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VAHP Comments to SWVA Health Authority

Re: Proposed Certificate of Public Advantage for Wellmont and Mountain States Health Systems

VAHP continues to have serious concerns with the proposed Certificate of Public Advantage for Wellmont and Mountain States, and its potential to increase costs on our customers.

Edith Ramirez, chair of the Federal Trade Commission gave a speech recently to health industry professionals here in Virginia. In her presentation, Ms. Ramirez stated that areas of the country that have experienced a hospital merger saw health care prices increase 15 percent. The average hospital stay in those places alone were \$2,000 higher than those with 4 or more competitors in a region. America's Health Insurance Plans (AHIP), who are also submitting comments, has stated that provider consolidation is a major factor in the rise of 2017 premiums. These price increases are due to the decreased competition that will occur in the region.

Health care payers benefit from competition, whether government or private. There were six different bidders for Wellmont, health care payers wonder why is a Certificate of Public Advantage the answer for Southwest Virginians?

The payer marketplace provides a wide range of offerings here in Southwest Virginia of behalf of public and private consumers. Medicare, Medicaid and Medicaid Managed Care Organizations (MCOs) payers make up 70.3%, according Exhibit 15.1 of the application, of the discharges for the two health systems. The amount of government business is likely to increase under the Affordable Care Act. The commercial market makes up 17.5% of the discharges. There are 3 health insurers offering individual products filed with the Virginia Federal Health Exchange totaling 28 commercial plans in the Southwest Region of Virginia, 6 insurers with over 300 plans both on and off the exchange in the small and large group markets and 3 plans offering Medicare Advantage Plans. Our payers have concern with the ramifications of granting a COPA on our customers.

VAHP is also very concerned with the effect the COPA will have on Medicaid MCOs. There are currently five Medicaid MCOs participating in Southwest Virginia representing the Commonwealth's Medicaid Managed Care Program. All five contract with both health systems. The cooperative agreement application makes a commitment to not be an exclusive provider to only one Medicaid MCO and there is a requirement that Medicaid beneficiaries have choice between at least two Medicaid MCOs. This gives the combined entity the ability to not contract with the remaining three.

In the cooperative application, the systems state that Medicaid and Medicare payments are non-negotiable. That would be correct under the Virginia Medicaid and Medicare Fee for Service fee

schedules. But, currently, the vast majority of Medicaid and Medicare beneficiaries are managed by Medicaid managed care organizations as well as Medicare Advantage plans, and those rates are absolutely negotiable. The two systems negotiate with health plans to serve this population today, and have not yet made commitments to protect the Commonwealth's Medicaid enrollees.

By Virginia statute, impact to the Medicaid program should be considered when weighing the advantages and disadvantages of the cooperative agreement. And since Virginia is in the midst of transitioning the full Medicaid program under a managed care system, in essence, any impact to the Medicaid Managed Care Program is what needs to be considered in the evaluation of granting a Certificate of Public Advantage.

The application does not deem Medicaid MCOs as "principal payers", only commercial payers who provide more than 2 percent of the New Health System's total net revenue are defined as principal payers. All rate commitments and rate caps are pledged to the principal payers, and not MCOs. Certainly, Medicare and Medicaid should be counted as principal payers.

Increased prices will hurt local and state employee health plans that are already struggling with affordability in the region. Senator Chafin passed a bill this past session to create a new alternative for these local insurance pools. This merger will likely increase the cost pressure on these new local government plans.

The health care payers also remain concerned that this agreement provides too little oversight and monitoring leaving decisions to one entity for the entire region. The New System will decide on which facilities stay open and which are closed, instead of the market. The application does not specify where secondary facilities will remain open in the region. We should not forget, one of the applicants closed a facility in Lee County a few years ago specifically to limit competition. With no active day to day supervision, this COPA would allow a new private entity to make business decisions without regard for patient access.

The New System may now be the largest keeper for health information in the region. A recent article by The Washington Post states that health care companies are now major targets for cyber-attacks, and this New System will be a major target. The application does not adequately address resources needed to keep their patients' information protected.

Provider competition reduces cost and the Certificate of Public Advantage would diminish this competition in Southwest Virginia. Leading research, including a study published in the Journal of the American Medical Association, shows that the resulting higher prices associated with these mergers often do not translate to more access to care or better quality care for patients. An analysis performed recently by Competition Economics LLC found that the merger is "anti-competitive" across the board.

The health care industry is changing rapidly. The government is investing in more and more managed care payers to deliver Medicare, Medicaid and government insurance programs, which are a vast majority of your market. We should be encouraging more consumer options in the health care provider market, not less. For our customers, an ever growing majority of the applicants' business, it is not clear that the advantages clearly outweigh the disadvantages to granting a Certificate of Public Advantage. Why should Southwest Virginians and their payers not be granted the same benefits of competition as all other Virginians?