

**BEFORE THE INSURANCE DEPARTMENT  
OF THE  
COMMONWEALTH OF PENNSYLVANIA**

Statement Regarding the Acquisition of Control of or Merger with  
Domestic Insurers:

Highmark Inc.; First Priority Life Insurance Company, Inc.;  
Gateway Health Plan, Inc.; Highmark Casualty Insurance Company;  
Highmark Senior Resources Inc.; HM Casualty Insurance Company;  
HM Health Insurance Company, d/b/a Highmark Health Insurance Company;  
HM Life Insurance Company; HMO of Northeastern Pennsylvania, Inc.,  
d/b/a First Priority Health; Inter-County Health Plan, Inc.;  
Inter-County Hospitalization Plan, Inc.; Keystone Health Plan West, Inc.;  
United Concordia Companies, Inc.; United Concordia Dental Plans of Pennsylvania, Inc.;  
United Concordia Life and Health Insurance Company

By UPE, a Pennsylvania nonprofit corporation

**SUPPLEMENTAL RESPONSE TO INFORMATION REQUEST 4.3.16  
FROM THE PENNSYLVANIA INSURANCE DEPARTMENT**

**REQUEST 4.3.16:**

**Provide an update to Schedule 5.6 to the Affiliation Agreement to include a description of the status of all litigation, audit and administrative proceedings concerning all Highmark and WPAHS Entities, including current status, deadlines and, if applicable, amounts claimed to be payable by the applicable Highmark and WPAHS Entity and cross-reference to the matters described in the response to Section 4.4.7.**

**SUPPLEMENTAL RESPONSE:**

- In May 2012, UPMC filed an antitrust lawsuit asserting monopolization and attempted monopolization claims against Highmark and WPAHS. In addition, the complaint alleges that Highmark and WPAHS have engaged in a conspiracy to maintain alleged Highmark monopolies in the Western Pennsylvania health insurance markets and to unreasonably restrain competition in in-patient hospital care. The lawsuit also alleges that Highmark has entered into agreements with other Blue Cross and/or Blue Shield plans in restraint of trade. Highmark's response to this complaint is due on August 21, 2012.
- In September 2011, Herman Wooden, a former corporate member, filed a lawsuit against Highmark in the Court of Common Pleas of Philadelphia County alleging that Highmark is violating the Pennsylvania Nonprofit Corporation Law by accumulating

more than “incidental profits.” Subsequently, a second former corporate member, Thomas Logan, filed a nearly identical lawsuit through the same counsel. Both plaintiffs are seeking creation of a common fund for the disposition of any funds determined by the court to constitute more than “incidental profits” as well as an award of attorneys’ fees and costs. The Common Pleas Court approved a stipulation to consolidate the two cases. On January 5, 2012, both plaintiffs filed a consolidated Amended Complaint raising the same claims. On February 6, 2012, Highmark filed preliminary objections to the Amended Complaint. On May 22, 2012, the court entered an order sustaining Highmark’s preliminary objections in part, limiting plaintiffs’ claims to allegedly excessive profits accumulated while plaintiffs were members of Highmark. The Court overruled Highmark’s remaining preliminary objections. Highmark has filed an Answer with New Matter on June 12, 2012 and Plaintiffs filed a Reply to Highmark’s New Matter on June 26, 2012. No specific trial date has been set although the case management order indicates the case will be set for trial in the fall of 2013.

- A purported class action lawsuit was filed in December 2010 in the United States District Court for the Western District of Pennsylvania by Royal Mile Company, Royal Asset Management, LLC and Pamela Lang (collectively, the “Royal Mile Plaintiffs”) on behalf of individuals and companies which have obtained health insurance coverage from Highmark. The Complaint alleged that Highmark conspired with UPMC to harm purchasers of health insurance coverage in violation of federal antitrust laws by entering into an illegal agreement to restrain trade and that Highmark has a monopoly on the western Pennsylvania health insurance market. Highmark is currently preparing to respond to the Amended Complaint.
- A purported class action lawsuit was filed in September 2009 in the United States District Court for the Northern District of Illinois against BCBSA and twenty-three Blue Cross Blue Shield plans, including Highmark. The complaint alleged that the defendants had violated and were continuing to violate the Employee Retirement Income Security Act (ERISA) by conducting retrospective provider payment reviews and audits and demanding immediate recoupment of amounts determined to be overpayments. The Plaintiffs filed a motion for class certification in March 2011. On December 28, 2011, the Court denied Plaintiffs’ motion for class certification. Plaintiffs thereafter filed a motion to certify a subclass against eight “direct defendants”, including Highmark. Highmark is currently awaiting a decision on this motion.
- The Department of Justice (“DOJ”) opened an investigation into possible activity related to contracting practices, specifically the use of “most-favored-nation” clauses, of Blue plans in 6 states and the District of Columbia, including Highmark Blue Cross Blue Shield West Virginia (“Highmark WV”). The investigation is being supported by respective state Attorneys General. On March 24, 2011, Highmark WV received the WVAG subpoena requesting production of documents. On the same date, Highmark received the DOJ subpoena requesting production of documents for the “relevant area” which was West Virginia. Document submission required in

connection with the DOJ and WVAG subpoenas was initially submitted on April 20, 2011. Production was limited to the contracts in question. Both the DOJ and WVAG agreed to suspend any further requested documents pending the outcome of their review.

This Response will be supplemented with respect to WPAHS.

**UPE**  
120 Fifth Avenue  
Pittsburgh, PA 15222