

Attorney General Josh Shapiro Announces Legal Action Against UPMC for Violating Pennsylvania's Charities Laws

Petition to modify Consent Decrees aims to restore fairness and promote the public interest in western Pennsylvania's healthcare system

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PITTSBURGH — Attorney General Josh Shapiro today filed a petition in Commonwealth Court to modify the consent decrees governing the relationship between UPMC and Highmark, two of the largest health care providers and insurers in the western Pennsylvania market. The petition requests that the Court impose modifications to protect and promote the public interest by ensuring that UPMC abides by its charitable obligations to the Commonwealth of Pennsylvania.

“Our petition today has a simple goal: to restore fairness to the healthcare system in western Pennsylvania and promote the public interest by ensuring patient access to affordable care and facilities which they have funded through their tax dollars,” Attorney General Shapiro said, at a news conference in Pittsburgh this afternoon. “As the Chief Law Enforcement officer for the Commonwealth of Pennsylvania, it is my constitutional mandate to ensure that charitable organizations like UPMC comply with our laws governing their conduct. We have concluded that UPMC is not fulfilling its obligation as a public charity.”

In 2014, the Commonwealth of Pennsylvania intervened in an escalating competition between UPMC and Highmark by entering into consent decrees with both organizations. The consent decrees govern how the two entities would interact in order to prevent further harm to the public. These protections are set to expire on June 30, 2019, and without further legal intervention, Pennsylvanians will be harmed. The proposed modifications which would bring both organizations into compliance with their charitable obligations and protect the public were presented to UPMC and Highmark in late 2018, to which Highmark agreed and UPMC did not, leading to today's action.

The petition filed by Attorney General Shapiro specifically asks the Commonwealth Court to:

- Enable open and affordable access to UPMC's health care services and products through negotiated contracts with any health plan;
- Require last, best-offer arbitration – commonly known as “baseball arbitration” – when contract negotiations between insurers and providers fail; and
- Protect against UPMC's unjust enrichment by prohibiting excessive and unreasonable billing practices inconsistent with its status as a non-profit charity providing healthcare to the public.

“Given the effect this dispute between UPMC and Highmark is having on Pennsylvanians, and the imminent expiration of the existing consent decree, we are asking the court to take action,” said Shapiro. “These changes are absolutely necessary to prevent UPMC from inflicting further harm on the public by forsaking its charitable obligations in pursuit of commercial success.”

Even operating under the current consent decree agreement, a legal review by the Office of Attorney General's charities and healthcare sections found that UPMC continues to engage in conduct that is in violation of its charitable obligations, including:

- Withholding access to doctors for patients in Williamsport, Pennsylvania whose employers have contracts with a competing health plan; and
- Refusing to negotiate reasonable payment terms with self-insured employers, resulting in UPMC's unjust enrichment through excess reimbursements for the value of its services.

UPMC operates as a public, non-profit charitable institution in the Commonwealth of Pennsylvania, receiving significant public support in the form of tax benefits, donations and public financing in exchange for a legal responsibility to perform services deemed valuable to the public at large. The result of this arrangement is that UPMC saves almost \$40 million dollars annually, which it would otherwise pay in property taxes to the City of Pittsburgh and Allegheny County – money that could be resourced to other public goods like safety, infrastructure, education, and more. Additionally, between 2005 and 2017, UPMC received a total of \$1.27 billion in public and private contributions and grants to support its health care, education, and research missions.

“As a public charity, especially one enjoying perpetual tax-exempt status, UPMC must behave in a manner consistent with its charitable mission in all facets of its operation,” continued Attorney General Shapiro. “By law, it is a give-and-take relationship between UPMC and Pennsylvanians, and UPMC is taking more than its fair share from taxpayers.”

During the press conference, Attorney General Shapiro told the story of a woman who was a first responder in New York City on September 11, 2001. As a result of her service there, she is now battling multiple illnesses, including cancer, and she is undergoing surgeries including a neck dissection to remove a tumor cutting off blood supply to her brain. She has been treated for years by doctors at UPMC Hamot, covered by three layers of health insurance – the 9-11 first-responder plan, Medicare, and the Highmark PPO plan offered by her husband's employer. But because of UPMC's refusal to contract with Highmark, an American hero will lose access to the UPMC facilities and doctors in Erie and will need to travel hours to the Cleveland Clinic to receive specialized treatment.

More than a dozen individuals with similar stories of uncertainty and frustration stood behind the Attorney General at today's press conference. Two women from the Pittsburgh-area also shared their stories, recounting the impact of UPMC's conduct on their healthcare and, in turn, their lives. Representatives from business and labor union communities, as well as Lieutenant Governor and former Mayor of the City of Braddock John Fetterman (who was there to represent local governments) attended to show support for Attorney General Shapiro's legal action.

Attorney General Shapiro concluded by saying, “UPMC has an obligation to the people of Pennsylvania to offer charitable services in exchange for the benefits it receives, and right now the taxpayers aren't receiving a fair deal. It is incumbent upon me to ensure that UPMC lives up to its end of the bargain, and therefore I am asking the court to do what is necessary to protect millions of Pennsylvanians who rely on this public charity for their health and well-being.”

For more information on today's announcement, please click [here](#).

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