

Ensuring health insurance competition

The AMA aims to protect patients and physicians by actively opposing anticompetitive health insurer mergers.

Anthem-Cigna and Aetna-Humana mergers denied

The AMA applauded the two decisions from federal judges blocking the proposed mega-mergers at the trial court level, as well as the federal appeals court decision affirming the decision to block the Anthem-Cigna merger. These decisions cited concerns about the insurers' negotiation leverage with physicians and providers (Anthem-Cigna) and the erosion of competition in the sale of the Medicare Advantage plans (Aetna-Humana). In addition, the AMA successfully urged the DOJ and state plaintiffs to reject any offers to settle the Anthem-Cigna litigation. These decisions ultimately led Anthem to drop its effort (PDF) to merge with Cigna, and Aetna's plans to acquire Humana.

Efforts to block mergers

In 2015, four of the five largest health insurers in the U.S. announced their intention to merge. The AMA used its 2016 update to *Competition in Health Insurance* and other data to conduct analyses of the competitive impacts of the proposed Anthem-Cigna (PDF) and Aetna-Humana (PDF) mergers on commercial markets and the Aetna-Humana merger on Medicare Advantage markets (PDF). Those analyses found that both mergers would likely be anticompetitive in numerous markets across the U.S.

On Nov. 11, 2015, the AMA urged the U.S. Department of Justice (DOJ) to oppose both mergers. The AMA also engaged the National Association of Attorneys General to convince key state attorneys general (AGs) to join the DOJ in opposing the mergers.

To support its arguments, the AMA marshalled leading economists and legal experts as well as conducted extensive physician surveys (in conjunction with state medical association partners) to gauge impact on patient care. The AMA continued to work closely with like-minded stakeholders and led the 17-state medical society coalition in opposing the mergers.

On April 28, 2017, the U.S. Court of Appeals in Washington, D.C. upheld the lower court's decision to block the Anthem-Cigna merger. The AMA filed an amicus brief in that case, in which the AMA argued (among many other key points) that the trial court properly found that Anthem's reimbursement cuts, rather than enhancing consumer welfare, could cause quality to degrade and consumers to be deprived of choice. At the AMA's suggestion, the nation's experts on antitrust and competition submitted their own amicus brief that supported our contention. On May 12, Anthem abandoned the Cigna merger.

- Amicus brief: United States of America v. Anthem, Inc. and Cigna Corporation (2017) (PDF)
- Amicus brief: United States of America v. Anthem, Inc. (2017) (PDF)
- Myth v. reality: Anthem-Cigna/Aetna-Humana mergers (PDF)
- Timeline of campaign to block health insurance mergers (PDF)

Efforts to block mergers correspondence and statements

- AMA letter urging DOJ and state plaintiffs to steadfastly oppose Anthem/CIGNA merge (Comment letter, Feb. 28, 2017)
- AMA testimony to CA insurance commissioner (Statement for the record, March 29, 2016)
- AMA letter to FL Attorney General (Comment letter, May 31, 2016)
- AMA letter to FL Insurance Commissioner (Comment letter, Dec. 17, 2015)
- AMA testimony to GA insurance commissioner (Statement for the record, July 21, 2016)
- AMA testimony to IN insurance commissioner (Statement for the record, April 26, 2016)
- AMA testimony to MO insurance commissioner (Statement for the record, May 19, 2016)
- Letter from leading health economists to FL Attorney General (Sign-on letter, July 8, 2016)
- Consumer letter concerning medical loss ratio (Sign-on letter, July 8, 2016)

Promoting market competition

Bolstered by these huge wins, the AMA will continue its antitrust advocacy to protect patient and physician interests. Health insurance market concentration will continue to be a vital issue of public policy for the AMA, the federation of medicine, and the nation's physicians and patients.

The AMA's 2021 update to *Competition in Health Insurance: A Comprehensive Study of U.S. Markets* (PDF) reports the two largest insurers' market shares and concentration levels (HHIs) for all state- and MSA-level commercial markets across the U.S.

It is intended to help identify areas where consolidation among health insurers may cause anticompetitive harm to consumers and providers of care.

Key findings from the 2021 update include:

- Seventy-three percent (280) of MSA-level markets were highly concentrated (HHI>2,500) in 2020, up from 71% in 2014.
- The average HHI across MSA-level markets was 3494 in 2020.
- Fifty-seven percent of markets experienced an increase in the HHI between 2014 and 2020. Among those markets, the average increase was 531 points.
- Of the markets that were not highly concentrated in 2014, 26% experienced an increase in the HHI large enough to place them in the highly concentrated category by 2020. Another 39% also had an increase, though not large enough to make them highly concentrated.
- In 91% (348) of MSAs, at least one insurer held a commercial market share of 30% or greater, and in 46% (178) of MSAs, one insurer's share was at least 50%.

High insurance market concentration is an important public policy issue because it poses a substantial risk of harm to patients by:

- Increasing health insurance premiums rather than lowering health care costs
- Reducing insurers' incentives to offer broader networks and to respond to patients' access needs
- Limiting patient choice
- Compromising physician-patient advocacy
- Undermining access and quality due to physician payments below competitive levels.

A research article by AMA economists (PDF) that examined the price effects of a 2008 merger between UnitedHealth Group and Sierra Health Services found that health plan premiums in Nevada markets increased by 13.7% after the merger.

Model legislation

The AMA developed three model bills to help oppose anticompetitive mergers at the state level. The bills are designed to bring transparency to merger review, protect physicians from retaliation from health insurers and reduce the influence that the health insurance industry has on state insurance regulators. State medical associations can introduce one or more bills in their respective legislative sessions.

- Model bill: Regulation and approval of health insurance mergers (PDF)
- Model bill: Revolving door act (PDF)

Contact information

Please contact Kai Sternstein, vice president of the Advocacy Resource Center, for more information and resources on health insurer mergers.