

# **Justice Department Requires CVS and Aetna to Divest Aetna's Medicare Individual Part D Prescription Drug Plan Business to Proceed With Merger**

## **Divestiture Will Preserve Competition in Medicare Part D Individual Prescription Drug Plans throughout the United States**

The Department of Justice announced today that it is requiring CVS Health Corporation (CVS) and Aetna Inc. (Aetna) to divest Aetna's Medicare Part D prescription drug plan business for individuals in order to proceed with their \$69 billion merger. The proposed divestiture to WellCare Health Plans, Inc. (WellCare), an experienced health insurer focused on government-sponsored health plans, including Medicare Part D individual prescription drug plans, would fully resolve the Department's competition concerns.

"Today's settlement resolves competition concerns posed by this transaction and preserves competition in the sale of Medicare Part D prescription drug plans for individuals," said Assistant Attorney General Makan Delrahim of the Justice Department's Antitrust Division. "The divestitures required here allow for the creation of an integrated pharmacy and health benefits company that has the potential to generate benefits by improving the quality and lowering the costs of the healthcare services that American consumers can obtain."

The Department's Antitrust Division, along with the offices of five state attorneys general, today filed a civil antitrust lawsuit in the U.S. District Court for the District of Columbia to enjoin the proposed transaction, along with a proposed settlement that, if approved by the court, would fully resolve the Department's competitive concerns. The participating state attorneys general offices represent California, Florida, Hawaii, Mississippi, and Washington.

CVS, the nation's largest retail pharmacy chain, and Aetna, the nation's third-largest health-insurance company, are significant competitors in the sale of Medicare Part D prescription drug plans to individuals, together serving 6.8 million members nationwide.

According to the Department's complaint, the combination of CVS, which markets its Medicare Part D individual prescription drug plans under the "SilverScript" brand, and Aetna would cause anticompetitive effects, including increased prices, inferior customer service, and decreased innovation in sixteen Medicare Part D regions covering twenty-two states. The complaint alleges that the loss of competition between CVS and Aetna would result in lower-quality services and increased costs for consumers, the federal government, and ultimately, taxpayers.

Under the terms of the proposed settlement, Aetna must divest its individual prescription drug plan business to WellCare and allow WellCare the opportunity to hire key employees who currently operate the business. Aetna must also assist WellCare in operating the business during the transition and in transferring the affected customers through a process regulated by the Centers for Medicare and Medicaid Services, an agency within the U.S. Department of Health and Human Services.

The settlement also includes, consistent with other settlements, several provisions designed to improve the effectiveness of the decree and the Division's future ability to enforce it.

CVS, headquartered in Woonsocket, Rhode Island, operates the nation's largest retail pharmacy chain, owns a large pharmacy benefit manager called Caremark, and is the nation's second-largest provider of individual prescription drug plans, with approximately 4.8 million members. CVS earned revenues of approximately \$185 billion in 2017.

Aetna, headquartered in Hartford, Connecticut, is the nation's third-largest health-insurance company and fourth-largest individual prescription drug plan insurer, with over two million prescription drug plan members. Aetna earned revenues of approximately \$60 billion in 2017.

As required by the Tunney Act, the proposed consent decree, along with the Department's competitive impact statement, will be published in the *Federal Register*. Any person may submit written comments concerning the proposed settlement within 60 days of its publication to Peter Mucchetti, Chief, Healthcare and Consumer Products Section, Antitrust Division, Department of Justice, 450 Fifth Street NW, Suite 4100, Washington, DC 20530. At the conclusion of the 60-day comment period, the court may enter the final judgment upon a finding that it serves the public interest.

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Press Release Number:

18-1316

Updated October 10, 2018