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01.46.46

Senator White: Thank you. You were sitting out there when we were having the dialogue with Mr. Romoff, one of the last questions was directed by Senator Costa, in regards to the term 'steering' and the, what's down the road for West Penn and Highmark. If I read Mr. Romoff right, I think I did, he just basically said it would be unenforceable for us to try to ensure that doesn't happen legislatively and actually he felt that you're really going to have no choice. How do you feel about his response to that?

Kenneth Melani [KM]: Senator White, thank you. There are many types of steerage that can occur. Probably the most onerous type of steerage is when an organization owns every asset in the healthcare delivery system and doesn't permit people to choose assets that reside outside their own delivery system, which is what UPMC does. That is the most onerous form of steerage and in fact may be in violation of federal law. We now are talking about a second form of steerage, which would be within the health insurance program. So we have delivery system steerage, which people should be concerned about and it does exist, it's onerous in our community today. The second type of steerage would be through health insurance programs. Customers are asking for that type of program. Customers are asking for transparency. They want to see cost and quality. They want their own members, ok, employers want their own employees, independents, to be making informed decisions. They want to be able to have them make decisions on cost and quality to choose where to go to access healthcare services in an effort to make healthcare more affordable. If that's called steerage, then please don't outlaw that. That's a necessity. We will never make any progress in the United States in our local markets, if we can't show transparent information to subscribers. Now, sometimes that information is so hard to interpret, especially on an emergency type of basis that you have to do other things to sort of package that information. You may have to place providers into certain tiers, based on quality and cost information and say, "This group of providers based on their cost and quality would be a Tier 1 and therefore your co-pay or co-insurance would be 10% let's say. This group would be in a Tier 2 and their co-insurance would be 20%." And those types of products are used around the country today. So they're common practice. I would also ask you don't outlaw that type of steerage if that's what we call steerage. But I think you should outlaw the kind of steerage you see within integrated systems.

01.49.38

Sen. White: In the same light, could you once reaffirm, you've said it, you've read it publicly and I think I've read it in some of the media articles as we all know UPMC has opened up its doors to other commercial carriers. If and when the West Penn network is set up, the hospital network, will that arrangement, will you assure me that arrangement can be duplicated?



KM: Absolutely. Absolutely, Senator White. What we're here to discuss today is what's in the best interest of the people of Western Pennsylvania. It's not about Highmark. It's not about UPMC. It's not about profit. But what's in the best interest of the people of Western Pennsylvania. Access is so important now it will be more critically important as we move forward in the healthcare system. Our physicians our aging tremendously. Shortage of primary care physicians, already UPMC Shadyside and St. Margaret's cannot handle the volume that they're receiving because of the shutdown of West Penn. So we must preserve access in the community. We have to have insurance competition. We need to have provider competition. Those need to be preserved. So we will continue to contract with the other carriers and just as they'll say in their testimony, which I had a chance to read, they're going to ask you to make sure that's preserved, because they believe that just because they have access to UPMC it's not enough. They need access to a vibrant West Penn Allegheny. Likewise Highmark needs access to a vibrant UPMC.

Sen. White: Senator Earll.

01.51.08

Sen. Earll: Thank you, Mr. Chairman. What is it exactly that you're asking us to do in the legislature?

KM: We're asking you to do what's in the best interest of the people and there are two things we're here to discuss today that are important – do the people of Western Pennsylvania have a right, no matter what insurance card they carry to have access to community assets – not for profit community assets? 501c3's have as their foundation a charitable organization to serve all the people. If the answer to that is yes, then you should find a way to preserve that. Regardless of whether they carry a Highmark card, a HealthAmerica card, a United card, an Aetna card, that's what you should examine.

Sen. Earll: But again, specifically you're asking us to what, to get UPMC to the table to negotiate? To determine what that negotiation should look like?

KM: However, you can get the preservation of access in place. I think the simplest way is to enforce us to do what we're supposed to do under our charter which is find a way to provide access and affordable care to the people we serve. Let us continue or force us to continue our negotiation. If we can't, then we need a mechanism that can ensure there will be intervention that can arbitrate that process.

Sen. Earll: I'm kind of curious about this 'best interest of the people' goal of Highmark. I just listened to UPMC testifying that over the years they have suffered from double digit increases in premium prices as I have heard from many of my employers as well as other insurers complain, Highmark over the years, not only imposed double digit premium increases, but at the same time stockpiled multi-billion dollars worth of surplus that now enables you to make this purchase that I never quite understood and certainly you fought long, hard and protected that right to accumulate that surplus insisting that it was only to guard



against potential liabilities. But now you're using that pot of money to purchase a competitor to UPMC and then you kind of come back and say, well, they're not interested in serving the best interest of the people, but to me that just kind of rings hollow.

KM: That's...

Sen. Earll: ...and also those double digit premium increases allowed you to capture 65% of the market that then enabled you to continue the monopolistic practices and while you accumulated all this surplus, UPMC receives a 2% increase in provider pricing? I mean none of that makes sense to me or it seems a little bit disingenuous for you now to be coming forward and saying you want to protect the best interest of the people.

KM: It doesn't make sense to you because it's a misrepresentation of facts.

Sen. Earll: Correct my facts.

KM: UPMC's contract called for an increase in unit payment each year equivalent to the market basket index of healthcare cost increases. That averaged about 2.5 to 3.5% per year. So each unit of service was increased at that amount. But UPMC moved care from the low-cost sites to the more expensive costs of sites of care with no additional benefit to the community. Therefore, the increase from Highmark each year of the ten year contract averaged 7 to 8% per year. So it's a misrepresentation of the real facts. UPMC's increase in healthcare payment from Highmark mirrored the trends we've put into our rates in the marketplace. And if you know anything about health insurance, 92% of the money collected is paid out to the providers. In a market where you have a monopoly, like UPMC, that means most of that money was paid to UPMC. It worked its way into the premium costs. Highmarks margin was contained over that time. In fact, we're the only entity in the healthcare system that is regulated. Every year we've been regulated by the Insurance Department. We have profitability targets that are managed. Our reserves are managed. Our reserves on a relative basis, compared to the risk we're taking on in insurance as the cost goes up there's more capital that's necessary to maintain a healthy reserve for that risk. It's gone down on a proportionate basis over the last ten years. So even though the absolute number seems high, the relative amount we have compared to the amount of risk we have taken on over the last ten years has gone down. That surplus is used to meet our mission. We use that surplus to protect our prescribers from catastrophic events. One great example is when the steelworkers went bankrupt years ago. There was a bankruptcy for the steelworkers. Highmark continued to provide insurance coverage for the steelworkers as they recovered from that bankrupt situation. Over the years a number of healthplans in the state have gone bankrupt, the Blues have come to their rescue in the state of Pennsylvania with capital. Those monies are used to provide for healthcare services in the community that are necessary to provide access and affordability. Jeff Romoff cleverly pointed out the demise of St. Francis, which was



orchestrated by UPMC's predatory activities in the marketplace, not by Highmark's payment. But Highmark worked with UPMC and St. Francis to come up with a community solution, put \$250 million into creating a new Children's Hospital in Lawrenceville, which has brought a tremendous asset to this community, which also brought tremendous value to the economy of that region, creating an enormous amount of value to Lawrenceville. We've worked with hospitals throughout Western Pennsylvania to help subsidize health information technology and all kinds of things. So it's about the mission, how you use the dollars to protect consumers against catastrophic events, but also how you provide for the things we're supposed to do – access, affordability and quality. So that's what this is all about. So there's an attempt to confuse you over where the real problem lies. It's not in Highmark and Highmark's profitability or accumulation of reserves. It's about the cost of healthcare and how much UPMC's driven up the cost of healthcare in Western Pennsylvania.

01.57.51

Sen. Earll: Well I think it's a combination of both quite frankly.

KM: It should be both, but I will say to you that we are the only organization that is regulated by the insurance department and probably the best person to answer questions about our reserves and our performance would be the insurance commissioner, who has an unbiased role in that process. For me to answer that question one would think I may be biased in what I'm saying so...

Sen. Earll: Those that claim that the danger of you purchasing the West Penn system is you will be directing all of your insureds to fill those beds because you have to in order to make that profitable. You're claiming that's not the case?

KM: That's called steerage. That's again that's the issue of steerage. No. Senator, let's simplify this. We're trying to save a financially distraught institution, so we have choice in the community, access and a level of competition. Why would we go about trying to destroy the only other asset that exists and then have to go in and recapitalize that asset. That would be foolish for us and the other insurers to do something like that. To use monies, we each have from this community and have to do that kind of activity. So this is not about seek and destroy UPMC. This is about maintaining a second community asset that's necessary. Necessary to provide access and affordability in the community. That's what it's about. So I think we need to look at what's happening here. Mr. Romoff is trying to do something that we in the healthcare it's called transference to make you believe that we operate the same way he does, which is to try to put other healthcare systems out of business. That is not what we're in this for. Look at our strategy. Look at what we're trying to do. It's about having competition, not eliminating competition.



Sen. Earll: Isn't it true that Highmark was actually looking at other hospital systems to perhaps affiliate or purchase or merge? I mean it's not just that you're serving this charitable mission and that's why you're rescuing West Penn Allegheny, because you were in fact looking for other purchases as well.

02.00.00

KM: Yeah, we've been in discussion with all the providers in the community about what the micro-market needs are. So every market is looked at independently in terms of what's necessary to sustain a delivery system. If that delivery system believes it needs a new model to sustain itself then we will talk to that delivery system in that marketplace about those needs. And if they believe they want to affiliate with another system then certainly we would be willing to talk to them about that...

Sen. Earll: You had talked to Hamot at some point in time?...

KM: We did talk to Hamot. Yes we did.

Sen. Earll: Which was not financially vulnerable and in fact was very healthy is very healthy. So you didn't look at purchasing that hospital out of some charitable mission in terms of...

KM: No because we backed out of it because they were financially viable. It wasn't necessary to do that transaction.

Sen. Earll: It wasn't that you had determined that you needed to develop a business model similar to UPMC...

KM: No. We looked at that. We looked at their strategy and their plan and determined they were financially viable. It wasn't necessary to use community assets in that situation.

Deborah Rice [DR]: We offered with Hamot to work with them in other ways. So different reimbursement models or other ways that we could partner around products and other services we could collaborate on. So in that scenario they were looking for a capital partner and that wasn't going to be Highmark.

KM: Now Senator Earll also our concern at that point was also the fact that UPMC was continuing to aggregate assets. We were concerned about them continuing to use those assets to the detriment of our subscribers. That was another reason we entertained the discussion, but we backed out and instead tried to focus on a new contract with UPMC.

02.01.44



Sen. Earll: One last question. You would agree that currently the state of the law in Pennsylvania gives us no tools to actually to do anything about getting UPMC back to the table.

KM: That is correct. That's unfortunate.

Sen. Earll: ...I'll wait til round 2.

02.02.02

Sen. White: Thank you, Senator Earll. Senator Ward.

Sen. Ward: I want to just talk a little bit more about the steering issue. When you accept, you accept what percent of providers into the Highmark...what percent?

KM: I think physicians, we're 98% or higher.

Sen. Ward: That apply. That apply, that want to be in your network you do let them in your network...

KM: Yes...

Sen. Ward: So you do let them into your network, because I do have that issue on the other side for providers all the time they can't get into the network...

KM: Yes. We have all the hospitals and we probably have the broadest number of freestanding providers of healthcare services.

Sen. Ward: So if this happens that nobody comes to the table and you two have a divorce, do you, well, I guess I should ask you this because the way it stands now presently do docs that are owned by UPMC I don't know if they're able to be part of your network or if that is just a closed network and just go to UPMC. How does that work now? The doctors that they own, UPMC owns, do they come to you and say can we take your patients or is it just a totally closed system?

KM: That decision is made by the administration at UPMC.

Sen. Ward: But you would take them?

KM: Oh, absolutely we would take them. They're currently participating in our program. The threat that's been being made is that they will cancel that contract since it has a 60 day out clause later in the middle of 2012.



Sen. Ward: Okay, because I do see problems down the road as physicians are owned outside of Allegheny County where everywhere not just Allegheny where they literally have hospitals within miles of each other, but if a lot of the docs are owned in these rural counties and they're not able to accept your insurance then we have some problems.

KM: Right.

Sen. Ward: Thank you.

02.03.52

Sen. White: Senator Ferlo.

Sen. Ferlo: Thank you. Obviously you know I represent the core of the city of Pittsburgh and as well a three county region, not only including Children's Hospital and UPMC, which is a great institution and I think everybody is really appreciative of the acquisition and management of Children's by UPMC and you did point out Highmark's contribution in that regard, and I represent all of the institutions pretty much in the West Penn Allegheny Health System including Allegheny, Kiski Valley Hospital, so obviously given the issue of accessibility, physician services, emergency care, employment, all the positive sector issues that come up when you talk about these large systems, including UPMC, we need the acquisition, we applaud. We support and I have indicated past support for the acquisition of that system by Highmark. But you did raise the issue of accessibility and you know at a time when you are sitting on billions of dollars and continue to sit on billions of dollars of excess revenue or revenue however you want to characterize it, you really summarily dismiss continued support for the adult basic program which is very vital, which ended up getting over 38,000 people off the roads and not having any ability or accessibility to the healthcare system. That was extremely disappointing. Equally disappointing was the governor's lack of willingness to sit down and try to figure out how we could salvage this program. So very disappointed in that and I think that's a bad mark in Highmark's record to date in terms of that program. I just want to put that on the record. But the how do you respond to the criticism or the observation that individuals during the period of this ugly divorce if you want to characterize it that way that during this period that individuals could in fact continue to reach out and be served by physicians in the UPMC system, but that they would have to pay out of network? How do you respond to the issue that you as the insurance provider during this period could 'ante-up' and continue to provide that coverage? It's been characterized in that respect.

KM: Right. What he's suggesting is that the difference between what Highmark pays today and what UPMC charges should be absorbed by Highmark and that we should pay those preposterous differences in rates to UPMC so that he can massively profit from those and then use those to pilfer the rest of the healthcare system. And that's unacceptable. First of all, our contracts with our employers don't permit

that, because that's partly not keeping people engaged in the real cost of healthcare and having them make informed decisions about what they do. Secondly, even though we have reserves, a process just like that couldn't just be entertained for UPMC then. We'd have to do that for every provider. What incentive would there be to have anyone participate in the programs? Why would West Penn Allegheny participate? Why would any doctors participate?

02.07.13

Sen. Ferlo: I'm trying to play devil's advocate to some extent, but how do you characterize the period let's say it's a two-year period of the ugly divorce on this issue of people paying out of network versus what will happen year 3, 4, 5, as you build your IDFS system as you acquire the facilities you need and expand physician services either through acquisition, buying out contracts that may eventually expire with the UPMC system through physician groups, the relationship you talked about in terms of opening up a relationship with the medical school and bringing an increased number of local students from the region through the medical school process hoping a number of them will stay remain that's still a question mark in some people's minds, including mine. What do you see the difference between the interim period versus what happens in year 4, 5 or 6 when you will actually be an IDFS system. At that point, you would still contend, you would still agree with the open, level playing field where regardless of insurance, everybody has equity to purchase?

KM: Yes, Senator. Let me...the real problem we have is here we sit, having 2 million subscribers that we're concerned about and hundreds of thousands of patients seeking care currently. With the timeframe that faces us, where those people may may not have access to the UPMC assets at a certain point in time. We're all arguing about what that point in time is. Is that July 2012? Is that July 2013? Or will there be a contract that will magically be some other date. Our concern is that you have to assume in your mind that it may be the earliest of the dates, because our obligation is to the patients and to the people to make sure they have access to healthcare services. It would be catastrophic if they don't. To assume that 2 million people are going to switch their health plan by July 2012 is preposterous. To think that 2 million people are going to switch their health plan by July 2013 is preposterous. In fact, there are a large number of people who can't even switch, you know that. So we're in a dilemma right now, because we have to get access for those people and I have to build and construct that access for them or they go without healthcare. That would be traumatic. So we're trying to say, let's get a contract with UPMC. It's in the best interest of the people and if we do that there's less need to construct a massive delivery system, right? Less need to spend money to construct this massive delivery system, but if they don't have access, what do we do? We have nothing but an obligation to make sure they get healthcare services at an affordable rate. To simply say we're going to just pay charges would be preposterous. It would be cost prohibitive for those people to get healthcare. So we can't let them get to the UPMC, even if we made it available with charges they wouldn't go. They couldn't afford it. We wouldn't have enough reserves to do that.



02.10.29

Sen. Ferlo: When will you be announcing or making a formal filing before the Insurance Commission on the acquisition of the West Penn Allegheny Health System?

KM: We anticipate that will be in the next 2 weeks.

Sen. Ferlo: That was two weeks ago you said two weeks, so I just want to be clear...

KM: Yeah, the Insurance Department has requested a lot of information from us and a very thorough filing that we come with a packaged product and we're honoring that and trying to make that happen.

Sen. Ferlo: [inaudible] the Insurance Commissioner has agreed to have public hearings in the community that is affected, will you and or Highmark officials be available for community forums to discuss all the [details] of the formal filing?

KM: Absolutely.

Sen. Ferlo: Thank you.

02.11.05

Sen. White: Dr. Melani, you mentioned something that struck me...There's part of me as an insurance broker my whole life that says this is really a good thing. You having Highmark invest its time, energy and expertise to hopefully turn around West Penn makes a lot of sense. UPMC's direction of opening up to the commercial carriers helps to gain something that I've been striving for, which as you well know me, for competition in Western Pennsylvania. But you brought up something very important, not only will it take, cannot we have a market share shift in the next two years of two million subscribers like you talked about, but now suppose now we have this federal healthcare reform bill to consider that everybody's just sort of ignoring and everybody says well that's 2013, well it's right around the corner.

KM: Correct.

Sen. White: Now one of the things they think, even if the White House changes next year, they even the Republican caucus in the house has said that some of those conditions will remain that reform and one of them will be, I think Mr. Bonner said this, that the preexisting conditions, but prior to that would it obviously be troublesome for anybody to switch carriers who already are under UPMC's care walking around with a Highmark card, what are their options? Is HealthAmerica or Aetna or Cigna or anybody else going to be knocking on their door down for their business?



KM: Senator, HealthAmerica's been around for decades.

Sen. White: But somebody who is already under care, I'm talking with a serious health issue as far as switching companies.

KM: I don't know. Many people won't have the option.

Sen. White: Right.

KM: That decision isn't even made locally. It's made by a corporation headquartered outside of Western Pennsylvania. So those people won't have an option. Many of those people are guaranteed issue subscribers. The only company who offers a guaranteed issued product is Highmark, the Blues in the state of Pennsylvania. So there's no option for those people. So you know I think that's what we have to understand. It's not that easy to switch a health plan. It's not that simple. There are many things involved in it. And let's be honest, people have a Blue Cross Blue Shield card for a reason. It's 75 years of security, of knowing they'll be taken care of anywhere.

Sen. White: Mr. Romoff we were talking...I'll save that for later. Senator Costa.

02.14.11

Sen. Costa: Thank you very much, Mr. Chairman. Just a couple questions as it relates to switching insurers. Can you very briefly walk us through why it is a very difficult task for someone to do that?

KM: Deb, you wanna take that one, I'll take a break.

DR: In terms of insurance plans, just as employers are making decisions, whether it's on an annual basis or a multiyear contract that might be involved, there are a lot of differences between insurers. There are differences between medical policy, differences in ways that we determine what's covered what's not covered, which absolutely impacts somebody who's in the middle of care, one issue, right? Also, deductibles, co-insurances, accumulation of subscriber liability becomes an impact. Oftentimes, it's when you find many larger employers looking at multiyear contracts with insurers, who are not going through those situations on an annual basis and disrupting members. So it is a situation that shouldn't be looked at lightly. It does have an impact on an individual, who may be in the middle of a treatment program, which is really the kind of people we're talking about here, somebody who's in the middle of treatment with a UPMC provider, while having health insurance with Highmark. So it is a disruption and it's something that we need to be clear about it's not an easy transition, either changing your physician or changing your health insurance.



KM: There's a cost to a customer when they switch carriers also, especially large customers, the self-insured customers, which half our business is represented by self-insured customers to change all the data and shift it from one place to another and re-issue cards and do all sorts of things. There's a significant risk in administrating that and doing that, the cost to make that happen. So companies don't like to make changes each and every year. They like multiyear processes so they have some security of what's going to happen, no disruption, those types of things. So it's not too easy to switch a health plan.

Sen. Costa: The next question deals with as I understand this that for you to develop and integrated health delivery system, it takes time to be able to do that in order to compete with the other ones in the area. The impact on premium costs, what would the impact be on premiums when you develop a whole new system? Senator Ferlo talked about certificate of need before, which I agree with everything he says along those lines, but what would the impact be on consumers if you have to go out and build a whole new system as opposed to having access to a system that's already in place?

KM: Yeah, I think the purpose of an integrated delivery finance system should be to control healthcare costs better than we've been doing. That's why they were put together. The problems we're seeing is the only IDFS we have in Western PA came back and asked for a 40% increase in what we were paying on the current contract.

Sen. Costa: 40%?

KM: 40%. 20% across the entire system meaning many of the contracts that currently are out for negotiation (physicians, services, everything in their system) they wanted a 20% increase across the board. Only half of the system was up for negotiation. So out of a \$2 billion payment per year a billion was up for negotiation, but they wanted a \$400 million increase. So that's basically a 40% increase on the existing contracts.

Sen. Costa: Just so I'm clear, so as the condition to continue the contract, you were asked to add \$400 million to your \$1 billion...

KM: ...and include a non-tiering provision in the contract.

Sen. Costa: My next question is dealing with the out of network costs. Historically or typically, what would the differential be maybe between market rate and out of network cost?

KM: I used this in a previous hearing and I'll adjust the figures just a little bit, because we refined them. At UPMC on average we pay 35 cents on every dollar charged. So it's a 65% discount when you look at everything across the board. So if you do not have a contract with UPMC, they charged our customer charges, we would pay the 35%, they would have to pay the balance, the 65%. It would be up to UPMC



whether they would want to collect it or not, but that's their issue. The bill says, you pay a dollar, Highmark pays 35 cents, you're responsible for the other 65. What that means is that instead of two billion dollars of payment and collections into current marketplace, it will represent six billion dollars. An additional four billion dollars of costs to Highmark subscribers that are out there today.

Sen. Costa: In terms of the out of network?

KM: Correct.

02.19.16

Sen. Costa: I want to go back to that 40% requested increase. You were there ten years ago or whenever you entered into the initial contract. Was there a similar request made at that point in time as it relates to establishing this agreement, do you recall?

KM: I don't recall the exact number, but most likely it was pretty high, but the real discussion back then was we had placed some capital on a loan basis into West Penn Allegheny, because they had gone through the bankruptcy proceeding and the discussion back then was since you put some money into them, we want to make sure that you put some money into us. And we focused on ways to constructively use those resources and as I said one of the most constructive things we did was construct a new Children's Hospital. The increase we gave them at that point in the contract was I think a 10% increase? An automatic 10% increase across the board from a hospital services perspective across the board only, a 10% increase. And then the agreement was to have a market basket index increase per year on inpatient/outpatient services, so those facilities were to get whatever the inflationary index was for each of the ensuing nine years. That was the agreement. That was the spirit. And the IDS was supposed to perform and deliver on that promise. Instead it got a 7 to 8 per cent increase per year and is now asking for a 40% increase. So when you ask me do I believe what we're going to do at West Penn Allegheny will make things more affordable for the market, I think there's a lot of room to make that happen.

Sen. Costa: My last question deals with the testimony, I believe at the last hearing by the insurance commissioner indicating that it appears that it may take up to 18 months to work through the process once you make your filing to do an approval presumably on the merger. It seems like you've indicated that that's way too long. What type of timeline do you need to make certain that gets done, I'm sure sooner rather than later is what the desire is, but realistically what, in light of the timelines you have with UPMC, what is the optimal time and what should be our target date be to have the work completed by the AG's office and all the other agencies involved and insurance commissioner of course?

02.21.32



KM: It would have been three years ago, but since it's not done, all of our business plans look at a January 1 start date and all of the turnaround plans are predicated off of a January 1, 2012 startdate. Now I know that's extremely aggressive, but anything beyond that we'd have to adjust all the financial plans we've prepared. It is an organization obviously that needs immediate support.

Sen. Costa: Thank you very much for both of your testimonies.

Sen. White: Dr. Melani do you anticipate, December and January are two big months for renewals, do you anticipate some landslide of business going out the door to one of these commercial carriers?

KM: I'm happy to report that from our perspective, the information I've just received from Deb is that we're doing extremely well maintaining our market position.

Sen. White: Now can you help me with this timeline? I'm sorry I didn't put either of you under oath and I see Mr. Romoff up here, but I can't bring him back up, but I think what he said was that Highmark and UPMC had a gentlemen's agreement according to him just two days before you announced your interest in the West Penn network. You said that you got interested into West Penn only after you couldn't come to an agreement. Would you tell me which one it is?

KM: Yeah, it's an agreement on where we were sitting from a cost perspective. We had been in discussions and the increase was being demanded from us. So our board chair talked to their board chair about a process to maybe look at some benchmarks, but we felt obligated anyway to begin to look at the preservation of access and what was happening at West Penn Allegheny. We did not enter into a decision to affiliate with West Penn Allegheny until far beyond the timeframe that UPMC said no more contract. So our issue was if we're getting into a contract negotiation, it looks like preposterous increases are being requested and historically providers take this out to the last day before they solve the issue. We need to make sure that there's another system there, so let's go take a look at it and see where it stands. Let's begin to assess the condition, the needs and all those things. So the minute we started to talk to West Penn/AGH, the plug was pulled, we had not made an announcement of affiliation.

Sen. White: Ok, the only other comment I want to make and I'm not a gambler, but if I were, I would say that UPMC is holding a pretty strong poker hand and you're sitting with a pair of deuces.

KM: Yes.

Sen. White: I mean I and I don't see how Mr. Romoff has been quite adamant and consistent that there will be no future negotiations and I've heard what Senator Earll has said and you've agreed to and we don't know if there's a legislative fix out there and if there is one I'm sure we'll try and put something together, but we don't know that yet. But here he is sitting with his own monopoly in the provider



business, opened up his entire market to commercial carriers, increased competition, good thing. Has very extensive doctor network, comes up through the regions that I represent and you're going to take over a hospital system and you've already agreed that you're going to open it up to fair competition. Now admittedly it might take more than a year past 2013...what happens to Highmark if there is no legislative fix and we can't take care of this big problem, this 800-pound gorilla staring us in the face, which is the people that are walking around with Highmark cards and have UPMC docs? I'm just curious where you and your board if we can't create a fix, what happens? What happens to Highmark down the road?

02.26.19

KM: That's an excellent question Senator. Our board and we went through a process of looking at different scenarios in the marketplace and what the outcomes would be for the community at large and for Highmark. And those scenarios looked at a couple of variables. One was getting a contract with UPMC, not getting a contract with UPMC, entering the West Penn Allegheny system, not entering the West Penn Allegheny system, and you map those out and go through those scenarios and mix and match those variables. And we have outcomes that we have projected based on all of those. Our health insurance enrollment and what impact it would have in the next four to five years, what impact it would have on the company financially and also the community impact, what we think will happen to the community in regard to its ability to have access, affordability, those types of things. And so we know at least in our mind what will happen in each of those scenarios. The one you've outlined which is no contract with UPMC, get into West Penn Allegheny health system is probably the best of the bad options.

Sen. White: I mean do you see a penetration in your market share? I mean you have 70% of the and I don't mean, I mean an effective penetration in your market share.

KM: I think it would be foolish if we said to you that we wouldn't anticipate some decrease in our enrollment over that period of time. Absolutely we will see some decrease in enrollment over that period of time, but without doing this, we would be put out of business. Jeff Romoff would be in control of the entire system and determine the fate of every insurance company in Western Pennsylvania if West Penn Allegheny doesn't exist. And then Mr. Ferlo you will have a single payer, single delivery system in Western Pennsylvania.

Sen. White: Senator Ferlo.

Sen. Ferlo: In the insurance filing, back to the issue of accessibility, will we be able to determine what the actual delivery system will be? Is that contained in the filing? Will that be open for public review?

KM: Yes.



Sen. Ferlo: So we'll know that, because really the West Penn Allegheny folks at the last hearing were not able to really speak directly about what the delivery system will look like.

KM: It won't have as much detail on what will West Penn look like, but there will be a representation of the reopening of West Penn with some assumptions of what we believe the service lines will be. More detail will need to be worked out and we are fleshing that out at the current time.

Sen. Ferlo: And I still continue to take exception with the characterization that there's nothing in our disposal relative to Act 94 or Act 55 and I still believe in the basic tenet of law which is that who giveth can taketh away and I still think there's an issue about what the criteria is for the charitable trust, the bulk of which you have various issues there set and distinct, 501c3 versus a non profit, but I'm not giving up the ship and I know Mr. Romoff's a very powerful dynamic figure, but he does have a board of directors, one-third of which is represented by the University of Pittsburgh, the chancellor other members of the board are community members, I can go through and name from [??] to Howard Hanna, if we have to initiate an anti-corporate campaign, which is being discussed at the grassroots level in the city of Pittsburgh, this is the last job of my life probably so you know we're ready to rock and roll to get what we want, because we're concerned about accessibility to healthcare, we want both systems to survive and be functioning, but the bottom line for us is accessibility, quality care and not closing the doors on something that should be a basic human right in this country, which unfortunately it's not. Profit rules in healthcare and that's why I'm for a single-payer system, but I'm setting that aside, thank you both.

02.30.59

Sen. Earll: I think I'll just step in here. So much of the focus of this conversation has been what consequences to Pittsburgh or Allegheny County. Can you paint a picture for me in Erie County where I basically have two hospitals, one of which is now UPMC and what if there is no contract, what that means?

KM: Sure, I'll let Deb speak to that, because she's probably more familiar with that than I am.

DR: You're right so there are two systems, one stronger than the other, so there are some similarities, I think to what you would see in southwestern Pennsylvania. I know that there's a lot of concern about what happens. Fortunately the contract with Hamot and Highmark goes out a year beyond what we would see with UPMC...

Sen. Earll: 2013?

DR: 2013 with a year run out as well. So there's some more time to think about how we would actually have a network available to our members. Again our hope is that we will get to a point where there is a



contract, but we certainly are having conversations with St. Vincent's just to understand you know what kind of gaps they have and in terms of what they can provide to our members in this area and also discussions with other community hospitals and physician practices. But it's very similar, it's not that much different than from what you see in southwestern Pennsylvania. It is it could be potentially as much of an issue which is why we are talking about what our options are at this current time.

KM: I know that we've approached Hamot directly to ask about a new contract or an extension and they've said no.

Sen. Earll: That's because it's UPMC it's not Hamot, but I think it is a little different in terms of physician practices than what you have in Allegheny County.

DR: Yeah, there's a little less option.

Sen. Earll: Very less option.

KM: Remember the dangerous thing here, we're talking a lot about hospital contracts, but physician contracts are just as dangerous.

Sen. Earll: And that's what concerns me even more.

KM: Correct.

Sen. Earll: So paint a picture for me of physician contracts and it's not the same timeframe?

DR: It's not the same timeframe. Again, we are talking to independent physician practices. We're talking to some of the community hospitals, which they all have employed physicians, to talk about how they can fill gaps, which potentially could occur when we get to 2014. So it's going to take that sort of community effort amongst the independent physicians and providers to be part of a delivery system that we think would be beneficial for our members.

Sen. Earll: Again, we're not experiencing this yet, because I do think there's a sense that it's not an immediate issue, but clearly we're not seeing Highmark insureds jumping to other carriers, because they still want to access Hamot hospital. The claim is that that's going to happen.

KM: I would think it would. If the current strategy that UPMC has, work. They'll certainly deploy that up here wouldn't they.



Sen. Earll: But what I'm not understanding is why that's a bad thing if it ultimately results in more competition in the insurance market, which would naturally lead to better pricing.

KM: As long as there's enough time to have a viable alternative.

DR: It's provider choice as well.

KM: Provider choice.

DR: So an insurance company is only part of the equation. It's also making sure that there's adequate provider access. That's why we think it is something that has to be addressed.

KM: Let me give you an example, if you're seeing a group of oncologists today, those oncologists switch from Hamot to St. Vincent in the middle of your one year contract with your insurance provider, what happens? You lose access, but you bought a product that you thought gave you access, but you lose it midstream. That's the problem we have and the games that are being played in the marketplace today. And that's unconscionable. The other thing that's unconscionable is that if a physician group that's employed by one of the hospitals signs an onerous non-compete, which they're being asked to do. They decide they don't like the environment they're working in it's so onerous they can't even lead a normal life, their only option is to leave. Leave your community. What happens to the patients who are getting care in that community today. So I think that we've created a mess.

Sen. Earll: You certainly have.

KM: Yep.

Sen. Ferlo: Senator White, can we just get a clarification from Dr. Melani on the issue of there are older folks here who are on Medicare and Medicare Advantage, what's the difference on Medicare Medicare Advantage on accessibility from your point of view?

Sen. White: That's a good idea.

KM: Our the Medicare recipients who have Medigap coverage through Highmark would not be affected by this at all, because Medicare is the primary carrier as long as UPMC continues to serve Medicare, the federal program, then our gap program just tacks onto that. Medicare Advantage, although it's a federal program, its responsibility for administering that program falls to the carrier. And Highmark has the largest Medicare Advantage population in Western Pennsylvania. So those people are dependent upon Highmark's contracts for their services. So just like our commercial business, we contract with hospitals and there's an independent contract with hospitals for Medicare Advantage, separate from our



commercial contract. That's not part of this discussion, but the physician contracts we have cover both commercial and Medicare Advantage subscribers. If you cancel a physician contract, technically you're cancelling both of those groups of individuals. You're no longer going to provide services to the commercial marketplace, the under-65 and you're no longer going to provide services as an in-network provider to the over-65. UPMC has said they're going to cancel the physician contracts. Clearly, that means they would not have a contract as an in-network provider for those commercial and those Medicare Advantage subscribers.

02.37.39

Sen. Ferlo: Well just to get to the point because you have one point on this and the honorable Mr. Romoff is in the audience shaking his head in a different direction, if we can get something in writing from both parties we would really appreciate it.

KM: We can clear that up because it is, it's Highmark's decision, because UPMC has said they're willing to provide service to the Medicare Advantage subscribers, even though they're cancelling the contract. We have said since they're cancelling the contract, we'll honor that.

Sen. Ferlo: I just want to understand one thing. In terms of actual Medicare, it seems to me there's a different discretion and a different ability to change over a course in time the Medicare Advantage because of the physician contracts.

KM: Yes.

Sen. Ferlo: That is distinct from what is sacrosanct which is Medicare.

KM: Yes.

Sen. Ferlo: If you could address that in a memo and if the UPMC folks could address that in a memo I think we'd appreciate it. Thank you.

Sen. White: Any other questions. Thank you for your testimony and your patience with us today.