crc

CALIFORNIA REINVESTMENT COALITION

March 25, 2016

The Honorable Dave Jones
Insurance Commissioner
California Department of Insurance
300 Capitol Mall, 17th Floor
Sacramento, CA 95814

Re: *Concerns regarding the proposed merger of Anthem and Cigna*

Dear Commissioner Jones,

The California Reinvestment Coalition and its members submit these comments to inform your deliberations regarding the proposed merger of Anthem and Cigna. We urge you to consider the broad level of concerns from consumer and community groups regarding this transaction, including the merger applicants' apparent failure to meaningfully make safe and sound investments in projects that address the critical affordable housing and community development needs of our state.

In addition, we commend and thank you for the recent decision to condition approval of the Centene/HealthNet merger on the company's commitments to COIN-related investments and investments to support job creation. We urge you to use your full authority to encourage similar, yet stronger commitments as part of this merger in order to ensure protection of consumers and the public.

We here offer evidence that the companies have had NO participation in the California Department of Insurance COIN CDFI Tax Credit Investment Program, and only minimal participation in the COIN program and other investment opportunities more broadly that would support a "double bottom line" of sound investing that meets community needs. As such, we urge you to reject this proposed merger as contrary to the public interest, unless the companies will make a substantial commitment to "double bottom line" investments that are safe and sound, that support affordable housing and economic development in our state, and that contribute to strengthening the housing and health of the consumers who are impacted by these two companies. The overwhelming amount of research now connecting health to affordable housing should not be overlooked in this merger.

We do not believe that merger applicants have established that this transaction will further the interests of policyholders or the public, ensure a stable health care delivery system, or equip consumers with useful tools to help meet their health care needs. As such, we believe this merger should not go forward unless certain commitments are made.

The California Reinvestment Coalition. The California Reinvestment Coalition (CRC), based in San Francisco, is a nonprofit membership organization of three hundred (300) nonprofit organizations and public agencies across the state of California. We work with community-based organizations to promote the economic revitalization of California's low-income communities and communities of color through access to financial institutions. CRC promotes increased access to credit, responsible financial products, and investment for affordable housing and economic development for these communities.

We have a number of concerns with the proposed transaction:

Anthem Blue Cross may owe the state of California $1.4 Billion in back taxes. As an initial matter we note for the record that, according to an article by the San Jose Mercury News, Anthem Blue Cross may have wrongfully avoided paying a state constitutional tax requiring insurers to pay 2.35% on premiums collected, or an estimated $1.4 Billion in unpaid taxes by Anthem Blue Cross. Anthem and other insurers dispute that they are subject to this tax, and the case is currently in litigation.[1]

The Commissioner and the Department of Insurance must work to ensure that, should a court determine that Anthem wrongfully failed to pay taxes and Anthem is required to or otherwise agrees to pay this tax, Anthem will NOT be permitted to pass these costs on to its policy holders or consumers.

Consumer groups raise a multitude of concerns. CRC supports the concerns raised by Health Access, Consumers Union, Consumer Watchdog, and others, delineating a number of issues relating to actual (and potential) harmful impacts on consumers by the companies (and the proposed merger). Such issues include concerns regarding excessive executive pay (see below), lessened competition, high levels of complaints, enforcement actions, low quality ratings, inadequate local control, improper rate increases, and poor investment in care.

CRC further supports the various concerns raised by Consumer Action, including concerns relating to the merger having a significant impact on California's health insurance markets, the likely result of higher consumer costs throughout California, the potential inadequacy of the network, uncertainty regarding the likelihood and the impact of merger efficiencies, and the need to impose appropriate and impactful remedies should this merger be approved.

Additionally, a recent article in the Los Angeles Times noted that Anthem was one of the few insurance companies to show a profit post Obamacare. Anthem ranked third of all insurers in racking up a $9 million surplus in the Covered California exchange. Anthem was reported to have struggled to respond to a surge in applicants, but then compounded enrollment glitches with inaccurate provider directories, which could have reduced claims.[2]

---

[1] Tracy, Seipel, "California's four largest health plans could owe state $10 billion in back taxes," San Jose Mercury News, January 21, 2016.

[2] Chad Terhume, "California's 3 largest health insurers among few to show Obamacare profit in 2014," Los Angeles Times, December 9, 2015.

The investment policies of Anthem and Cigna fail to adequately take advantage of the COIN program and other opportunities to make safe and sound investments that also provide a public or community benefit to California communities. Insurance companies collect billions of dollars in premiums, and must invest these dollars in safe and sound investments. But insurers have an important opportunity, and, we would argue, duty, to not only invest in a fiscally responsible manner, but to do so in projects and initiatives that help build affordable housing, promote economic development and job creation, and otherwise revitalize communities.

This transaction is occurring in the context of a severe affordable housing crisis in California. According to the California Housing Partnership Corporation, the state's shortfall of 1.54 million rental homes for extremely low-income (ELI) and very low-income (VLI) renter households contributes substantially to California's 22% poverty rate, the highest poverty rate of any state.[3]

And there is a clear and strong connection between housing and health. In a recent review of relevant research and literature, the Center for Housing Policy explored no less than ten pathways through which affordable housing influences the health of people of all ages. This report shows that providing affordable housing is a valuable strategy to support and improve well-being and that it is important for policymakers to understand that safe, adequate, and affordable housing is not just shelter but also an investment in good health for low-income households.[4]

Additionally, in a large scale study conducted in 2009 in Los Angeles County, researchers compared the costs of providing supportive housing to homeless people to the costs that homeless persons with similar characteristics imposed on government resources. The researchers found that the public cost savings of providing supportive housing was $1,190 per person per month.[5]

The Robert Woods Johnson Foundation has also documented the extensive linkages between quality, affordable housing and health in the context of the physical conditions within homes, conditions in neighborhoods, and housing affordability. In reviewing numerous studies, the Foundation noted that poor quality and inadequate housing contributes to health problems such as infectious and chronic diseases, injuries and poor childhood development. Further, the social, physical and economic characteristics of neighborhoods have been increasingly shown to affect short term and long term health quality and longevity. Additionally, the shortage of affordable housing relegates low income households to unsafe, overcrowded neighborhoods, and places a

---

[3] California Housing Partnership Corporation, "Update on California's Affordable Housing Crisis: The Critical Role of Access and Affordability in Reducing Poverty," April 2015, p. 3.

[4] Nabihah Maqbool, Janet Viveiros, and Mindy Ault "The Impacts of Affordable Housing on Health: A Research Summary," Center for Housing Policy: Insights from Housing Policy Research, April 2015, available at: http://www2.nhc.org/HSGandHealthLitRev_2015_final.pdf

[5] Lisa Sturtevant and Janet Viveiros, "How Investing in Housing Can Save on Health Care: A Research Review and Comment on Future Directions for Integrating Housing and Health Services," National Housing Conference's Housing + Health Innovations in the Field, January 2016, p. 7.

financial strain on families that leaves them unable to meet other basic needs such as health care and nutrition.[6]

PolicyLink has made the connection between quality housing and health as far back as 2007, and has highlighted the disproportionate impact that poor housing and poor health outcomes have on people of color, low income residents, and their communities. In a 2007 report, PolicyLink noted "We know that residents of low-income communities and communities of color suffer disproportionately from negative environmental factors, including …poorly maintained homes with mold," lead and other adverse health indicators. And "because so many American communities are informally but thoroughly segregated by race as well as by income, racial and ethnic health disparities need to be seen as a place-based issue, one where improving community conditions could make a real difference. Segregation and racial isolation lead to concentrated poverty, lower individual incomes, and poor air quality."[7]

In the midst of the state's profound affordable housing crisis and its clear and substantial impact on the health of California and Californians, in particular low and moderate income and of color people and neighborhoods, the California Department of Insurance through its COIN program provides a ready-made and simple pathway for insurance companies to make safe and sound investments that also help address California's critical housing and other community development needs. In fact, "COIN was established in 1996 at the request of the insurance industry as an alternative to state legislation that would have required insurance companies to invest in underserved communities, similar to the federal Community Reinvestment Act (CRA) that applies to the banking industry."[8]

But what have Anthem and Cigna done to help meet the needs of California's low to moderate income and rural communities?

COIN Data suggest poor community performance by Anthem and Cigna. According to the most recent California Department of Insurance report**:**

With regard to making investments that "provide a positive environmental or social impact to low-to-moderate income (LMI) households or areas, as well as rural and reservation based communities in California"….

- Anthem appears to have had ZERO participation in the state COIN CDFI Tax Credit Investment Program, going all the way back to 1997;

- Cigna appears to have had ZERO participation in the state COIN CDFI Tax Credit Investment Program, going all the way back to 1997.

---

[6] Paula Braveman, M.D., M.P.H., Mercedes Dekker, M.P.H., Susan Egerter, Ph.D., Tabashir Sadegh-Nobari, M.P.H. (all with University of California, San Francisco Center on Disparities in Health) and Craig Pollack, M.D., M.H.S. (Johns Hopkins School of Medicine), "Exploring the Social Determinants of Health," Robert Woods Johnson Foundation, Issue Brief 7, May, 2011.

[7] Judith Bell and Victor Rubin, "Why Place Matters: Building a Movement for Healthy Communities," PolicyLink, 2007.

[8] COIN "About Us," available at: http://www.insurance.ca.gov/0250-insurers/0700-coin/05-About-Us/

- Anthem appears to report ZERO “High Impact Holdings;”

- Anthem Blue Cross Life and Health reports over $31 Million in “COIN Qualified Holdings.” And yet Anthem Blue Cross Life and Health reported over $5.7 Billion in premiums;

- CIGNA reported over $50 million in “High Impact Holdings” and “COIN Qualified Holdings.” And yet, Cigna reported over $1.3 Billion in premiums in 2012.[9]

This raises the question - have Anthem or Cigna made an adequate level of “double bottom line” investments since 2012? If not, why not? The Commissioner should consider and review the response to this question before finalizing any report or recommendations on this proposed merger. We understand that the California Department of Insurance has put out a data call asking for information about any such investments since 2012. If the companies have not responded to this data call as of yet, the Commissioner should ask that they do so in the short term, and before the proposed merger is finalized.

Excessive Executive Compensation. Despite arguably shirking its tax obligations to the state of California, providing problematic care to California policyholders, and failing to adequately invest premiums in California’s affordable housing infrastructure, the CEOs of these companies were paid handsomely. According to SEC filings, Anthem’s CEO Joseph Swedish earned $8.1 million in 2014 (or, $31,016 per day), while David Cordani of Cigna earned a whopping $27.2 million (or, $104,479 per day). What does this say about the managerial resources of these companies? Do oversized CEO salaries result in higher costs or fewer health services to consumers, and less impactful investment in communities?

Centene/HealthNet Undertakings as Model. The primary question we raise in the context of this transaction is whether these companies will make a clear, substantial, and public commitment to participate in the state COIN program, in particular the CDFI Tax Credit Investment Program, as well as other double bottom line investments, so as to make safe and sound investments that will also contribute to the state’s efforts to meet critically needed affordable housing, which also has demonstrable impacts on Californian’s health care needs?

The Centene/HealthNet approval by the Department of Insurance provides a helpful and welcome framework, at least as far as investments in job creation and COIN are concerned. Again, we applaud the Commissioner for overseeing a process that resulted in strong community Undertakings relating to investments. Specifically, Centene/HealthNet committed to $200 million in investments in job creation, the development of a multi-building Service Center in a distressed area of California, the employment of at least 300 individuals, and $30 million in COIN-related investments in health care facilities and services for Low and Moderate Income residents.

[9] Insurer Investments and 2012 Data Call Results available at: http://www.insurance.ca.gov/0250-insurers/0700-coin/upload/2012-Insurer-COIN-Holdings.pdf

The Commissioner should here urge a commitment from these parties to such community development activities. Yet as this merger is more problematic, the concerns greater, and the companies larger, we urge the Commissioner to go farther in urging Anthem/Cigna to commit to substantial job creation in underserved communities in California, to greater participation in the CDFI Tax Credit Program, and to larger investments in affordable housing and community development activities that lead to better health outcomes, whether those investments come through COIN, or otherwise.

Conclusion. We urge the Commissioner to engage the companies and work to build off of the Undertakings in the Centene/HealthNet merger. We note however that the Centene/HealthNet merger represents a mere fraction of the value and the premiums associated with this Anthem/Cigna proposed merger. We urge the companies to make a significant commitment, commensurate with their size, to invest in jobs in distressed communities, in affordable housing in California, and in participation in the COIN program, the CDFI Tax Credit Program in particular.

In order to demonstrate a good faith effort to do so, the applicants should develop a robust community investment policy and plan, and hire investment managers who are familiar with community development investments, affordable housing, and the California market.

In the absence of a substantial investment commitment, we urge the Commissioner to highlight the deficiencies in this merger application and to declare that this merger proposal is contrary to the public interest. We hope that it does not come to that, and that Anthem/Cigna will take responsibility to improve the provision of health care services to California policy holders, and to substantially increase investments in job creation, affordable housing, and community development for the benefit of low and moderate income communities in our state.

Thank you for the opportunity to comment. If you have any questions, feel free to contact Kevin Stein at (415) 864-3980.

Very Truly Yours,

Asian Pacific Policy & Planning Council (A3PCON)
AnewAmerica Community Corporation
California Capital Financial Development Corporation
California Community Economic Development Association (CCEDA)
California Reinvestment Coalition
Center for Urban Economics and Design at UCSD
City Heights Community Development Corporation
Clearinghouse CDFI
Community Housing Developers Inc.
Consumer Action
Little Tokyo Service Center
Neighborhood Housing Services of Los Angeles County
Renaissance Entrepreneurship Center