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March 29, 2016

California Department of Insurance
300 Capitol Mall, Suite 1700
Sacramento, CA 95814

Re: Comments for Public Meeting on the Acquisition of Cigna by Anthem

Dear Commissioner Jones,

The California Physical Therapy Association ("CPTA") is the third largest physical therapy association in the world and is a Chapter of the American Physical Therapy Association, which represents more than 93,000 physical therapists and physical therapist assistants nationwide. This letter is to provide public comment regarding the proposed Anthem-Cigna acquisition currently under consideration by the California Department of Insurance ("CDI").

CPTA has a number of concerns with the proposed merger. The primary concern being the risk of "reduced competition leading to a decrease in consumer choice." Reduced competition often results in an increase in consumer health care costs (premium hikes) because of a lack of available insurance options. The merger of Anthem and Cigna will bring the private health insurance market from five large players down to three. Cigna spokesman Matt Asensio states that "This will actually improve efficiencies and reduce costs for consumers down the line." CPTA finds Mr. Asensio's statement problematic based on Anthem's current inability to manage relationships with third party administrators, provider networks and subsidiaries, to maintain access to medically necessary care and services. This all has occurred while failing to satisfy concerns of DMHC when raised.

DMHC issued an Accusation and Cease and Desist Order against Anthem¹ on November 18, 2013, based upon Anthem's unjustly denial of enrollee coverage requests in speech therapy ("ST") and occupational therapy ("OT") from 2010 to 2013. Under the Agreement, Anthem had to revise its clinical guidelines for speech therapy and occupational therapy and had to notify its providers and enrollees, while also reimbursing portions of paid premiums to enrollees.

This Accusation clearly demonstrates Anthem's inability to manage specialty care and its adverse impact on access to necessary health care services.

Anthem has similarly demonstrated difficulty in managing its proposed contract to partner with OrthoNet for utilization management for physical and occupational therapy services. Despite Anthem applying for approval of this agreement in July 2015, the Director of DMHC issued an Order Postponing Notice of Material Modification ("Order") on August 2015, 2015. This Order still remains in effect and Anthem has failed to cure the deficiencies.

¹ The named respondent is "Blue Cross."

At the time of the Order, DMHC outlined numerous deficiencies, some of which are below:

1. How Anthem would implement a process for reviewing OrthoNet's policies, clinical guidelines and criteria.
2. How Anthem's utilization management program would be impacted by the contract with OrthoNet.
3. Whether OrthoNet would subcontract any delegated services to other vendors.
4. How Anthem will minimize confusion when OrthoNet communicates with consumers/enrollees.
5. Whether Anthem, would review determination letters before OrthoNet sends them to providers and enrollees.
6. What Anthem's process would be for reviewing the OrthoNet daily determinations regarding medical necessity and how disagreements between OrthoNet and Anthem would be resolved.
7. What will Anthem look for in reviewing OrthoNet's monthly reports of medical necessity determinations.
8. How Anthem will oversee the quality and accuracy of OrthoNet's medical necessity determinations.

As the result of these deficiencies on Anthem's part, the DMHC halted the approval process by its Order and has not approved this contract to date.

As of January 12, 2016, Anthem, has not addressed the following issues as noted in its letter to Anthem. DMHC stated "The Department continues to have concerns regarding the proposal to outsource utilization management functions to a vendor, OrthoNet." Specifically, DMHC stated:

Regarding Anthem's process for OrthoNet to review requests regarding autistic enrollees, DMHC found:

- These did not appear to be merely technical deficiencies; and
- The denials did not provide enrollees with adequate information to understand and appeal the denials of the health care services they sought, including mentally ill enrollees.
- Finally, the Department also found that the Plan's deficiency in the area of Utilization Management was not corrected.
- Because of the Plan's outstanding deficiency, the Department expected specific measures to be described regarding oversight and not generalities regarding continuing progress and regular monitoring

- In addition, because of the uncorrected deficiency, the Department would have expected the Plan to explain how delegating to OrthoNet was part of its overall plan to improve its utilization management processes.

In its letter, DMHC questioned Anthem's ability to have the "administrative capacity" to ensure compliance. DMHC noted:

As stated in the Department's January 4, 2016 email, the laws and regulations governing utilization management are core consumer protections. The Plan's deficiency has implications for consumer access to care, such that any major changes to the Plan's current program should be part of a comprehensive solution to the deficiency. Expanding the number of reviews and outsourcing the function before the Plan has corrected the deficiency raises concerns about the Plan's ability to adequately oversee the program.

Further, DMHC makes reference to referring this issue to its "Enforcement" unit for investigation (and possible disciplinary action).

The above issues confirm that Anthem is unequipped under its current scheme to manage access to PT, OT, autistic patients, and has failed to demonstrate to DMHC for nearly a year that it can manage OrthoNet. These documented deficiencies are current in 2015 and 2016, and ongoing.

Similarly, Cigna currently utilizes a benefit administrator, American Specialty Health (ASH) to manage its utilization review, provider networks and claims. During the past year in which ASH has been utilized in California, consumers have reported many of the same issues noted above with Anthem. The primary grievance being delays in treatment authorizations generally 50percent longer than the clinical guidelines stipulate. Beginning in 2016, Cigna began using ASH in all states where it has product lines. Since that time the delays in the authorization process has doubled. Information from other states including Connecticut, Nevada, New York, and Vermont notes delays of up to 9 days. Delaying the approval for skilled physical therapy will not only increase healthcare costs, but most importantly, delays to initiate treatment jeopardizes and negatively impacts the patient's recovery and overall well-being. The potential effects to the consumer could be catastrophic.

In conclusion, Anthem's subpar management of its current enrollee utilization process and reduced access to medically necessary health services will likely expand with acquiring Cigna's large network of enrollees and providers. Under current circumstances, CDI should reject the merger due to Anthem's failure to remediate its numerous deficiencies with the state, its enrollees and providers. CPTA urges CDI to reject Anthem's proposal to acquire Cigna and protect consumer choice in the great state of California.

Sincerely,



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President, California Physical Therapy Association