

FTC and Commonwealth of Pennsylvania Challenge Proposed Merger of Two Major Philadelphia-area Hospital Systems

FOR RELEASE

February 27, 2020

The Federal Trade Commission has authorized an action to block the proposed merger of Jefferson Health and Albert Einstein Healthcare Network, two leading providers of inpatient general acute care hospital services and inpatient acute rehabilitation services in both Philadelphia County and Montgomery County, Pennsylvania.

The FTC issued an administrative complaint (a public version of which will be available and linked to this news release as soon as possible) alleging that the proposed merger would reduce competition in both Philadelphia and Montgomery counties.

According to the complaint, Jefferson and Einstein have a history of competing against each other to improve quality and service, including by upgrading medical facilities and investing in new technologies. The proposed merger would eliminate the robust competition between Jefferson and Einstein for inclusion in health insurance companies' hospital networks to the detriment of patients.

“Patients in the Philadelphia region have benefitted enormously from the competition between the Jefferson and Einstein systems,” said Ian Conner, Director of the FTC’s Bureau of Competition. “This merger would eliminate the competitive pressure that has driven quality improvements and lowered rates. Throughout our investigation, we have benefited from close cooperation with our partners in the Office of the Attorney General of Pennsylvania.”

The Commission has authorized staff to seek a temporary restraining order and a preliminary injunction to prevent the parties from consummating the merger, and to maintain the status quo pending the administrative proceeding. The FTC, jointly with the Pennsylvania Attorney General, will file a complaint in federal district court.

Jefferson and Einstein offer a broad range of medical and surgical diagnostic and treatment services that require an overnight hospital stay, known as inpatient general acute care, or GAC, services. Einstein’s GAC hospitals compete significantly with Jefferson’s GAC hospitals in and around North Philadelphia and Montgomery County. The complaint alleges that, as a result of the merger, the parties would control at least 60% of the inpatient GAC hospital services market in and around North Philadelphia, and at least 45% of that market in and around Montgomery County.

Inpatient rehabilitation facilities, or IRFs, provide intensive multi-disciplinary rehabilitation services to patients previously treated at GAC hospitals who are recovering from serious, acute conditions such as a stroke, traumatic brain injury or spinal cord injury. Collectively, Jefferson and Einstein operate six of the eight IRFs in the Philadelphia area in and around Einstein's flagship Moss at Elkins Park facility. According to the complaint, as a result of the merger, the parties would control at least 70% of the inpatient acute rehabilitation services market in the Philadelphia area.

The Commission vote to issue the administrative complaint and to authorize staff to seek a temporary restraining order and preliminary injunction was 4-0-1, with Chairman Joseph J. Simons recused. The administrative trial is scheduled to begin on Sept. 1, 2020. The federal court complaint and request for preliminary relief will be filed in the U.S. District Court for the Eastern District of Pennsylvania.

NOTE: The Commission issues an administrative complaint when it has "reason to believe" that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. The issuance of the administrative complaint marks the beginning of a proceeding in which the allegations will be tried in a formal hearing before an administrative law judge.

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