

Spotlight on State: Pennsylvania

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Pennsylvania is a leader in antitrust enforcement of its healthcare provider market with a robust set of review protocol for nonprofit hospital transactions. The state attorney general has oversight authority which requires notice of all nonprofit health entity transactions with review and based on consideration of public interest and antitrust implications. Additionally, the AG may challenge transactions in court and maintain post-merger oversight. Pursuant to this authority, the AG has been active in legal challenges against proposed mergers in the state. One of the landmark enforcement cases is a joint lawsuit with the FTC against Penn State Hershey Medical Center and Pinnacle Health System, in which the 3rd Circuit reversed a lower court decision and blocked the merger of the two largest hospitals systems in the Harrisburg area. A number of other mergers and acquisitions were either abandoned or saw condition imposed on the deals to alleviate anticompetitive concerns upon the AG's review and challenge.

By comparison, Pennsylvania's efforts in other healthcare initiatives such as price transparency have lagged. The legislature has yet to mandate the implementation of an all-payer claims database. In terms of surprise and balance billing prohibitions, Pennsylvania law provides only protections against out-of-network services in emergency situations.

In 2020, Pennsylvania received federal approval of a Section 1332 State Innovation Waiver to run a state-based reinsurance program, which would partially reimburse insurers for certain high-cost claims for consumers in the individual health insurance market. The state all rolled out a state-based insurance exchange, named Pennie, designed to save money and give the state more control over its exchange compared to utilizing the federal exchange.