

Testimony of
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TESTIMONY OF PEDRO RODRIGUEZ, ACTION ALLIANCE OF SENIOR CITIZENS
APRIL 9 HEARING on BLUES MERGER, BEFORE THE US SENATE COMMITTEE ON
THE JUDICIARY

Good Morning, Members of the Committee. Thank you for the opportunity to add a consumer perspective on the issues surrounding the pending merger of Independence Blue Cross of Southeastern Pennsylvania and Highmark of Western and Central PA.

My name is Pedro Rodriguez. I am the Executive Director of the Action Alliance of Senior Citizens. The Action Alliance is a grass roots organization of retirees and seniors working to improve conditions for retirement and for those who have already retired. Our members range in age from 50 years old to 100 years old in Pennsylvania. Our strength is in Southeastern Pennsylvania but in the last two years we have been slowly organizing in other parts of the state, including Allegheny, Washington, Berks, Luzerne, Lehigh and Dauphin counties. As you can imagine, part of our work revolves around issues of health care: questions of access and navigation, affordability and quality.

The planned Blue Cross merger in Pennsylvania is a potential disaster for Pennsylvania consumers. It is a mega-corporate reshuffling of the deck chairs on our sinking Titanic health care system. It demonstrates why all Americans need a program like Medicare or single payer health insurance system.

This proposed merger, to create the nation's third largest health insurance company, poses more questions than answers. It also, in a very tragic way, points to the failure in Pennsylvania for government and consumers to have a place to ask those questions and try to get some answers and clarity. Questions such as: is this the first step toward a for-profit conversion? According to a report by Community Catalyst, the Blues' charitable commitment, such as the provision of coverage to children and other low-income individuals, has been decreasing since 2000. Will the merger reverse the trend or make it worse?

Already, Independence Blue Cross is a de facto for-profit corporation, having transferred most of its assets to its for-profit subsidiaries. IBC admitted that 90 percent of its revenues come from the for-profit companies it owns.

There are no clear and substantial benefits to the public from this merger. The Blues will not commit to premium reductions or pledge to put a ceiling on premiums. Rising Blue Cross premiums will contribute significantly to the increasing rate of those without insurance, particularly older people who are not yet eligible for Medicare. There are no guarantees that

individuals with flat incomes, who are dropping coverage or "buying down" to coverage with reduced benefits or increased deductibles, will realize a better deal with this merger.

The Blues' statutorily mandated charitable obligations will not be expanded under this merger. The Blues have cleverly misrepresented in their press release that \$650 million will go to expanded coverage for the uninsured. This is a bold faced misrepresentation to the public because they didn't clarify that most of this money had already been obligated under a binding agreement with Governor Rendell signed in the fall of 2004 requiring annual charitable payments beginning in 2005 under the Annual Community Health Reinvestment (ACHR) program. There appears to be no substantial expansion of charitable payments coming from this merger.

In addition, no one can say the proposed merger is in the public interest unless there are guarantees that the new entities pay fairly for services. It is not in consumers' interests if as result of the merger the Blues are able to low ball payments to doctors and hospitals, causing them to end up closing their medical practices or hospital doors. No matter how low the cost of health insurance, if services are unavailable, the savings are worthless.

To determine whether the proposed merger is in the public interest, we need to know how it will lower health care costs, and whether it will allow more people to afford health care and make it easier for the state to grow jobs and eliminate unnecessary bureaucracies. The merger is not in the public interest if all it does is free up more money for the Blues to start more for profit subsidiaries. I don't think anyone can say it is in the public interest unless we see how much savings is being projected and to whom the savings flow. Will those savings go to huge salaries for top executives or to provide increased access to health care for working people in Pennsylvania?

What is also of grave concern is the appalling absence of any decent consumer protection law or enforcement within state and federal governments. The catch-up bills of State Senator Don White (SB 550) and Reps. Todd Eachus and Phyllis Mundy (HB 112) would finally amend the state's Insurance Holding Company Act to include the Blues with other insurance companies so that a planned merger would now need Insurance Department approval. The Department for the first time would be able to determine if the Blues merger would "substantially lessen competition", but this is grossly inadequate.

We should have a body of laws that require the Blues, and other insurance companies, to first demonstrate a substantial benefit to the public before any merger is approved--a standard that has been effectively used for utility company mergers.

Because the PA Insurance Department has always been a paper tiger or a captive of the insurance and Blues industry, consumers need much more in protections. Consumers need a right to have standing to intervene in insurance department proceedings; have rights to discovery; and have their fees and costs paid by the insurance company if they make a "substantial contribution" to the result--as provided for in California law.

Consumers also need an Insurance Public Advocate, similar to the one that has existed in Pennsylvania for three decades for public utilities. The Insurance Department has always acted

as a lapdog of the industry, and the public needs an Advocate with the resources and expertise to ensure a level playing field--one that has never existed in Pennsylvania.

The existing state Insurance Holding Company Act, even with Senator White's proposed amendments, do not mandate hearings (they are discretionary). They also do not require hearings with teeth: for example, having an Administrative Law Judge or independent fact finder; discovery rights; and ability to cross-examine witnesses.

Today, we don't have a transparent process in place to scrutinize this merger and get at the truth behind the Blue Cross press releases. There is no process for determining whether there is any public benefit or savings that will come from a merger, and where these savings will be going.

As for the serious anti-trust concerns that are present here, we simply do not trust the PA Insurance Department to address these complex matters. And although this merger has been reported for some time, we have not heard a single word from the Pennsylvania Attorney General nor the United States Department of Justice about any plans to seriously investigate the merger and invest sufficient resources in the process. We have not seen vigorous anti-trust enforcement from either agency to give consumers confidence.

Members of the Committee, it pains me to say that at times, Pennsylvania is unable to do the right thing by its people and safeguard its interests even if policy makers want to do so. There seems to be a political paralysis that prevents well-intentioned people from standing up to ask questions and probe. As an example, a recent series in the Philadelphia Inquirer exposed the state's failure to properly exercise regulatory oversight over our assisted living and personal care home industry, resulting in failures of care that have led to the death of seniors and people with disabilities. And just as when the Commonwealth of Pennsylvania had to intervene because the City of Philadelphia was unable to properly manage its public school system, we need the federal government to step in and fill the vacuum here by protecting the interests of Blues members and other health insurance consumers.

Pennsylvania has 2.8 million people without health insurance. That is a whopping 27 percent of the non-elderly population. The proposed merger does not promise to solve this crisis. We appeal to Washington to lend the consumers of Pennsylvania a hand, and to come and ask the tough questions about this proposed merger.