

**Statement of *W. Thomas McGough, Jr.*
Senior Vice-President and Chief Legal Officer of UPMC
Before the Pennsylvania House of Representatives Insurance Committee
August 25, 2011**

Thank you for this opportunity to address the Committee regarding the competitive implications of Highmark's decision to acquire West Penn Allegheny and transform itself into an integrated delivery system.

Recently, Highmark has been calling its proposed transaction an "affiliation," which might suggest Highmark has changed its plans since it announced on June 27 that its goal was to combine with West Penn Allegheny to form one integrated system and compete directly with UPMC's integrated system. If Highmark has changed its plans in that regard — if it isn't going to save the jobs or make good on the pensions or assume the bond obligations or rebuild the facilities — then it should say so today. It is vitally important that Highmark both clearly describe and ultimately fulfill its commitment.

Taking Highmark at its word, however, we know that it is going to commit billions of dollars to this transaction and integrate its insurance function with West Penn Allegheny's health system. Once it does this, it will have no choice but to use its current monopoly over health insurance to make this new integrated system a success.

How will it do this? First, it will recruit top-flight doctors to staff out its enterprise. In fact, Highmark representatives are already soliciting UPMC's doctors to join its new integrated system. Several of our doctors have been told by Highmark that it has budgeted \$1 billion to hire doctors for the new enterprise.

Hospitals compete for physicians all the time, of course. But when the dominant health insurance company throws its considerable financial weight and economic power into that competition, the game changes completely. We're perfectly happy to compete with Highmark/West Penn Allegheny for physicians, but we have no intention of helping them hold onto their insurance monopoly while they do it.

A similar dynamic will emerge in the competition for subscribers and patients. Up to this time doctors and hospitals have been able to look to Highmark as a neutral gatekeeper, allowing patients free choice of any provider in its network. But once Highmark has billions of dollars of skin in the game, it can't afford to let subscribers and patients make unfettered choices; it will have to make sure that they choose the hospitals in Highmark's system.

Other integrated systems like UPMC, Geisinger, and Kaiser Permanente use their health plans as "front doors" for their integrated systems, but Highmark would like to start down this road while holding onto its perch as the region's dominant insurer, with a pre-existing subscriber base of more than 3 million people. If it can get a new "in-network" contract with UPMC, it can create the illusion of "choice" for its subscribers while pushing them, in ways both subtle and unsubtle, into its integrated system.

In an effort to change the subject, Highmark has argued that the expiration of its contracts with UPMC will end "access" for its subscribers to specialized UPMC facilities like Magee-Womens

Hospital of UPMC, the Hillman Cancer Center, or Western Psychiatric Institute and Clinic. That is simply false. After the expiration of the contracts, those facilities, and every other UPMC facility, will continue to admit Highmark subscribers. The only difference will be that Highmark will not get the lower in-network rates it has received from UPMC for the past ten years. Highmark can, of course, decide how much of those increased rates to pass on to its subscribers, depending on how competitive it wants to be with other insurers, who frequently absorb out-of-network costs for those facilities themselves.

Highmark has also argued that, because it has competed with the UPMC Health Plan in offering in-network access to UPMC doctors and hospitals, UPMC should now be forced to renew the contracts giving Highmark in-network rates for those facilities. As superficially satisfying as this tit-for-tat argument might be, it is economic apples and oranges. The UPMC Health Plan has competed with Highmark to put patients into the UPMC system. It has not and never will compete to put patients into other integrated health systems. When Highmark creates its own integrated health system, it will be trying to put patients into that system. To allow Highmark to do that while maintaining its insurance monopoly makes no sense from UPMC's standpoint, or from the standpoint of the community.

Highmark, without regard to the public's interest, is asking this Committee to pressure UPMC into renewing Highmark's contracts and its monopolistic lock on the insurance market. In assessing Highmark's plea, UPMC would suggest the Committee try to answer at least four questions:

First, is Highmark really committed to spending the billions of reserve dollars necessary to transform itself into an integrated delivery and finance system?

Second, if so, how could a renewal of the contracts between UPMC and the Highmark/West Penn Allegheny system possibly be in the public's long-term interest, given Highmark's current insurance monopoly and its history of raising premiums to pad its reserves.

Third, how could such a renewal possibly be in UPMC's interest, given the grave risks it would face in a skewed competition with an integrated health system that also controlled 65% of the insurance market.

Finally, won't this community be better served when it has two well-funded, integrated health systems competing on a level playing field and at least four national insurance companies offering access to both of them.

UPMC is confident that those questions, answered honestly, will lead this Committee to conclude that a contract renewal with Highmark would perpetuate a completely unacceptable insurance monopoly and impose billions of dollars in additional health care costs on Western Pennsylvania. The right decision here is to let competitive forces bring this community better health care at a lower cost as quickly as possible.