CVS Health Finalizes Merger with Aetna

On November 28, 2018, CVS Health announced that it had completed its acquisition of the health insurer Aetna. The resulting entity will be a behemoth that includes the third largest health insurer,[1] the largest pharmacy benefit manager (PBM),[2] and the largest pharmacy in the country.[3] The combined, vertically integrated company will likely steer patients to use CVS pharmacies and encourage Aetna members to receive more of their routine care at CVS Minute Clinics. In addition, CVS and Aetna claim that, by merging, they can reduce drug prices by eliminating profits for middlemen in the drug supply chain and by aligning pharmacists and physicians financially to ensure that patients are getting and using their prescriptions. When PBMs negotiate with drug manufacturers, they get price discounts from the manufacturer in exchange for better placement on an insurer's drug formulary, which helps increase the number of patients using the drug. Often times, PBMs may pocket the spread between that negotiated price and the price they pay to the pharmacy to dispense the drug. Theoretically, when a PBM is integrated with both an insurer and a pharmacy, there is no incentive for the PBM to keep any spread pricing or rebates. As a result of the merger, therefore, Aetna should be able keep all the savings that Caremark (the PBM owned by CVS Health) is able to negotiate. As a result, patients and plan sponsors may receive the benefit of those price negotiations in lower premiums or cost-sharing. It is not clear, however, whether the merged entity will reduce prices for consumers or increase profits for shareholders. A company with a dominant market share, like the new CVS/Aetna company will possess, may not face meaningful competition that brings down prices for consumers.

The Source attended a hearing held by the California Department of Insurance in June 2018 about the merger and reported on the need for antitrust enforcers to balance the promised efficiencies from this vertical merger, such as increased consumer access, with the ability of a monopolist to raise prices without an increase in value. At that hearing, Professor Richard Scheffler, The Source Board Member, Director of the Petris Center and Distinguished Professor Emeritus of Health Economics and Public Policy at the University of California, Berkeley, testified that CVS and Aetna had significant overlap in the market for Medicare Part D Prescription Drug Plans in California. As part of this and other research, the Department of Justice claimed that the merger of CVS and Aetna "would cause anticompetitive effects, including increased prices, inferior customer service, and decreased innovation in sixteen Medicare Part D regions covering twenty-two states," [4] and required divestiture of Aetna's Medicare Part D plans to WellCare, but imposed no other conditions on the merged entity.

The impact of this merger should be assessed in the context of other recent and pending mergers, including that of Express Scripts and Cigna. If that merger also goes through, more than 90% of the PBM market will be integrated with insurers,[5] and more than half of the pharmacy market will be integrated with PBMs.[6] Furthermore, there will be no standalone PBM with more than 6% market share. As a result, lawmakers and the public will have little transparency with which to understand whether they are getting a good value for new specialty pharmaceuticals with list prices that approach half a million dollars.[7] While highly integrated companies have the potential to deliver efficiencies that keep costs down, experience tells us that consolidation in the health care industry nearly always leads to higher prices.[8] As the cost of health care remains a top priority for Americans,[9] antitrust enforcers, policy makers

and health service researchers must maintain rigorous surveillance of the effect of similar mergers on health care prices and premiums and skeptically consider both vertical and horizontal consolidation in the health care industry.

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[1] US Department of Justice. **Justice Department Requires CVS and Aetna to Divest Aetna's Medicare Individual Part D Prescription Drug Plan Business to Proceed With Merger**. October 10, 2018

https://www.justice.gov/opa/pr/justice-department-requires-cvs-and-aetna-divest-aetna-s-medicare-individual-part-d.

[2] http://drugchannelsinstitute.com/files/PBMI-PBM_Outlook-Drug_Channels-Fein-Mar2018-Handouts.pdf.

[3] https://www.drugchannels.net/2018/02/the-top-15-us-pharmacies-of-2017-market.html.

[4] US Department of Justice. **Justice Department Requires CVS and Aetna to Divest Aetna's Medicare Individual Part D Prescription Drug Plan Business to Proceed With Merger**. October 10, 2018

https://www.justice.gov/opa/pr/justice-department-requires-cvs-and-aetna-divest-aetna-s-medicare-individual-part-d.

[5] https://www.drugchannels.net/2016/09/why-walgreensprime-deal-could-transform.html. Note that Humana is an insurer with an inhouse PBM and 14 not-for-profit Blue Cross Blue Shield health

plans own Prime Therapeutics, which is highly aligned with Walgreens, the second largest pharmacy chain.

[6] https://www.drugchannels.net/2018/02/the-top-15-us-pharmacies-of-2017-market.html

[7] Mukherjee, Sy. **Is $475,000 Too High a Price for Novartis's 'Historic' Cancer Gene Therapy?** *Fortune.* August 31, 2017. http://fortune.com/2017/08/31/novartis-kymriah-car-t-cms-price/

[8] Robinson JC, Miller K. **Total Expenditures per Patient in Hospital-Owned and Physician-Owned Physician Organizations in California**. *JAMA.* 2014;312(16):1663–1669. doi:10.1001/jama.2014.14072. https://jamanetwork.com/journals/jama/fullarticle/1917439

[9] Kirzinger A, Wu B, and Brodie M. **KFF Health Tracking Poll – November 2018: Priorities for New Congress and the Future of the ACA and Medicaid Expansion**. *Kaiser Family Foundation.* November 28, 2018.

https://www.kff.org/health-reform/poll-finding/kff-health-tracking-poll-november-2018-priorities-congress-future-aca-medicaid-expansion/