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FTC Imposes Conditions on UnitedHealth Group's Proposed Acquisition of DaVita Medical Group

Companies will divest assets to preserve competition in the Las Vegas area of Nevada

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Healthcare provider and insurer UnitedHealth Group Incorporated and healthcare provider DaVita, Inc. have agreed to a settlement to resolve Federal Trade Commission allegations that UnitedHealth Group's proposed $4.3 billion acquisition of DaVita's DaVita Medical Group will harm competition in healthcare markets in Clark and Nye Counties, Nevada.

Under the proposed settlement, no later than 40 days after the acquisition is final, UnitedHealth Group will divest DaVita Medical Group's healthcare provider organization in the Las Vegas Area (known as HealthCare Partners of Nevada) to Intermountain Healthcare, a Utah-based healthcare provider and insurer.

The complaint alleges that without a remedy in the Las Vegas Area, the proposed acquisition will likely reduce competition in the markets for:

- Managed care provider organization (MCPO) services sold to Medicare Advantage insurers; and
- Medicare Advantage plans sold to individual Medicare Advantage members.

According to the complaint, in the Las Vegas Area, the proposed acquisition would eliminate competition between UnitedHealth Group's OptumCare and DaVita Medical Group's HealthCare Partners of Nevada, resulting in a near monopoly controlling more than 80 percent of the market for services delivered by MCPOs to Medicare Advantage insurers. The complaint alleges that elimination of this competition would increase healthcare costs and decrease competition on quality, services, and other amenities in the affected area.

The proposed acquisition would also result in anticompetitive effects due to the vertical integration of UnitedHealth Group's UnitedHealthcare, the area's leading Medicare Advantage insurer, with a larger combined MCPO service provider. The proposed acquisition positions UnitedHealth Group to raise the costs of its MCPO services to rival Medicare Advantage insurers, or even withhold such services from these rivals, according to the complaint. Without a remedy, the acquisition would increase the likelihood that the Centers for Medicare and Medicaid Services (CMS) will make higher payments to Medicare Advantage insurers, and seniors in the Las Vegas Area would incur higher cost-sharing payments and receive fewer benefits and lower quality healthcare services.

Under the proposed settlement order, in addition to the divestiture obligations, UnitedHealth Group and DaVita are required to:

- provide transition assistance to Intermountain Healthcare that includes access to and use of intellectual property and business equipment and information;
- properly transfer all confidential business information;
- for one year after the divestiture date, provide Intermountain Healthcare with the opportunity to interview and hire employees to fill key information technology and critical services positions in HealthCare Partners of Nevada; and
- until the divestiture is complete, maintain the assets and marketability of HealthCare Partners of Nevada.

The proposed settlement also appoints John P. Harris as the monitor to ensure that UnitedHealth Group and DaVita comply with all of their obligations under the order. If the parties do not fully comply with their divestiture obligations, the order allows the Commission to appoint a divestiture trustee. Concurrently with the proposed settlement, Intermountain Healthcare will divest its minority stake in rival Las Vegas Area MCPO, P3 Health Partners.

Commission staff worked closely and cooperatively with various state attorneys general throughout this investigation.

The Commission vote to accept the proposed consent order for public comment was 4-0, with Chairman Joseph J. Simons recused. Commissioners Noah Joshua Phillips and Christine Wilson issued a separate statement, and Commissioners Rohit Chopra and Rebecca Kelly Slaughter also issued a separate statement. The FTC will publish the consent agreement package in the Federal Register shortly. Instructions for filing comments appear in the published notice. Comments must be received 30 days after publication in the Federal Register. Once processed, comments will be posted on Regulations.gov.

NOTE: When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty of up to $42,530.

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