California joins growing opposition to insurer mergers

JUN 17, 2016

Troy Parks
News Writer

In a letter to the U.S. Department of Justice (DOJ), the California Department of Insurance (CDI) Thursday urged the DOJ to block the Anthem-Cigna merger in California on the grounds that the merger would substantially lessen competition.

The call for a block is a major development given that California has the largest health insurance market in the nation and the CDI is nationally known for its expertise in health insurance regulation.

Why California said no

The CDI based its conclusion on the information obtained in a March 29 public hearing that included testimony and written comments from the public, patient advocates, experts on health insurance mergers and both the AMA and California Medical Association (CMA).

The AMA and CMA jointly filed a comprehensive, evidence-based analysis (log in) explaining why the merger should be blocked. Both organizations also testified in person at the hearing before Insurance Commissioner David Jones, and worked hand-in-hand in developing a survey to determine the effect the merger would have on physician practices and patients.

“Based on the merger guidelines and data from California alone,” Jones said in the letter, “the proposed merger of Anthem and Cigna will substantially lessen competition in the most populous state containing four of the 20 largest MSAs [metropolitan statistical areas] in the country.”

Premiums would increase

Citing the AMA analysis, the CDI found that the Anthem-Cigna merger would likely enhance market power or raise significant competitive concerns in most of California’s MSAs. The CDI also agreed with the AMA that lost competition through a merger would likely be permanent and acquired health insurer market power would be durable because of barriers to entry into the California health insurance markets.

As a consequence, the CDI reasoned, quality adjusted premiums would increase notwithstanding new medical loss rating requirements that to some extent regulate unreasonable premium increases.

Quality and consumer choice would suffer

The CDI recognized that the merger will harm patients because of its anticompetitive impact on physicians. In the letter, Jones stated that “… the merger would increase the monopsony power of the combined entities in purchasing the services of healthcare providers, thus likely decreasing the quality of services and increasing the price of health insurance.”

Based in part on the AMA-CMA survey of physicians, the CDI letter also says that the physician surveys in other states in which Anthem has a substantial market share would likely “replicate the CMA survey results concerning physician vulnerability to Anthem-Cigna monopsony power. Allowing Anthem to increase its already enormous bargaining power will further limit network size and excessively squeeze reimbursement rates, thereby discouraging provider contracting and unacceptably reducing consumer choice and quality of care.”

"The AMA commends the Commissioner for acknowledging the evidence physicians and others presented,” said AMA President Andrew W. Gurman, MD, in a statement, “demonstrating that the Anthem-Cigna merger would likely enhance market power or raise significant competitive concerns in most of California metropolitan areas.”

The prospect of the other merger, Aetna’s acquisition of Humana, last month received a major blow when the Missouri Department of Insurance issued an order preventing the companies from doing any post-merger business in Missouri's Medicare Advantage markets and some commercial insurance markets—if the merger should be allowed.

Price increases: An excerpt from the hearing

At the hearing in California on March 29, Jones directly questioned Jay Wagner, Anthem’s vice president and counsel, and Thomas Richards, Cigna’s global leader for strategy and business development, on the possibility of price increases and their claim that prices would actually decrease:

" … cost will not go up? [On] any product?" Jones asked.

"No, I can't commit to that," Wagner said.

"We would need … a guaranteed commitment from our provider partners in order to do that," Richards said. "I don't know that we have those in terms of multi-year guarantees in the system to be able [to] do that this morning."

"So none of you can provide any assurance that any of the health insurance products sold by any of the entities that will continue selling after the mergers will not increase in price, but at the same time, you're both very confident that there's going to be $2 billion in savings?" Jones asked.

"Correct," Wagner replied.

In the CDI letter to the DOJ, Jones said that he and his staff have been unable to find "reliable evidence in the public record that this merger will result in price decreases overall."

Learn more about the effects of proposed mergers

- Experts take a stand against insurance mergers
- Physicians stand up against mergers of powerful insurers
- States where health insurers are squeezing out competition