



Connecticut Campaign for Consumer Choice v. Connecticut Commissioner of Insurance (Conn. Freedom of Information Commission)

Topics Covered: Antitrust, Freedom of Information Act

Issue

The issue in this administrative action is whether the Connecticut Insurance Department (CID) properly disclosed, under the Connecticut Freedom of Information Act (FOIA), the documents submitted to CID in connection with the attempt of Aetna, Inc. to acquire Humana, Inc.

AMA Interest

The AMA opposes consolidations in the health insurance industry that may result in anticompetitive markets.

Case Summary

Aetna, one of the largest health insurance companies in the United States, sought to acquire Humana, also one of the largest insurers in the country. Both companies do business in Connecticut, and in fact, Aetna is headquartered in Connecticut. Pursuant to the Connecticut Insurance Code, Conn. Gen. Stats., §§ 38a-129 through 38a-140, Aetna applied to CID for approval of the contemplated merger.

CID then approved the request, without a public hearing. Subsequently, as the result of a lawsuit brought by the United States Department of Justice and several state attorneys general, the United States District Court for the District of Columbia found the merger anticompetitive and enjoined it. The insurance companies then abandoned the merger.

The Connecticut State Medical Society (CSMS), which generally opposes consolidation of health insurance companies, submitted a FOIA request to CID, seeking documents associated with the Humana/Aetna merger. The Connecticut Campaign for Consumer Choice (CCCC) joined CSMS in the FOIA request. CID for the most part denied the CSMS/CCCC FOIA request. CSMS and CCCC then appealed the CID denial to the Connecticut Freedom of Information Commission (FIC).

On January 9, 2017, CSMS, CCCC, and CID notified FIC that they had settled the FOIA claim. Nevertheless and notwithstanding the putative settlement, FIC has insisted on a hearing of the FOIA claim. That case is ongoing.

CID appealed the FIC production decision and fine to the Connecticut Superior Court. A pretrial conference was held on February 5, 2018.

Litigation Center involvement

The Litigation Center is helping to defray the CSMS expenses relating to the FIC proceedings.