UNITED STATES OF AMERICA v. UNITEDHEALTH GROUP INCORPORATED et al Doc. 11 Att. 7

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. UNITEDHEALTH GROUP INCORPORATED and SIERRA HEALTH SERVICES, INC., Defendants.	Civil No. 1:08-cv-00322 Judge: Ellen S. Huvelle Filed: 2/25/2008

TUNNEY ACT COMMENTS OF SEIU LOCAL 1107 ON THE PROPOSED REMEDY IN UNITED HEALTH GROUP INC.'S ACQUISITION OF SIERRA HEALTH SERVICES INC.

The Service Employees International Union ("SEIU") Local 1107 provides these comments on the proposed final judgment in United Health Group Inc.'s ("United Health") acquisition of Sierra Health Services Inc. ("Sierra"). As described herein the SEIU believes the proposed remedy in this matter is inadequate and unlikely to prevent the substantial anticompetitive effects raised by the merger. As we explain below, the proposed merger is likely to reduce competition substantially in numerous markets, including the delivery of healthcare at hospitals. By creating a dominant health insurer in Clark County, Nevada, the merger will enable UnitedHealthcare to substantially lower reimbursements to hospitals, which, as demonstrated below, will ultimately harm patient care. We believe this provided a substantial basis for the Antitrust Division, Department of Justice ("DOJ") to challenge the merger under Section 7 of the Clayton Act, and contend that DOJ's decision to enter into the consent decree was in error. We respectfully

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request that the proposed consent decree is rejected and the Department of Justice sue to enjoin the merger.

The SEIU is an organization of more than 1.9 million members united by the belief in the dignity and worth of workers and the services they provide. SEIU is the nation's largest union of health care workers representing over 900,000 caregivers and hospital employees, including 110,000 nurses and 40,000 doctors in public, private, and non-profit medical institutions. SEIU is dedicated to improving the lives of all workers and their families. In Nevada, SEIU Local 1107 represents more than 17,000 registered nurses, health care workers and public employees dedicated to improving the lives of workers, their families and their communities. Our members have chosen to dedicate their lives to serving the public, and provide the first line of health care service to thousands of patients in hospitals in Nevada. In that role we experience first hand how health insurance consolidation can harm consumers by restricting the ability of all health care providers to provide high quality health care. Ultimately, when health insurers acquire and exploit their power patients and health care workers suffer.

The SEIU submits these comments on the Proposed Final Judgment ("PFJ") pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. § 16(b-e) (known as the "Tunney Act"). The Tunney Act requires that "[b]efore entering any consent judgment proposed by the United States…, the court shall determine that the entry of such judgment is in the public interest., 16 U.S.C. §15(e)(1). In applying this "public interest" standard the burden is on the government to "provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms." *United States v.*

SBC, 489 F.Supp.2d 1, 16 (D.D.C. 2007), citing *United States v. Microsoft Corp.*, 56 F.3rd 1448, 1460-61 (D.C.Cir. 1995).

The Court plays a vital role in determining the proposed decree fulfills the public interest. As Judge Greene observed in approving the AT&T settlement:

> [i]t does not follow…that courts must unquestionably accept a proffered decree as long as it somehow, and however inadequately, deals with the antitrust and other public policy problems implicated in the lawsuit. To do so would be to revert to the "rubber stamp" role which was at the crux of the congressional concerns when the Tunney Act became law.

U.S. v. American Telephone and Telegraph, 552 F.Supp. 131, 151 (D.D.C. 1982), aff'd *sub nom., Maryland v. U.S.*, 460 U.S. 1001 (1983).

As detailed below, SEIU believes that the PFJ fails to meet the public interest standard. This merger will lead to an unprecedented level of consolidation and will create a dominant health insurer in Clark County, which is the largest county in Nevada and where Las Vegas is located. Allowing one health insurance company this kind of market control will harm the quality of care patients will receive in hospitals and further weaken the fragile health care system in Clark County. In particular, the merger will

- jeopardize patient safety and quality of care by reducing payments to hospitals;
- jeopardize the health care safety net;
- have a particularly adverse effect on rural hospitals;
- and, increase the number of uninsured and harm the delivery of care to the elderly.

I. The Merger Will Result in Dangerously High Nurse to Patient Staffing Ratios, Placing Patient Safety and Quality of Care in Jeopardy

The impact of the acquisition of Sierra by UnitedHealth on the quality of care in hospitals will be severe. This merger will lead to an unprecedented level of

concentration. In the Clark County HMO market UnitedHealth's market share will increase from 14% to 94%. If PPOs are included, UnitedHealth's market share increases from 9% to 60%. Even with the divestiture of the United Medicare Advantage business as included in the PFJ, UnitedHealth's market share is over 50%. With such a dominant position UnitedHealth will be able to reduce reimbursement rates to hospitals unilaterally. Simply, hospitals will be unable to reject a "take it or leave it" offer from UnitedHealth.

When hospitals are forced to reduce reimbursement rates, the delivery of health care suffers. Reduced reimbursement leads to cut backs in services, less investment in equipment, and lower staffing levels. While these Comments will focus on the impact on nurses and, in turn, the impacts on patient care, these concerns are illustrative of the type of competitive problems that will arise overall from the reduction of compensation of reimbursement to hospitals.

Reductions in reimbursement force hospitals to reduce their expenses. Staff is the largest expense for hospitals, and Registered Nurses ("RNs") represent hospitals' single largest labor expense. In Southern Nevada in particular, salaries and benefits represent 48.0% of total operating expenses,[1] and RNs comprise 76.9% of the hospital workforce.[2] Therefore, if hospitals are forced to accept low reimbursement rates, they will look to

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[1] Hospital Quarterly Reports, Calendar Year 2006 Summary Financial Report, Table A07 "Operating Expenses" and Table A08 "Other Operating Expenses," Utilization and Financial Reports. Center for Health Information Analysis. University of Nevada Las Vegas. http://www.unlv.edu/Research_Centers/chia/NHQR/Financial/NHQR_Financial_Output_CY2006%200822.xls (Retrieved on October 15, 2007).

[2] Hospital Quarterly Reports, Calendar Year 2006 Summary Utilization Reports, Table F02 "FTE Hospital Hours" Utilization and Financial Reports. Center for Health Information Analysis. University of Nevada Las Vegas. http://www.unlv.edu/Research_Centers/chia/NHQR/Utilization/NHQR_Utilization_Output_CY2006%200702.xls (Retrieved on October 15, 2007).

recoup their losses by cutting costs in the most logical place—their RN staff.[3] The result can be dangerously high patient-to-nurse staffing ratios.

The detrimental impact of a high patient-to-nurse ratio on patient safety and quality of care has been amply demonstrated in several markets by a recent set of academic studies. A comprehensive study conducted in 2002 and published in the Journal of the American Medical Association found that the risk of death increases by 7% for every patient in a nurse's care above a 4:1 patient to nurse ration, and increases by 16% when that ratio increases to 6:1; the study also concluded, most significantly, that there is 31% greater risk of dying in hospitals that force a single nurse to care for eight or more patients.[4] Moreover, according to a report by the Joint Commission, *Health Care at the Crossroads: Strategies for Addressing the Evolving Nurse Crisis*, understaffing is a contributing factor in 24% of sentinel events (unexpected occurrences that result in death or serious injury).[5] Indeed, patients in hospitals with fewer intensive care unit ("ICU") nurses are more likely to suffer from complications after surgery and to have a longer length of stay in the hospital than patients in hospitals with a greater number of ICU nurses. It is also worth noting that patients are not the only ones who suffer harm to their

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[3] Kosel, Keith and Tom Olivo. "The Business Case for Work Force Stability." VHA Research Series, 2002.
[4] Aiken, Linda H.; Clarke, Sean P.; Sloane, Douglas M.; Sochalski, Julie; Silber, Jeffrey H. "Hospital Nurse Staffing and Patient Mortality, Nurse Burnout, and Job Dissatisfaction." Journal of the American Medical Association, 10/23/2002, Vol. 288 Issue 16.
[5] Joint Commission on Accreditation of Health Care Organizations. "Health Care at the Crossroads: Strategies for Addressing the Evolving Nurse Crisis." 2003. http://www.jointcommission.org/NR/rdonlyres/5C138711-ED76-4D6F-909F-B06E0309F36D/0/health_care_at_the_crossroads.pdf (Retrieved on 3/6/07.)

health as a result of short-staffing: nurses are two to three times more likely to have a needle-stick injury in hospitals with low nurse staffing levels.[6]

Studies have also demonstrated that there can be better health care outcomes with adequate staffing levels. A recent study estimated that 6,700 in-hospital patient deaths could be avoided by increasing nurse staffing levels. The study further concluded that simply increasing nurse staffing levels would result in approximately 70,000 fewer adverse outcomes, including decreases in urinary tract infections, pneumonia and shock or cardiac arrest.[7]

Nurses in Nevada are already forced to work with dangerously high nurse-to-patient ratios. In 2000, Nevada ranked last among the states in RNs per capita and in per capita health services employment.[8] In 2005 Nevada ranked 49th among the states in per capita registered nurses, with only 579 RNs for every 100,000 residents, which is far below the national average of 799 RNs per 100,000 residents.[9] The RN-to-population ratios are higher in the northern part of the state and lower in Clark County. Although the number of registered nurses in Nevada has grown steadily, it has not kept pace with the

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[6] Id.
[7] Needleman, Jack, Peter I. Buerhaus, Maureen Stewart, Katya Zelevinsky and Soeren Mattke. "Nurse Staffing in Hospitals: Is there a Business Case for Quality?" Health Affairs, Vol. 25, No. 1. January/February 2006.
[8] U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions. "State Health Workforce Profiles Highlights: Nevada.
"http://bhpr.hrsa.gov/healthworkforce/reports/statesummaries/nevada.htm (Last viewed 12/7/07).
[9] Kaiser State Health Facts. Nevada. Providers & Service Users. "Nevada: Total Registered Nurses as of May 2005."
http://www.statehealthfacts.org/profileind.jsp?ind=438&cat=8&rgn=30 (Last viewed 12/7/07).

state's population growth.[10] The average number of newly-minted RNs over the last five years has only been 1,264.[11] However, over the last three years, Nevada's population increased by 11.4%[12]

Academic studies have shown that, much like the rest of the country, the epidemic of nurse understaffing in Nevada is due *not* to a shortage of registered nurses, but rather a shortage of registered nurses willing to work under the current conditions in Nevada hospitals. In 2000, active licenses were held by 12,900 registered nurses in Nevada but only 10,400 were employed in nursing.[13] In 2004 and 2005, Valley Hospital in Las Vegas reported that 206 registered nurses left employment at the hospital (Valley Hospital has approximately only 540 RNs employed at any given time).[14] At Desert Springs Hospital in Las Vegas, 137 registered nurses left employment in 2004 and 2005 (Desert Springs employs approximately only 290 RNs at any given time).[15] A case study of RNs in Nevada found that the number one reason that RN graduates leave their first job is due to patient care concerns such as unsafe patient ratios, not having enough time

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[10] Packham, John, Tabor Griswold, Jake Burkey, Chris Lake. 2005 Survey of Licensed Registered Nurses in Nevada. November 2005. http://www.nvha.net/papers/nursesurvey.pdf Last viewed on 12/8/07.

[11] Nevada State Board of Nursing Annual Reports for years ending June 30, 2001 – June 30, 2005. Includes new licenses created by examination and by endorsement.

[12] U.S. Census Bureau. American Fact Finder. Population Finder. "Population for all Counties in Nevada, 2000 to 2006." http://factfinder.census.gov/servlet/GCTTable?_bm=y&-geo_id=04000US32&-_box_head_nbr=GCT-T1&-ds_name=PEP_2006_EST&-_lang=en&-format=ST-2&-_sse=on (Last viewed 12/7/07).

[13] U.S. Department of Health and Human Services, Health Resources and Services Administration, Bureau of Health Professions. "State Health Workforce Profiles Highlights: Nevada." http://bhpr.hrsa.gov/healthworkforce/reports/statesummaries/nevada.htm (Last viewed 12/7/07).

[14] Data provided pursuant to collective bargaining information request.

[15] Data provided pursuant to collective bargaining information request.

to spend with patients, and working conditions that are not conducive to safe patient care.[16] Job dissatisfaction among hospital nurses is four times greater than the average for all U.S. workers. Forty percent of hospital nurses report burnout levels that exceed the norm for health care workers and 1 in 5 hospital nurses intend to leave their current jobs within a year. Job stress and dissatisfaction increase when nurses are taking care of more patients. Each additional patient over four per nurse is associated with a 23% chance of job burnout and a 15% chance increase in odds of job dissatisfaction.[17]

Nurses also bear the brunt of the predictable results of short-staffing: every time a nurse goes to work when there are too few nurses working that shift, she puts her nursing license in jeopardy. Pursuant to Nevada statute (NAC § 632.895), a registered nurse can be subject to disciplinary action from the Nevada State Nursing Board if a patient suffers harm as a consequence of an act or an omission that could have been reasonably foreseen, up to and including suspending or revoking a nurse's license.[18] We have already explained the link between low nurse staffing levels and adverse patient outcomes including an increased risk of mortality. Yet another comprehensive study has found that rates of "failure to rescue" deaths increased when registered nurses were responsible for too many patients. ("Failure to rescue," is the death of a patient from complications including pneumonia, shock or cardiac arrest, upper gastrointestinal bleeding, sepsis or deep venous thrombosis.) Given that early identification of medical problems can

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[16] Bowles, Cheryl and Lori Candela. "First Job Experiences of Recent R.N. Graduates." Journal of Nursing Administration, 2005.

[17] Aiken, Linda H., Sean P. Clarke, Douglas M. Stone, Julie Sochalski and Jeffrey H. Silber. "Hospital Nurse Staffing and Patient Mortality, Nurse Burnout and Job Dissatisfaction." Journal of the American Medical Association, Vol. 288, No. 16, 10/23/2002.

[18] Nevada Administrative Code. Chapter 632. http://www.leg.state.nv.us/NAC/NAC-632.html.

decrease the risk of death in "failure to rescue" mortalities, inadequate staffing levels further increases the risk of harm to patients, thereby increasing the risk of a registered nurse being held responsible and losing his or her professional license.[19] In the context of this crisis, further staffing cuts as a result of this merger will drive even more Nevada nurses out of the profession.

These problems will be even more severe in Southern Nevada, where 71.1%[20] of the hospital market is controlled by for-profit companies. This concentrated for profit environment is almost unique in the U.S. A comprehensive review of clinical data from more than 4,000 hospitals in the United States found that for-profit hospitals consistently have worse outcomes than non-profit hospitals on three common medical conditions: congestive heart failure, heart attack and pneumonia.[21] The difference in quality may be attributed to the difference in accountability, while publicly-owned and non-profit hospitals are accountable to the community, for-profit hospitals are only accountable to their shareholders and, as a result, focus on strategies that increase profitability rather than strategies to benefit the community.[22]

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[19] Needleman, Jack and Peter Buerhaus, Soeren Mattke, Maureen Stewart and Katya Zelevinsky. "Nurse Staffing Levels and the Quality of Care in Hospitals." New England Journal of Medicine, Vol. 346, No. 22. 5/30/2002.

[20] Quality Care Nevada. "Hospitals and Health Systems." http://www.qualitycarenevada.org/index.asp?Type=B_BASIC&SEC={7707D6CB-3079-4EF0-A9D6-B81FB8D31E7F}.

[21] Landon, Bruce E., Sharon-Lise T. Normand, Adam Lessler, A. James O'Malley, Stephen Schmaltz, Jerod M. Loeb and Barbara McNeil. "Quality of Care for the Treatment of Acute Medical Conditions in US Hospitals." Arch Intern Med, Vol. 166, Dec 11/25, 2006.

[22] Physicians for a National Healthcare Program. "New England Journal of Medicine Article Says Evidence Against For-Profit Hospitals Now Conclusive." August 1999. http://www.pnhp.org/news/1999/august/new_england_journal_.php (Last viewed on 12/7/07).

The result of this concentration of for-profit hospital ownership is a relatively poor level of healthcare quality in Clark County. A Medicare Quality Improvement Organization, dedicated to tracking quality measures in medical settings, routinely ranks Clark County hospitals in the bottom half of our nation's hospitals in a wide-range of quality measures. In fact, some Clark County hospitals scored as low as the 6th and 7th percentile of all U.S. hospitals.[23]

The PFJ approving the United/Sierra merger will exacerbate these problems and diminish the level of health care quality. The ability of patients and doctors to determine the appropriate level of care will be weakened. Nurses that are working with inadequately low staffing levels will be faced with an additional risk to staffing levels and safe, quality patient care will be needlessly jeopardized.

II. Sierra Health Services & HCA: A Case Study of Anticompetitive Impact on Quality & Access in Nevada

History demonstrates how the dominance of one health insurer in this market can harm the health care of children and families in our community. In Las Vegas we have already experienced the impacts of a health insurance company using its market dominance to increase their profits. In January 2007, after a contentious and public contract fight between Sierra Health Services and HCA hospitals in Clark County, Sierra Health Services terminated its contract with HCA hospitals because HCA refused to agree to the low reimbursement rates Sierra was demanding. When the contract was terminated, Sierra's 620,000 members were no longer able to access services at the three HCA hospitals in Clark County.

[23] Health Insight. http://www.healthinsight.org (Last viewed on 10/31/07).

Children have been harmed the most by Sierra's decision. Sunrise Hospital, which is owned by HCA, specializes in pediatric care. Children are no longer able to access pediatric neurologists or pediatric radiologists in Clark County and may have to travel as far as Los Angeles to receive this level of specialized care. Children with cancer are no longer eligible to participate in protocol treatments at Sunrise Hospital. Patients who come to the Emergency Room at Sunrise Hospital who are covered by Sierra Health Services' products have to be transferred to a different hospital as soon as they are stabilized, including women in labor. Patients are sometimes forced to move from hospital to hospital to access all the care they need. We know of one patient, for example, who had to go to Sunrise Hospital to have a pacemaker removed and was then transferred to another hospital to have a new one inserted due to insurance demands.

After Sierra Health Services dropped HCA, Sierra Health Services required their enrollees to be directed to other hospitals in Clark County. Our nurses who work at the other hospitals saw first hand the impact of having 620,000 consumers suddenly redirected to their hospitals. A nurse at Valley Hospital reported that their Intensive Care Units, Emergency Room and Operating Room became overwhelmed with heart patients and other critically ill patients. Universal Health Services, the for-profit corporation that owns Valley Hospital, is already known for short staffing its Registered Nurses, so when Sierra's decision took effect, Operating Room and Recovery Room RNs and techs were on call at the hospital for 16-20 hours every day. Emergency Room RNs had to take 4 to 8 patients each, and patients were forced to stay in the Emergency Room for 2-3 days before they were able to be transferred to a bed in Intensive Care.

Sixteen months have passed since the contract between Sierra Health Services and HCA hospitals in Clark County was severed, and patients are still not able to access care at these hospitals. At Sunrise Hospital, the census and case load continue to be low and patients continue to be refused treatment. Nurses who work at HCA hospitals have seen their hours cut and face the threat of layoffs. Many registered nurses have had to find work at other facilities or have used up all of their vacation time because there is not enough work for them. Registered Nurses have had to quit working at Sunrise Hospital because there have not been enough hours for them to work and they have been unable to pay their mortgage.

SEIU Local 1107 believes that the HCA example demonstrates the likely anticompetitive effects from the UnitedHealthcare/Sierra merger. When an insurance company is in a dominant position, it can demand dramatically lower reimbursement rates from hospitals. Most hospitals have few alternatives but to accept a take-it-or-leave-it offer from dominant health insurer. But even if they reject such an offer, it is important to recognize that the harm to consumers will not be limited simply to UnitedHealthcare/Sierra consumers. For those consumers, there is one less hospital outlet available for them to access care. But for all consumers the termination of a hospital from an insurer network imposes significant costs. Ultimately, the increased costs of serving Sierra patients at other hospitals are spread to all consumers who use those alternative hospitals as the level of care diminishes.

III. The Merger Will Create a Crisis for the Clark County's Safety Net Services By Placing Additional Strain on Nevada's Only Public Hospital

The United/Sierra merger will also harm Clark County's health care safety net by creating a crisis for Nevada's sole public hospital, University Medical Center (UMC), located in Las Vegas.

University Medical Center has served Southern Nevada for 75 years. It operates Nevada's only Level 1 Trauma Center, Nevada's only burn care facility and the only HIV inpatient unit in Southern Nevada. It also serves as the primary clinical campus for University of Nevada School of Medicine. Its Primary and Quick Care network provides primary and urgent care access to more than 300,000 patients each year.[24]

UMC treats the vast majority of the uninsured in Clark County and serves as the community's safety net hospital in Las Vegas. UMC cares for 44% of all of Clark County's Medicaid patients and 48% of Clark County's self-pay patients and has provided $280 million in charity care in the last 5 years. At the same time, UMC cares for less than 11% of the market for each of the better paying Medicare and commercial insurance.

UMC's ability to provide essential services is continuously threatened by its poor payer mix and the financial instability that that brings. UMC operates near capacity, with an occupancy rate of 84.5%, but its average operating margin for the last four years has been -3.9% because of its poor payer mix. UMC's expenses have been increasing at a higher rate than revenue since 2001, and with the rate of uninsured predicted to

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[24] Lewin Group. "Clark County Final Summary Presentation," February 20, 2007, Slide 54.

increase by 24% by 2021 in Clark County, this deficit is expected to continue.[25] In fiscal year 2006 UMC incurred an operating deficit of approximately $34.3 million and the operating deficit is projected to reach $60 million in fiscal year 2007.[26] Given UMC's precarious circumstances, if one insurance company were permitted to obtain market dominance, any actions that increase the number of uninsured or underinsured will severely undermine the ability of UMC to meet its obligations in providing a community safety net for Nevadans. For example, if as a result of the merger, United-Sierra dramatically raises premiums and increases the numbers of uninsured and underinsured individuals (which we discuss further below), this will only increase the demand on UMC's already over-taxed services.

Yet another way UMC will be harmed if only one insurance company insures a large percentage of the patients at a single hospital is in the area of claims resolution. Any difficulties in resolving outstanding claims will have a significant impact on the ability of the public hospital to meet its public service obligations. In fact, UMC has already had precisely this kind of trouble with UnitedHealth. Modern Healthcare reported that since UnitedHealth took over PacifiCare in 2005, UMC has had trouble with UnitedHealth's claims payment process and has had difficulty getting claims resolved.[27] If this merger is approved and these problems persist, the effects will be on a much bigger scale and it will put essential medical services at risk. UMC cannot afford

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[25] Lewin Group. "Clark County Final Summary Presentation." February 20, 2007, slide 5, 7 & 63.
[26] "University Medical Center Public Outreach Summary Report." Presented to the Clark County Board of County Commissioners on 9/4/2007.
[27] Benko, Laura B. "All Bets are Off: Bigger, Yes, But Better?" Modern Healthcare. 3/19/2007.

the financial and operational havoc that unpaid or unresolved claims could have on their ability to provide services.

IV. The Merger Will Exacerbate the Condition of Nevada's Most Vulnerable Populations: the Uninsured and Underinsured, and the Elderly

The acquisition of Sierra Health Services by UnitedHealth will result in UnitedHealth dominating a faction of the market and possessing the power to unilaterally set the price for health insurance premiums. If individuals and/or employers are unable to afford the premiums, they will have no other health insurance options available to them and we will see an increased number of uninsured in Las Vegas.

Approximately 18% of Nevadans live without insurance, which is higher than the national average of 16%. Seventeen percent of children in Nevada live without health insurance, higher than the national average of 12%.[28] The uninsured rate in Clark County grew 31% from 2000-2006 and is expected to grow at least another 24% in the next 15 years.[29]

When patients do not have insurance they are more likely to delay seeking treatment and they are more likely to obtain their care in the emergency room. When we see them in the hospital they are much sicker than they would have been otherwise. They are more likely to have a longer length of stay. If their insurance will not cover their care they need while they are in the hospital they are more likely to have a delayed recovery and make repeat visits to the hospital.

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[28] Kaiser Family Foundation. State Health Facts. "Health Coverage & Uninsured." http://www.statehealthfacts.org/profilecat.jsp?rgn=30&cat=3 (Last viewed on 10/30/07).
[29] Lewin Group. "Clark County Final Summary Presentation." February 20, 2007, slide 37 & 38.

Living without insurance can have dire consequences. In rural Nevada, there are a high number of uninsured pregnant women. When laboring moms come to the hospital with no medical records because they were unable to afford prenatal visits, a danger is posed to the mother and the child.

This merger will increase the number of underinsured in Clark County. If UnitedHealth decides that they will no longer provide coverage for certain kinds of care than that decision will leave more than 808,000 people in Nevada,[30] approximately 32.4% of the population,[31] with a choice of either going without necessary care or paying for that care out of their own pocket. SEIU Local 1107 members represent a large number of UnitedHealth's potential consumers; approximately 74.0% of SEIU Local 1107 members currently have Health Plan of Nevada (Sierra's HMO product) as their only HMO option.

Increasing the number of uninsured and underinsured will lengthen emergency room wait times and impact the quality of the care we provide at our hospitals. Hospitals are mandated by law to provide care to anyone who asks for medical treatment and, because of this, people use the ER for everyday medical problems. We are inundated with non-emergent patients that have no other place to go to receive health care. The burden takes nurses and doctors away from treating truly emergent, life-threatening patients and creates emergency room wait times that can last 6 to 8 hours. If ones insurer

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[30] Robison, Jennifer. "Mergers and Acquisitions: Official OKs Sierra Health buyout." Las Vegas Review Journal. 8/28/2007.

[31] U.S. Census Bureau. Population Finder. Nevada. Population estimates in 2006: 2,495, 529.
http://factfinder.census.gov/servlet/SAFFPopulation?_event=Search&_name=&_state=04000US32&_county=&_cityTown=&_zip=&_sse=on&_lang=en&pctxt=fph (Last viewed on 10/30/07).

provides coverage to a large percentage of people in the community and that insurer decides to raise premiums, the number of uninsured or underinsured residents will increase, and all of the problems associated with that will increase as well.

Clark County is already in a perilous position of being unable to provide the appropriate level of care to elderly and disabled residents. Clark County hospitals are short staffed and do not have enough nurses to provide necessary care. The County is also suffers from a shortage of doctors, dentists and almost every other health care professional.[32] A Veterans Administration official stated that these shortages will eventually lead to premature deaths, intense strain on families and missed diagnosis that will cause patients to suffer.[33]

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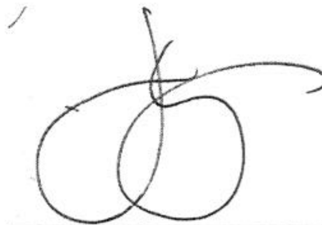
We believe that the PFJ fails to address the substantial competitive concerns raised by UnitedHealth's acquisition of Sierra and should be rejected by the Court.

Respectfully submitted,



Jane McAlevey, Executive Director
Service Employees International Union
Local 1107

[32] Hidalgo, Jason, 6/17/2007.
[33] Hidalgo, Jason, 6/17/2007.