August 20, 2026

Pennsylvania AG Clears AHN/Heritage Valley Merger Subject to Sweeping Conduct Remedies: Key Takeaways for Health Care Transactions

This Briefing is brought to you by AHLA's Antitrust Practice Group.

August 20, 2026

Kevin Hahm, Hunton Andrews Kurth LLP

The Pennsylvania Attorney General's Office (PA AG) reached a settlement allowing Allegheny Health Network's (AHN's) acquisition of Heritage Valley Health System (Heritage Valley) to proceed subject to extensive behavioral commitments.[1] The settlement underscores an important reality for health care providers and counsel evaluating transactions in Pennsylvania: notwithstanding the Federal Trade Commission's (FTC's) skepticism toward behavioral or conduct remedies in merger enforcement, the PA AG remains open to resolving health care merger concerns through detailed conduct remedies rather than requiring divestitures or seeking outright injunctions.

The settlement is particularly notable because it combines several of the most significant themes from recent health care antitrust enforcement: restrictions on anti-steering and anti-tiering provisions, protections against all-or-nothing contracting, safeguards addressing vertical integration between AHN and its insurer affiliate Highmark, and commitments to maintain local health care services and facilities. The settlement also includes a noteworthy arbitration process for insurer-provider disputes as well as protections for independent physicians.

For health care attorneys whose practices do not regularly involve antitrust matters, the settlement provides a useful roadmap for addressing state enforcer antitrust concerns short of structural remedies such as divestiture.

Pennsylvania's Continued Reliance on Behavioral Remedies

Over the past two decades, the PA AG has employed conduct remedies to address concerns arising from health care mergers. In 2007, the PA AG entered into a settlement involving conduct remedies to resolve antitrust concerns from the UPMC/Mercy transaction.[2] While not an antitrust consent decree, in 2013, the Pennsylvania insurance regulator approved the Highmark/West Penn Allegheny transaction subject to extensive conditions and ongoing oversight requirements.[3] The

AHN/HVHS settlement follows that tradition, imposing a ten-year consent order that regulates contracting practices, physician relationships, patient referrals, access to facilities, and interactions between AHN and its affiliated insurer Highmark as well as interaction with non-affiliated insurers.

Contracting Restrictions Echo Recent DOJ Challenges

Several provisions directly target contracting practices that have recently been the focus of Department of Justice Antitrust Division (DOJ) enforcement actions against health systems such as OhioHealth and New York-Presbyterian,[4] albeit not in the merger context.

The order prohibits AHN from:

- Restricting insurers' ability to place Heritage Valley in a lower-cost tier or use tiered network products to steer patients to competing hospitals;
- Requiring insurers to place providers in specific network tiers;
- Conditioning access to Heritage Valley on contracting with broader AHN assets or provider groups (known as "all-or-nothing" contracting);
- Requiring insurers to contract with specified AHN providers as a condition of obtaining Heritage Valley services; and
- Limiting insurers' ability to contract with competing providers.

The settlement therefore provides an important indication that both federal and state enforcers continue to view anti-steering, anti-tiering, and all-or-nothing contracting arrangements by hospital systems with market power as potential competitive concerns. This concern can result from a merger that increases provider bargaining leverage or even from unilateral conduct by a hospital system that is alleged to already have market power absent a merger.

Vertical Integration Concerns Drive Several Key Provisions

The settlement is also noteworthy because the transaction involves AHN, which is vertically integrated with the insurer Highmark. The order contains provisions designed to protect rival insurers and guard against information-sharing concerns. Specifically, AHN must maintain firewalls preventing the sharing of non-Highmark insurer contract information with Highmark, while Highmark may not share competing providers' contract information with AHN. The decree also prohibits the use of most-favored-nation (MFN) clauses and bars AHN from renewing contracts containing MFN provisions without eliminating those terms. Such provisions can be particularly problematic when dealing with a vertically integrated entity because they may discourage hospitals from offering favorable pricing to insurers that compete with an affiliated insurer—in this case, Highmark. Taken together, these provisions illustrate enforcers' view that vertical integration can create its own distinct set of competitive risks. In addition to traditional theories of harm based on a merger increasing provider bargaining leverage (horizontal theory of harm), enforcers may seek protections against the sharing of competitively sensitive information and the use of market power to disadvantage affiliated insurers' rivals (vertical theory of harm).

An Uncommon Arbitration Mechanism for Insurer-Provider Disputes

Another noteworthy element of the settlement is a mandatory "single last best offer" arbitration process available to health plans that are unable to reach agreement with AHN Heritage Valley after 120 days of negotiations. Under the process, arbitrators must choose between the parties' final

proposals rather than impose their own rates or terms. The inclusion of a formal arbitration mechanism is uncommon in merger settlements and effectively creates an ongoing regulatory framework for future provider-payer negotiations. Similar arbitration mechanisms appeared in the DOJ settlement in Comcast/NBCU[5] and AT&T's voluntary, legally binding commitment that was advanced as part of its defense to DOJ's challenge of the AT&T/Time Warner transaction.[6]

Protection of Non-AHN Affiliated Physicians

The settlement goes beyond insurer contracting issues and includes extensive protections designed to preserve opportunities for independent physicians and physicians affiliated with competing health systems. Among other things, AHN must:

- Maintain an open medical staff for qualified physicians;
- Refrain from denying privileges solely because a physician is affiliated with another health system;
- Avoid conditioning staff privileges on referral patterns or participation in Highmark plans;
- Permit independent physicians participating in AHN-affiliated networks to maintain privileges at non-AHN hospitals; and
- Ensure nondiscriminatory operating room access.

These provisions suggest that the PA AG had concerns the merger might adversely affect independent and/or non-AHN affiliated physicians that practiced at Heritage Valley.

Protecting Local Access to Care Remains a Central Concern

Another striking feature of the settlement is its emphasis on preserving health care capacity and community access. In addition to the concern about the loss of competition resulting from provider mergers, enforcers and academics have expressed concern about the loss of essential services in local areas following provider mergers. The settlement requires maintenance of both Heritage Valley Beaver and Heritage Valley Sewickley as acute care hospitals, preserves key service offerings, protects charity-care commitments, and imposes special obligations regarding radiation oncology services in the market. On radiation oncology, the settlement requires that AHN not terminate the joint venture between Heritage Valley and UPMC, AHN's principal health care rival in western Pennsylvania. These requirements reflect a broader trend in health care transaction review. Increasingly, state enforcers are evaluating not only whether a merger may increase prices but also whether consolidation may lead to service reductions, facility downgrades, diminished access, or reductions in community benefits.

Notification of Future Acquisitions

The settlement also requires AHN to provide 120 days' prior notice before acquiring any hospital in Pennsylvania. This effectively gives the PA AG an enhanced monitoring role beyond ordinary review of health care transactions of interest to the state. Notably, Pennsylvania is not among states with laws requiring notification of health care transactions, although a bill introduced in January 2026 would create such a requirement if passed.[7]

Implications for Future Health Care Transactions

The AHN/Heritage Valley settlement underscores several important lessons for health care providers, insurers, and transaction counsel:

1. State AGs may be prepared to negotiate extensive conduct remedies even where federal agencies favor structural relief.
2. Anti-steering, anti-tiering, all-or-nothing contracting, and MFN provisions remain high-priority areas of enforcement focus.
3. Vertical integration matters. Transactions involving affiliated insurers and providers should expect close scrutiny of information sharing, contracting practices, and potential foreclosure concerns.
4. Hospital merger reviews may also consider effects on independent physicians and physicians not affiliated with the acquirer.
5. Service preservation and community benefit commitments are becoming an increasingly important component of state health care merger oversight.

The consent decree demonstrates that health care merger review continues to evolve beyond traditional market concentration analysis. Providers contemplating transactions should anticipate scrutiny not only of horizontal competitive effects, but also of contracting practices, vertical relationships, physician access, and the long-term impact of a transaction on health care availability within local communities.

[1] Press Release, PA Office of Attorney General, *AG Sunday Ensures Protections for Patients via Settlement after Review of Allegheny Health Network's Acquisition of Heritage Valley Health* (July 1, 2026), https://www.attorneygeneral.gov/taking-action/ag-sunday-ensures-protections-for-patients-via-settlement-after-review-of-allegheny-health-networks-acquisition-of-heritage-valley-health/.

[2] Case Description, National Association of Attorneys General, https://www.naag.org/multistate-case/pennsylvania-v-university-of-pittsburgh-medical-center-w-d-pa/.

[3] Approving Determination and Order, No. ID-RC-13-06, Insurance Department of the Commonwealth of Pennsylvania (Apr. 29, 2013), https://www.pa.gov/content/dam/copapwp-pagov/en/insurance/documents/companies/industryactivity/corporatetransactionsofpublicinterest/docum rc-13-06.pdf.

[4] Kevin Hahm, *Antitrust Enforcement Against Healthcare Entities' Use of Contractual Restrictions*, ABA Antitrust Law Section (July 7, 2026), https://www.americanbar.org/groups/antitrust_law/resources/newsletters/antitrust-enforcement-against-healthcare-entities-contractual-restrictions/.

[5] Final Judgment, *United States, et al. v. Comcast Corp., et al.* (Sept. 1, 2011), https://www.justice.gov/atr/case-document/file/492196/dl.

[6] Ted Johnson, *Judge Will Allow AT&T-Time Warner to Use Arbitration Offer in Defense of Merger*, Variety (Mar. 13, 2018), https://variety.com/2018/biz/news/att-time-warner-antitrust-trial-arbitration-offer-1202725268/.

[7] House Bill 2115, https://www.palegis.us/legislation/bills/2025/hb2115.

ARTICLE TAGS

Antitrust Practice Group Antitrust

1099 14th Street NW, Suite 925, Washington, DC 20005 | P. 202-833-1100