

# AMA/CMS/Organized Medicine Timeline

## Working together to stop the health plan mergers

### JULY 2015

- Aetna and Humana announce merger on July 3.
- Anthem and Cigna announce merger on July 24.
- *AMA issues statement, "Insurance Mergers Will Reduce Competition and Choice."*

### AUGUST 2015

- 2015 AMA State Advocacy Roundtable.
- *AMA session features "Protecting physicians from anticompetitive health insurance and hospital market consolidation."*
- CMS meets with Colorado Division of Insurance (DOI) expressing grave concerns about the consolidation of the health insurance market; encourages DOI merger hearings, for the DOI to initiate an independent investigation, and to notify CMS of any proposed orders and hearings relating to these mergers.

### SEPTEMBER 2015

- AMA releases the 2015 edition of "Competition in Health Insurance: A Comprehensive Study of U.S. Markets" on Sept. 8.
- *Study offers 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; also identifies states where the mergers would have greatest impact.*
- CMS provides DOI and Colorado Attorney General Cynthia Coffman with the Colorado data for both mergers from the AMA analysis.
- AMA Board of Trustees Member Barbara L. McAneny, MD, testifies to the House Judiciary Committee. Testimony is shared with U.S. Department of Justice (DOJ), and the National Association of Attorneys General (NAAG) and its work group on mergers.
- Mergers, out of network (OON), network adequacy, Medicaid payment and SIM are designated as high CMS priorities.
- AMA testifies before the House Judiciary Committee to urge federal and state regulators "to closely scrutinize the proposed health insurer mergers and utilize enforcement tools to protect consumers and preserve competition." Testimony is shared with DOJ as well as NAAG and its work group on mergers.
- CMS meets with Colorado Office of the Attorney General.

### OCTOBER 2015

- AMA meets with the DOJ Antitrust Division to discuss the AMA's competition study.

- CMS initiates contact with the DOJ expressing grave concerns about the mergers and demonstrating strong support for the urgings of the AMA and the American Hospital Association that the DOJ thoroughly investigate both mergers.
- DOJ and CMS confer to identify all appropriate ways a state medical society could participate in the DOJ investigation.
- CMS, Georgia, Connecticut and AMA begin a strategic dialogue on a national-state 'block the merger' coalition.

### NOVEMBER 2015

- AMA publicly and strongly urges DOJ to block the mergers.
- CMS urges DOI to reconsider their decision to evaluate the two mergers separately given the potential for adverse or anti-competitive influences.
- 2016 AMA Interim Meeting.
- *CMS delegation to AMA supports successful policy proposal emphasizing the need for active opposition of consolidation in the health insurance industry that could result in anticompetitive markets and stunt access to quality, affordable health care.*
- Colorado DOI approves Aetna-Humana merger through inaction: No public notice or hearing.
- CMS holds a physician focus group with polling firm Kupersmit Research to develop an all-member merger survey.

### DECEMBER 2015

- AMA convenes all state and national medical specialties to propose a comprehensive advocacy strategy that sets a goal to significantly enhance physician and patient standing in the marketplace by first and foremost blocking the mergers.
- AMA convenes call with National Association of Attorneys General (NAAG) and its working group related to mergers; over 40 state AG offices are represented.
- AMA identifies linchpin states – states to focus grassroots strategy – and holds multiple calls with what will be called the "Big 17" state medical associations or high concentration states.
- AMA and their litigation center provide support to CMS on Colorado DOI's refusal to hold hearings on Aetna-Humana.
- AMA and AHA begin a regular, routine collaborative engagement.
- CMS meets with DOI executive leadership and the governor's office to strongly object to DOI's Aetna-Humana decision and to ask for reconsideration.

- The CMS all-member survey is designed with assistance from an AMA antitrust legal scholar to measure anticipated physician reaction to the two mergers should they be approved.

## JANUARY 2016

- DOI announces first-ever outward facing electronic merger and acquisition notification system in response to CMS complaints.
- DOI denies a CMS-requested rehearing on Aetna-Humana approval explaining “there was not substantial evidence that the merger would substantially lessen competition in any line of business in this state,” nor was there “substantial evidence that the merger would tend to create a monopoly.”
- CMS initiates two freedom of information requests to DOI seeking all communications specific to the Aetna-Humana merger and release of Aetna’s Form E, the market analysis used as the basis for the DOI decision.
- CMS initiates dialogue with the Colorado attorney general to discuss DOI’s approval of Aetna-Humana.
- CMS concludes all-member survey; Kupersmit Research begins data analysis.
- AMA and patient/consumer group coalition begin a regular engagement to share perspectives on the mergers.
- AMA continues conference “coordination” calls with the “Big 17” coalition.
- In conjunction with the Utah Medical Association, AMA urges the Utah Insurance Department to reconsider its approval of the Aetna/Humana merger without notice or hearing.

## FEBRUARY 2016

- DOI files a motion in state district court asking for a ruling on the confidentiality Aetna’s Form E – the subject of a CMS open records request.
- AMA provides monopsony survey tested in Colorado to the “Big 17” state coalition.
- Conference calls with “Big 17” coalition continue.
- Kupersmit Research announces findings from CMS all-member merger survey concluding that CMS members resoundingly reject the proposed mergers.

## MARCH-MAY 2016

- Conference calls with “Big 17” coalition continue.
- CMS Board of Directors unanimously votes for opposition to both mergers.
- Big 17 states and AMA begin sharing merger-monopsony survey results with DOJ, state insurance commissioners and state attorney generals.

- March-April issue of *Colorado Medicine* dedicated to the mergers.
- CMS creates a state specialty-component society coalition to block the mergers; 15 join
- CMS survey featured in statewide media briefing sponsored by Colorado Campaign for Choice.
- CMS president meets with Colorado Office of the Attorney General.
- CMS testifies in state district court in support of public release of Aetna’s Form E.
- State district court gives DOI discretionary authority to release a non-domestic Form E.
- CMS requests DOI release Aetna’s Form E in the interest of policyholders and the public.
- Missouri regulators reject Aetna-Humana.
- *Modern Healthcare* reports Anthem-Cigna and Aetna-Humana cumulatively have spent more than \$400 million on lawyers, investment bankers and other advisers on the mergers covering after-tax expenses from the time the deals were announced through the end of March 31.

## JUNE 2016

- Boulder County Medical Society (BCMS) sends a letter on June 3 to the DOJ protesting the CO DOI Aetna-Humana decision, with full support from the AMA and CMS. Letter is shared with NAAG.
- AMA Litigation Center meeting featured at 2016 AMA Interim Meeting discusses how medical associations are responding to the Anthem-Cigna and Aetna-Humana merger.
- California insurance commissioner urges DOJ to block Anthem-Cigna.

## JULY 2016

- DOJ and 18 state attorney generals, including Colorado AG Cynthia Coffman announce a federal lawsuit to block the mergers of Aetna-Humana and Anthem-Cigna. Colorado DOI hearing on Anthem-Cigna is postponed in response.
- CMS board of directors unanimously votes to seek 2017 legislation to make non-domestic Form Es transparent if DOI denies pending CMS request for Aetna’s Form E.
- Anthem calls DOJ lawsuit “unfortunate and misguided” based on a “flawed analysis” and vows to challenge the suit in court, as does Aetna.

## AUGUST 2016

- DOI denies CMS request for production of Aetna’s Form E citing the federal lawsuit to block the mergers and that release could negatively impact the DOI’s ability to receive confidential information from entities including other state regulators, the federal government and the NAIC.