



Blocking health insurance mergers

Facing the prospect of mega-mergers between Aetna-Humana and Anthem-Cigna, the American Medical Association launched a comprehensive campaign to block these mergers and preserve competition. When federal judges blocked these mergers, it became clear that the voice of medicine had an undeniable impact on both decisions.

Although all states would have been impacted by these mergers, there are 17 states that would have been directly affected. The AMA has partnered with these state medical associations to oppose the mergers by testifying, providing evidence and submitting memoranda.

Collaboration has been the cornerstone of this advocacy. The Medical Association of Georgia (MAG) said, "AMA and MAG submitted joint comments to the commissioner's office. Organized medicine scored a huge victory when Attorney General, Sam Olens, and the State of Georgia signed onto the Department of Justice's complaint filed in the federal court blocking the mergers. The mergers in Georgia would not have been blocked without the assistance of the AMA."

Listed below are key events from this ongoing campaign. Visit www.ama-assn.org/health-insurance-mergers for more information.

July 2015

- Aetna and Humana announce merger on July 3.
- Anthem Cigna announce merger on July 24.
- AMA opposes mergers, saying they would reduce competition and choice.

September 2015

- AMA releases the 2015 edition of the "Competition in health insurance: A comprehensive study of U.S. markets" report on Sept. 8. The study offered the largest and most complete picture of competition in health insurance markets for 388 metropolitan areas (MSAs), as well as 50 states and the District of Columbia.
- AMA Board of Trustee Barbara L. McAneny, MD, testifies at the Sept. 10 hearing of the House Judiciary Committee on the state of competition in the health care marketplace and argues for the need to provide patients with more choices for health care services and coverage.

- On Sept. 29, now AMA President Andrew W. Gurman, MD, testifies at the House Judiciary Committee hearing on examining the proposed health insurance mergers and the consequent impact on competition and urged close scrutiny of the proposed mega-mergers.
- AMA shares both sets of testimony with DOJ, as well as the National Association of Attorneys General (NAAG) and its mergers work group.

October–November 2015

- AMA meets with DOJ Antitrust Division to discuss the AMA's "Competition in health insurance" study.
- On Nov. 5 AMA submits responses to supplemental questions from the House Judiciary Committee on the state of competition in the health care marketplace highlighting past consolidation experiences and the negative consequences for patients.
- On Nov. 11 AMA publically urges DOJ to block the two proposed mega-mergers.

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December 2015

- AMA convenes all state and national specialties to propose a comprehensive advocacy strategy, and sets a goal to significantly enhance physician and patient standing in the marketplace by first and foremost blocking the mergers.
- AMA convenes call with NAAG and its merger work group urging attorneys general to work within their respective authority to block the mergers; over 40 states represented on this call.
- AMA identifies linchpin states—states to focus grassroots strategy—and holds multiple calls with the “Big 17” state medical associations or high concentration states.
- AMA, Florida Medical Association and Florida Osteopathic Medical Association, send a comprehensive evidence-based letter urging the Florida Office of Insurance Regulation to block the Aetna-Humana merger, arguing in detail why Medicare Advantage and traditional Medicare are separate and distinct antitrust products.
- AMA participates, at the request of Colorado Medical Society, in a hearing before the Colorado Division of Insurance, where AMA urges the division to block the Aetna-Humana merger.

January–February 2016

- AMA initiates regular engagement and communication with other non-Federation stakeholders.
- AMA and Utah Medical Association meet with Utah Insurance Department and urge the department to reconsider its decision to approve Aetna-Humana.
- AMA monopsony survey completed and “Big 17” coalition states release survey to their respective members.
- AMA shares summaries of survey results with DOJ and NAAG—and subsequently incorporates into AMA comments in Florida, Missouri, California, Indiana and Georgia, as the Medical Society of Virginia’s comments in Virginia.

March 2016

- AMA collaborates with Florida once again and files a letter to Florida Attorney General Pam Bondi asking her to reject the proposed Aetna-Humana merger.

- On March 29 the AMA and California Medical Association (CMA) testify before the California Department of Insurance (DOI) opposing Anthem-Cigna.

April 2016

- AMA and CMA file joint statement to the California DOI opposing Anthem-Cigna on Apr. 1 and shares statement with DOJ and NAAG.
- AMA files statement to Indiana DOI opposing Anthem-Cigna on Apr. 26 and shares statement with DOJ and NAAG. AMA provides extensive preparation assistance to Indiana State Medical Association (ISMA) for its Apr. 29 testimony before the Indiana Department of Insurance.
- AMA assists ISMA in identifying physicians-physician groups to discuss impact of mergers on their patients and their practices with DOJ and the Indiana attorney general.

May 2016

- AMA provides extensive assistance to the Medical Society of Virginia (MSV) in preparation for the Virginia Bureau of Insurance hearings on Anthem-Cigna on May 25, including MSV’s filing on May 11.
- On May 17 the AMA files supplemental report with the California DOI, authored by nationally recognized economist Ted Frech, PhD. This report is shared with DOJ and NAAG.
- AMA files letter with Missouri Department of Insurance, Financial Institutions and Professional Registration (DIFP) urging it to block the Aetna-Humana merger. Included was the above Frech report. AMA works closely with the Missouri State Medical Association on the drafting of its comments. This letter is shared with DOJ, as well as NAAG.
- Missouri DIFP issues order preventing Aetna-Humana from conducting post-merger business in Missouri’s Medicare Advantage markets and some commercial markets.

June 2016

- On June 16 California Insurance Commissioner Dave Jones joins the AMA and a growing list of others in urging the DOJ to block Anthem-Cigna.

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- On June 23 commissioner Jones issues his findings that the Aetna-Humana merger is anti-competitive and urges the DOJ to oppose the merger.

July 2016

- On July 11 the AMA and Florida Medical Association meet with Florida attorney general's office. Also invited were the Florida Osteopathic Medical Association and Florida Hospital Association, as well as nationally recognized antitrust expert Tim Greaney, JD, a former assistant chief in charge of antitrust matters in health care at the DOJ.
- AMA secures two key documents, signed by prominent experts, challenging insurer assertions that (1) traditional Medicare and Medicare Advantage are not separate and distinct antitrust marketplaces and (2) that the medical loss ratio is a replacement for competition in health insurance markets. These documents are shared with the DOJ and state regulators across the country.
- On July 21 the DOJ and a number of state attorneys general announce they are suing to block the mergers of Aetna-Humana and Anthem-Cigna. Notably, the Anthem-Cigna lawsuit includes the AMA monopsony argument—an argument AMA began to lay out over one year prior to federal and state policymakers and regulators.

August–December 2016

- In September the AMA releases the 2016 update to its "Competition in health insurance: A comprehensive study of U.S. markets," as well as specific antitrust analyses of the Anthem-Cigna and Aetna-Humana mergers. The study and special analyses reinforces AMA opposition to the two mega-mergers.
- Following the DOJ July filings the AMA doubles down on its coordinated, multifaceted strategy with directly affected state medical associations. As part of this strategy, the AMA develops model state legislation calling for much closer scrutiny of proposed health insurance mergers by state regulators. This model bill is part of a coordinated 50 state push to modernize state merger statutes and require much needed transparency on a process that has been largely operating, to date, in a black box.

January 2017–present

- On Jan. 23, the District Court for the District of Columbia blocked the merger of Aetna-Humana.
- On Feb. 21, the District Court for the District of Columbia blocked the merger of Anthem-Cigna.
- On Feb. 28, AMA sent a letter to DOJ and state Plaintiffs urging that they steadfastly oppose the Anthem-Cigna merger.
- In March 2017 the AMA urged the US Court of Appeals in Washington DC, in an amicus brief, to uphold the trial court's decision to block the Anthem-Cigna merger. In its brief, the AMA is arguing (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 also submitted their own amicus brief that supported our contention.
- On April 28, in a significant win for physicians and their patients, the federal appeals court affirmed the trial court's decision to block the Anthem-Cigna merger.