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New Jersey State Legislature

SENATE COMMERCE COMMITTEE
and
SENATE HEALTH, HUMAN SERVICES AND
SENIOR CITIZENS COMMITTEE

STATE HOUSE ANNEX
PO BOX 068
TRENTON NJ 08625-0068

SENATE HEALTH, HUMAN SERVICES AND
SENIOR CITIZENS COMMITTEE

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PHILIP R. GENNACE
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*Office of Legislative Services
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Senate Commerce Committee*
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DAVID DRESCHER
ADALINE B. KASER
*Office of Legislative Services
Committee Aides
Senate Health, Human Services
and Senior Citizens Committee*
(609) 847-3860
(609) 943-5996 Fax

October 7, 2015

Richard Badolato
Acting Commissioner
New Jersey Department of Banking and Insurance
PO Box 325
Trenton, New Jersey 08625

Dear Mr. Badolato:

The Senate Commerce Committee and the Senate Health, Human Services and Senior Citizens Committee would like to thank you for the testimony presented at the joint meeting on October 5, 2015 by the Director of Insurance, Peter Hartt and the Assistant Director, Kristine Maurer.

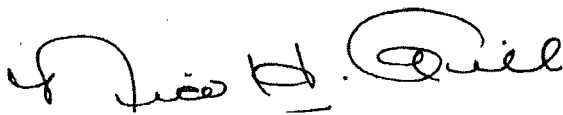
At the beginning of that meeting, the Department of Banking and Insurance submitted over 700 pages of documents in response to the committees' request for public documents that were received from Horizon relating to the OMNIA Alliance and the network adequacy review performed by the Department of Banking and Insurance. It was the committees' understanding that these same documents would be provided to the committees electronically and by this letter we are reiterating our expectation that the electronic version is forthcoming.

Additionally, in Mr. Hartt's cover letter to the committees submitted with the Horizon OMNIA documents, Mr. Hartt wrote, "that all records you requested are enclosed with the exception of one email and attached document." Given the public testimony by the Department, please provide the committees with the email and attachment referenced in Mr. Hartt's letter.

SCM and SHH Document Request
October 7, 2015
Page 2

Please provide the requested documents to Philip R. Gennace (pgennace@njleg.org) by the close of business on Thursday, October 8th. Questions concerning the submission of these materials may be directed to Mr. Gennace at 609-847-3845.

Sincerely,



Senator Nia H. Gill
Chair, Senate Commerce Committee



Senator Joseph F. Vitale
Chair, Senate Health, Human Services and
Senior Citizens Committee



New Jersey Senate
P.O. Box 099
Trenton, New Jersey 08625-0099
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SENATOR NIA H. GILL
34TH LEGISLATIVE DISTRICT
39 SOUTH FULLERTON AVE
MONTCLAIR, NJ 07042
TEL: (973) 509-0388

SENATOR JOSEPH F. VITALE
19TH LEGISLATIVE DISTRICT
569 RAHWAY AVE
WOODBIDGE, NJ 07095
TEL: (732) 855-7441

October 7, 2015

The Honorable John J. Hoffman
Acting Attorney General of New Jersey
Richard J Hughes Justice Complex
25 Market Street, Box 080
Trenton, NJ 08625

Dear Acting Attorney General Hoffman:

On September 10, 2015, Horizon Blue Cross and Blue Shield of New Jersey announced the creation of the OMNIA Health Alliance. The Alliance is part of a new tiered network plan for Horizon members, which will dramatically change the insurance plans offered by the largest insurer in New Jersey. Consequently, the manner in which the Alliance and tiered plan were announced has caused great confusion and anxiety in consumers and members of the health care community.

Due to the confusion, on September 17, 2015, we called for a joint hearing of the Senate Commerce and Health Committees to discuss the creation of the OMNIA Alliance and new tiered plans.

On September 24, 2015, we requested that Horizon suspend for 30 days the release of the new plans into the state's insurance marketplace. A moratorium on the proposal would have allowed consumers to hear from Horizon on the overhaul of the insurance plans and to get a clearer understanding of their options. Our hope was that the extra time would also have given health care providers the information on the criteria and scoring used to select hospitals and about the future plans for the OMNIA Alliance. Unfortunately, Horizon rejected the request.

The Joint Committee convened on October 5, 2015 and received testimony from Horizon Executives, the Department of Banking and Insurance, health care policy experts and representatives of hospitals and physicians groups. During the hearing it was revealed that Horizon misrepresented to the public, the health care community, legislators and

potentially state regulators, the makeup of the widely-publicized OMNIA Alliance and failed to disclose all participating providers within the tiered system.

The Committee also learned that the Department of Banking and Insurance, whose regulatory duty is to review and approve all new insurance plans sold to the residents of our state, may have violated state law and the Department's own regulations in approving the tiered plans even though they did not meet the established requirements.

Further, despite Horizon's assurance that the OMNIA Health Alliance is the future of health care in New Jersey, all regulatory agencies in the state - the Department of Banking and Insurance, the Department of Health and the Department of Human Services - either testified or provided the committee with written statements that they either do not have the jurisdiction or will not seek to regulate the OMNIA Health Alliance.

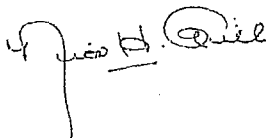
There is no question that all New Jerseyans deserve affordable, quality health care. We are not opposed to tiered plans that are created fairly and transparently. However, as elected officials, it is our responsibility to ask how the new OMNIA Alliance will change the delivery and financing of health care, not necessarily tomorrow, but in the years to come. We believe that there may be unintended consequences for New Jersey's consumers and potential anti-trust issues with the creation of the OMNIA Alliance and tiered plans.

Therefore, we request that you immediately intervene to delay Horizon from offering the OMNIA tiered plans until your office establishes a permanent oversight mechanism for the process for tiering and rating health care providers in New Jersey. It is our firm belief that oversight of the OMNIA Alliance and all tiered plans will ensure fairness, transparency and consistency in the health care market and for all of New Jersey's consumers. Precedent for this was established in New York under then Attorney General Cuomo in response to a tiered system in that state.

With the introduction of this plan in New Jersey under an extremely flawed process, it is critical that the state act. Failure to do so will compromise the quality of care patients receive and the health of hospitals throughout the state. Strong oversight and accountability of this program and those like it, is vital to ensuring our residents are protected.

Due to the urgent nature of this matter and Horizon's apparent insistence on proceeding with the rollout of their OMNIA Alliance and tiered plans, we respectfully request your response by October 13, 2015.

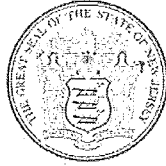
Sincerely,



Senator Nia H. Gill
Chair, Senate Commerce Committee



Senator Joseph F. Vitale
Chair, Senate Health, Human Services & Senior Citizens Committee



State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO BOX 080
TRENTON, NJ 08625-0080

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

JOHN J. HOFFMAN
Acting Attorney General

October 8, 2015

Hon. Nia H. Gill
Senator, 34th District
39 South Fullerton Avenue
2nd Floor, Suite 7
Montclair, New Jersey 07042

Hon. Joseph F. Vitale
Senator, 19th District
569 Rahway Avenue
Woodbridge, New Jersey 07095

Dear Chairwoman Gill and Chairman Vitale:

This Office is in receipt of your letter to Acting Attorney General John Hoffman dated October 7, 2015 concerning the creation of the OMNIA Health Alliance. Please be advised that Acting Attorney General Hoffman is recused from all matters involving the Robert Wood Johnson Health System.

Very truly yours,

A handwritten signature in cursive script that reads "B. Stephan Finkel".

B. Stephan Finkel
Assistant Attorney General





New Jersey Senate
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Trenton, New Jersey 08625-0099
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SENATOR JOSEPH F. VITALE
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October 9, 2015

Edith Ramirez
Chair, Federal Trade Commission
Office of the Chairwoman
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Dear Chairwoman Ramirez,

On September 10, 2015, Horizon Blue Cross Blue Shield of New Jersey (Horizon) announced the creation of the OMNIA Health Alliance. The Alliance is part of a new tiered network plan for Horizon members, which will dramatically change the insurance plans offered by the largest insurer in New Jersey. Consequently, the manner in which the Alliance and tiered plan were announced has caused great confusion and anxiety in consumers and members of the health care community.

Due to the confusion, on September 17, 2015, we called for a joint hearing of the New Jersey State Senate Commerce and Health Committees to discuss the creation of the OMNIA Alliance and new tiered plans.

On September 24, 2015, we requested that Horizon suspend for 30 days the release of the new plans into the state's insurance marketplace. A moratorium on the proposal would have allowed consumers to hear from Horizon on the overhaul of the insurance plans and to get a clearer understanding of their options. Our hope was that the extra time would also have given health care providers the information on the criteria and scoring used to select hospitals and about the future plans for the OMNIA Alliance. Unfortunately, Horizon rejected the request.

The Joint Committee convened on October 5, 2015 and received testimony from Horizon Executives, the New Jersey Department of Banking and Insurance, health care policy experts and representatives of hospitals and physicians groups. During the hearing it was revealed that Horizon misrepresented to the public, the health care community, legislators and potentially state

regulators, the makeup of the widely-publicized OMNIA Alliance and failed to disclose all participating providers within the tiered system.

The Committee also learned that the Department of Banking and Insurance, whose regulatory duty is to review and approve all new insurance plans sold to the residents of our state, may have violated state law and the Department's own regulations in approving the tiered plans even though they did not meet the established requirements. Audio of the hearing is available on the New Jersey Legislature's website, www.njleg.state.nj.us, under the Senate Commerce Committee's archived proceedings on October 5, 2015. We will also provide you under separate cover with a transcript of the hearing, all submitted testimony and correspondence as soon as they are available.

Further, despite Horizon's assurance that the OMNIA Health Alliance is the future of health care in New Jersey, all regulatory agencies in the state - the Department of Banking and Insurance, the Department of Health and the Department of Human Services - either testified or provided the committee with written statements that they either do not have the jurisdiction or will not seek to regulate the OMNIA Health Alliance.

Following our hearing, on October 7, 2015, we formally requested that New Jersey's Acting Attorney General intervene to "delay Horizon from offering the OMNIA tiered plans until [the Attorney General's Office] establishes a permanent oversight mechanism for the process for tiering and rating health care providers in New Jersey." On October 8, 2015, we received a response from the Attorney General's Office informing us that the Acting Attorney General has recused himself.

There is no question that all New Jerseyans deserve affordable, quality health care. We believe in innovation in the health care market and are not opposed to tiered plans that are created fairly and transparently. However, as elected officials, it is our responsibility to ask how the new OMNIA Alliance will change the delivery and financing of health care, not necessarily tomorrow, but in the years to come. We believe that there may be unintended consequences for New Jersey's consumers and potential anti-trust issues with the creation of the OMNIA Alliance and tiered plans.

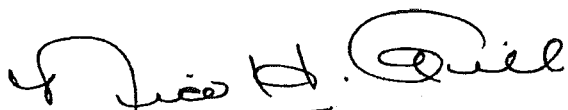
Given the FTC's mission to protect consumers and promote competition and as a result of the Attorney General's recusal and lack of regulatory oversight by the state of New Jersey, we request that you immediately intervene to delay Horizon from offering the OMNIA tiered plans and work to establish a permanent oversight mechanism for the process for tiering and rating health care providers in New Jersey. It is our firm belief that oversight of the OMNIA Alliance and all tiered plans will ensure fairness, transparency and consistency in the health care market and for all of New Jersey's consumers. Precedent for this was established in New York under then - Attorney General Cuomo in response to a tiered system in that state.

With the introduction of this plan in New Jersey under an extremely flawed process, it is critical that we act. Failure to do so will compromise the quality of care patients receive and the health of hospitals throughout the state. Strong oversight and accountability of this program and those like it is vital to ensuring our residents are protected.

Due to the urgent nature of this matter and Horizon's apparent insistence on proceeding with the rollout of their OMNIA Alliance and tiered plans, we respectfully request your response as soon as possible.

Thank you for your consideration.

Sincerely,



Senator Nia H. Gill
Chair, Senate Commerce Committee



Senator Joseph F. Vitale
Chair, Senate Health, Human Services and Senior Citizens Committee

Enclosed: October 8, 2015 – Acting Attorney General Recusal Letter

CC: Julie Brill, Commissioner, Federal Trade Commission
Maureen K. Ohlhausen, Commissioner, Federal Trade Commission
Terrell McSweeney, Commissioner, Federal Trade Commission
David B Robbins, Executive Director, Federal Trade Commission
William H. Efron, Director, Northeast Region, Federal Trade Commission
Andrew Slavitt, Acting Administrator, Centers for Medicare and Medicaid Services