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June 30, 2016

Commissioner Katherine Wade
Connecticut Insurance Department
P.O. Box 816
Hartford, CT 06412-0816

Dear Commissioner Wade,

I am writing again following my letter to you earlier this year in which I stressed the importance of ensuring a fair, transparent and inclusive review process of the Anthem-Cigna merger by the Connecticut Department of Insurance (the Department).

In the last several months, several new developments have come to light that raise serious questions about the fairness and transparency of the review process. With each passing day I grow more concerned about both the process by which the review is being conducted and the eventual impact of the proposed merger on the State of Connecticut and its residents. I urge you to take immediate action to restore public confidence in the integrity of the Department's ongoing review by recusing yourself from the process, ensuring the activities and proceedings surrounding the review are as transparent as possible and that all interested parties have the ability to fully participate in the public hearing process.

Connecticut is taking a lead role in the review of the Anthem-Cigna merger. A merger will have significant impacts across the country, and even greater impacts in Connecticut. Should the merger between Anthem and Cigna move forward, concentration in the Connecticut health insurance market will increase by 44% using the Herfindahl-Hirschman Index (HHI). Only Georgia is expected to experience a more significant increase in market concentration.¹ The increased concentration could have a direct impact on insurance rates, thereby increasing costs for consumers.²

Though outside your purview, the concentration of the Administrative Service Organization (ASO)³ market in Connecticut is projected to be even more drastic, increasing by 47%.⁴ As state comptroller, I

¹ Douglas Hervey, David Muhlestein and Austin Bordelon. "How Might Proposed Payer Mergers Impact State Insurance Markets," *Health Affairs Blog*, December 1, 2015. <http://healthaffairs.org/blog/2015/12/01/how-might-proposed-payer-mergers-impact-state-insurance-markets/print/>

² L. Dafny, M. Duggan, and S. Ramanarayanan, "Paying a Premium on Your Premium? Consolidation in the U.S. Health Insurance Industry," *American Economic Review*, April 2012 102(2):1161-85

³ ASOs administer health benefits on behalf of large self-insured payers like the state of Connecticut.

⁴ Hervey, et al.

administer the state employee health care plan, the largest health plan in the state with over 200,000 members. Anthem and United/Oxford are the current ASOs for the self-insured state employee plan. The significant increase in the concentration of the ASO market will mean less competition for the ASO contract to administer health benefits for the state employee plan in the future, potentially increasing administrative costs for the state.

I am also concerned about the potential impact on provider choice and access. Combined, Anthem and Cigna will control approximately two-thirds of the Connecticut commercial insurance market. The market power of the new entity could force additional provider consolidation to increase provider bargaining power and/or result in a reduction in access to care provided by physicians.⁵

The merger also threatens Connecticut jobs at Anthem and Cigna facilities in the state as the new combined entity seeks to increase efficiency by streamlining duplicative activities and services.

With such high stakes, the Department of Insurance should take every step possible to ensure a fair and transparent approval process. The revelations and repeated reports about your financial, personal and professional ties to Cigna will make it challenging for the Connecticut public to view the review process of the Anthem-Cigna merger as fair and transparent if you continue to directly oversee the review.

Recently, the Office of State Ethics (OSE) was again asked to make a ruling on whether your past and existing relationships with Cigna constitute a conflict of interest. I understand that you have been in contact with the office throughout this process and have sought to take actions to limit any potential conflicts of interest; however a favorable ruling from the OSE will not remove public skepticism of your role in the review of the merger.

I am also calling on the Department of Insurance, as well as Anthem and Cigna, to take pro-active steps to provide public access to all documents related to the merger that do not contain trade secrets or are otherwise prohibited from disclosure under anti-trust law. The Department should thoroughly evaluate compliance with existing FOI laws and ensure it provides the maximum amount of transparency in responding to requests for documents and other information related to the Anthem-Cigna merger allowable by law. I am calling on Anthem and Cigna to support the Department in such efforts to ensure the public is privy to the maximum amount of information and data related to the merger.

Finally, I would like to reiterate my request that the Department ensure the public hearing is as accessible and inclusive as possible. Specifically, the Department should hold the hearing at a venue and time that allows for maximum public participation and grant interested parties intervener status to allow for an adequate review of the proposed merger.

My concerns about the long-term impact of the merger on the state's insurance market continue to grow. However, at this point I am not advocating for either approval or denial of the merger. I am simply advocating for a fair, transparent and inclusive review process that fairly weighs the interests of all parties and makes the best decision for the State of Connecticut and its residents.

⁵ L. Dafny, M. Duggan, and S. Ramanarayanan,

At present, I do not believe the current review process will ensure an unbiased decision based on the facts. The strong ties between you as the regulatory authority and one of the merger applicants, combined with the secretive nature of the proceedings, at the very least, create the appearance of a favored outcome.

In the Department's review of the Anthem-Cigna merger the process by which the final decision is reached is at least as important as the decision itself. Eliminating any real or perceived conflicts of interest by recusing yourself from the review process and providing as much transparency and public access to documents and details related to the review would greatly strengthen public confidence in the proceedings.

I thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Kevin Lembo". The signature is written in black ink and is positioned below the word "Sincerely,".

Kevin Lembo
State Comptroller

cc: Attorney General George Jepsen