies are renewed. In addition, thousands of Connecticut seniors, who are in the midst of their enrollment period for Medicare Advantage programs, will also be affected.

“The basis of health care rests with the doctor-patient relationship. This relationship is consistently disturbed, distorted and even destroyed when insurers merge,” said Dr. Kathleen LaVorgna, CSMS president. “I have practiced in this state for the last 20 years – with each merger, my ability to provide appropriate care has been affected – and not for the better.”

Dr. Michael Deren, a cardiothoracic surgeon in New London County, also appeared before the hearing officer. “The vast majority of the patients I see are not enrollees of United/Oxford as neither United nor Oxford maintain a significant presence in the southeast portion of this state. ... I am concerned that an inadequate provider network in the state’s outlying and rural areas will compromise patient care and safety, especially to those high-risk patients with a need for specialized and specialty medical care. As such, this acquisition does not represent the best interest of the patients throughout this state and we respectfully request that this acquisition not be approved,” he said.

Consumer advocates also provided public comment on the merger. Dr. Ellen Andrews, executive director of the Connecticut Health Policy Project stated that the companies’ arguments about consumer choices don’t hold up. “Customers already chose HealthNet over United. They had the choice and they did not choose United,” she said.

The **Connecticut State Medical Society** is the state’s largest physician organization, with more than 7,300 physician and medical student members. Founded in 1792, CSMS is the state affiliate of the American Medical Association, with eight component county medical societies representing the entirety of the state. www.csms.org

Under the guise of a “new business” approach, United and Oxford are not required to apply for rate-hike approval and can raise rates for certain employer groups at will. Statutory provisions requiring rate increase approvals are intended to protect the public from excessive rate increases, and were recently invoked by the DOI against proposed rate increases by Anthem Blue Cross and Blue Shield that DOI ruled were “excessive.”

In addition, national experts told the DOI that approval of the transaction would remove important protections that are in place to ensure physicians and patients are treated fairly. HealthNet was a party to the Multi-District Managed Care Litigation class action settlements, but UHC has steadfastly refused to do so.

Robert Seligson, president of the Physicians Advocacy Institute, put it this way, “For physicians, the most valuable component of the settlements was the change in payment policies and business practices intended to make health insurers’ interactions with physicians much fairer and more transparent. ... the requirement that HealthNet use a clinically based definition of medical necessity means that decisions regarding patient treatment will not be based solely on cost. And, the prohibition on gag clauses means that physicians can speak openly with patients regarding available treatments, even if a recommended treatment is not a covered benefit under their HealthNet insurance plan.”

To date, UHC has not committed to observing these policies, though Connecticut law offers some protections consistent with those in the settlements.

At the hearing, Henry Allen of the AMA presented evidence that the market for commercial insurance is highly concentrated, and that a merger would so significantly increase that level of concentration that the merger is presumptively anticompetitive under federal merger guidelines. Moreover, it would cause a reduction of large health insurer competitors from five to four, with the top four accounting for 93% of the statewide market. Such a market, the AMA said, would be “oligopolistic,” permitting price coordination between the remaining firms and leading to higher premiums and lower reimbursement rates for physician services. Turning to the Medicare Advantage market, AMA added that the proposed merger would give United a strong monopoly position in that market.

CSMS and the other advocacy organizations had sought “intervenor” status that would have made them a party to the public hearing. Their request was denied in part because the DOI hearing officer viewed their testimony as concerning “speculative effects that could be felt by physicians.”

The transaction requires approval from officials in New Jersey and New York, as well as the U.S. Department of Justice.