Department of Justice Launches Antitrust Investigation of United Health



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The United States Department of Justice (DOJ) recently opened an antitrust investigation into health insurance giant UnitedHealth. In particular, the DOJ is investigating the relationship between UnitedHealth and its Optum subsidiary. Optum has purchased numerous physician practices and now includes about 90,000 physicians, and other healthcare providers including surgery centers. The investigation comes as the Biden administration has stepped up antitrust enforcement in general, and has prioritized healthcare in its enforcement activity. The investigation presently is considered "non-public" and the DOJ has declined to comment on it. However, media sources discovered the investigation through a leaked email that a UnitedHealth executive sent to colleagues, advising that the DOJ had issued a sweeping notice to preserve documents related to the investigation.

The media sources advise that the DOJ investigators have been interviewing healthcare industry representatives in sectors where UnitedHealth competes. During the interviews, the DOJ has expressed concern about the possible anti-competitive effects of the relationship between UnitedHealth and Optum. Investigators have explored whether Optum's ownership of providers could present challenges to other health insurers that compete with UnitedHealth. Investigators also expressed concern whether UnitedHealth has favored Optum-owned physician groups through its contracting practices, to exclude rival groups from attractive payment arrangements. Further, investigators have asked whether the affiliation between UnitedHealth and the Optum-owned medical groups may result in violation of federal rules capping the amount a health insurer may retain from the premiums it collects. The DOJ also is investigating whether Optum excessively documents patients' health conditions, in an effort to increase Medicare payments for UnitedHealth's benefit. The UnitedHealth executive stated that despite these concerns, as yet the DOJ has issued no "specific allegations of wrongdoing."

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