

## Procedural History of UPMC – Highmark Litigation

Articles February 25, 2019

Below is a summary of UPMC-Highmark dispute as of February 22, 2019. This information is limited to litigation proceedings with no discussion about prior contracts or negotiations.

- March 2011 – UPMC announces it will not renew UPMC-Highmark contract due to expire December 31, 2012.
- May 1, 2012 – Parties enter into mediated agreement which states that parties (UPMC and Highmark) will allow in-network access for all commercial, Medicare and Medicare Advantage members through December 31, 2014, and:
  - Parties would negotiate rates for access beginning in 2015 for Western Psych, oncology, UPMC Bedford and UPMC Northwest.
  - UPMC Children’s and Mercy agreements would remain in effect.
- April 23, 2013 – Pennsylvania Insurance Department approves Highmark – West Penn Allegheny Health System affiliation.
- June 12, 2013 – UPMC resolves to forego any extension of the existing commercial contracts, excluding Children’s, Mercy, Northwest and Western Psych as a result of the affiliation.
- June 27, 2014 – Pennsylvania Department of Health and Insurance intervene in the dispute and broker the Consent Decrees. (Exhibit A)
- October 30, 2014 – Commonwealth Departments of Health and Insurance seeks to hold Highmark in contempt of Consent Decrees for marketing a Community Blue program that excluded UPMC participation. Judge Pellegrini of Commonwealth Court denied the Commonwealth’s Petition. (Exhibit B)
- November 30, 2015 – Pennsylvania Supreme Court rules that Highmark Medicare Advantage members should be treated by UPMC through June 30, 2019. (Exhibit C)
- February 7, 2019 – Pennsylvania Attorney General Josh Shapiro petitions Commonwealth Court to modify the 2014 Consent Decree, alleging: (Exhibit D)
  - The necessity to enforce compliance with charitable obligations
  - Violation of the Solicitation of Funds for Charitable Purposes Act
  - Breach of Fiduciary Duty
  - Violation of Uniform Trade Practices and Consumer Protection Law
- February 21, 2019 – UPMC files federal class action complaint in the United States District Court for the Middle District of Pennsylvania, alleging: (Exhibit E)
  - Preemption by federal law
  - Violation of Accountable Care Act (ACA)
  - Violation of ERISA
  - Antitrust violation of the Sherman Act
  - Illegal takings in violation of the “Taking Clause of the Fifth Amendment” to the U.S. Constitution
  - Violation of federal Equal Protection
  - Violation of Due Process
- February 21, 2019 – UPMC also filed a Motion for a Preliminary Injunction in the U.S. District Court for the Middle District of Pennsylvania, in conjunction with the above Complaint, against the Attorney General. (Exhibit F)
- February 21, 2019 – UPMC has also filed a Motion to Dismiss the Attorney General’s Petition to Modify the Consent Decree. (Exhibit G)

For additional information contact Mike Cassidy or Mark Hamilton.