

HUMANA INC
Form 425
October 13, 2015

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, DC 20549

FORM 8-K

CURRENT REPORT PURSUANT TO SECTION 13 OR 15(D) OF THE
SECURITIES EXCHANGE ACT OF 1934

Date of report (Date of earliest event reported): October 13, 2015

Humana Inc.

(Exact Name of Registrant as Specified in Its Charter)

Delaware

(State or Other Jurisdiction of Incorporation)

1-5975 61-0647538
(Commission File Number)

(IRS Employer Identification No.)

500 West Main Street, Louisville, KY
(Address of Principal Executive Offices)

40202
(Zip Code)

502-580-1000

(Registrant's Telephone Number, Including Area Code)

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions (*see* General Instruction A.2. below):

- ☒ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

Item 7.01 Regulation FD Disclosure.

Humana Inc. (Humana) today reaffirmed its guidance of approximately \$7.75 and \$2.15 in adjusted earnings per common share (Adjusted EPS) for the year ending December 31, 2015 and for the quarter ended September 30, 2015, respectively. This guidance is consistent with that last issued in Humana s earnings press release dated July 29, 2015 and, as discussed in that press release, now also incorporates adjustments for expenses associated with the previously disclosed proposed transaction with Aetna Inc. (Aetna).

Humana s Adjusted EPS guidance for the full year 2015 excludes a pretax gain of approximately \$267 million, or \$1.53 per share, associated with the completion of Humana s sale of its wholly-owned subsidiary, Concentra Inc., recognized in the first half of 2015. Additionally, Adjusted EPS for both the full year 2015 and the quarter ended September 30, 2015 exclude estimated transaction-related costs of approximately \$17 million pretax, or \$0.10 per share, and approximately \$11 million pretax, or \$0.07 per share, respectively. Certain costs associated with the transaction are not deductible for income tax purposes.

Diluted earnings per common share	3Q15E	FY 2015E
GAAP	\$ 2.08	\$ 9.18
Gain related to sale of Concentra Inc.		(1.53)
Estimated transaction costs associated with pending transaction with Aetna	0.07	0.10
Adjusted (non-GAAP)	\$ 2.15	\$ 7.75

Humana has included this financial measure (which is not in accordance with Generally Accepted Accounting Principles (GAAP)) as management believes that this measure, when presented in conjunction with the comparable GAAP measure, is useful to both management and its investors in analyzing the company s ongoing business and operating performance. The excluded items described herein are not a recurring part of the company s operating plan. Consequently, management uses this non-GAAP financial measure as an indicator of business performance, as well as for operational planning and decision making purposes. Non-GAAP financial measures should be considered in addition to, but not as a substitute for, or superior to, financial measures prepared in accordance with GAAP.

Important Information for Investors and Stockholders

These materials do not constitute an offer to sell or the solicitation of an offer to buy any securities or a solicitation of any vote or approval. In connection with the proposed transaction between Aetna and Humana on August 28, 2015, Aetna filed with the Securities and Exchange Commission (the SEC) a registration statement on Form S-4, including Amendment No. 1 thereto, containing a joint proxy statement/prospectus of Aetna and Humana. The registration statement was declared effective on August 28, 2015, and Aetna and Humana commenced mailing the definitive joint proxy statement/prospectus to Humana's stockholders and Aetna's shareholders on or about September 1, 2015. INVESTORS AND SECURITY HOLDERS OF AETNA AND HUMANA ARE URGED TO READ THE DEFINITIVE JOINT PROXY STATEMENT/PROSPECTUS AND OTHER DOCUMENTS FILED OR THAT WILL BE FILED WITH THE SEC CAREFULLY AND IN THEIR ENTIRETY BECAUSE THEY CONTAIN OR WILL CONTAIN IMPORTANT INFORMATION. Investors and security holders may obtain free copies of the registration statement and the definitive joint proxy statement/prospectus and other documents filed with the SEC by Aetna or Humana through the website maintained by the SEC at <http://www.sec.gov>. Copies of the documents filed with the SEC by Aetna are available free of charge on Aetna's internet website at <http://www.Aetna.com> or by contacting Aetna's Investor Relations Department at 860-273-2402. Copies of the documents filed with the SEC by Humana are available free of charge on Humana's internet website at <http://www.Humana.com> or by contacting Humana's Investor Relations Department at 502-580-3622.

Aetna, Humana, their respective directors and certain of their respective executive officers may be considered participants in the solicitation of proxies in connection with the proposed transaction. Information about the directors and executive officers of Humana is set forth in its Annual Report on Form 10-K for the year ended December 31, 2014, which was filed with the SEC on February 18, 2015, its proxy statement for its 2015 annual meeting of stockholders, which was filed with the SEC on March 6, 2015, and its Current Report on Form 8-K, which was filed with the SEC on April 17, 2015. Information about the directors and executive officers of Aetna is set forth in its Annual Report on Form 10-K for the year ended December 31, 2014, which was filed with the SEC on February 27, 2015, its proxy statement for its 2015 annual meeting of shareholders, which was filed with the SEC on April 3, 2015 and its Current Reports on Form 8-K, which were filed with the SEC on May 19, 2015, May 26, 2015, July 2, 2015, September 30, 2015 and the amendment to the September 30, 2015 Form 8-K filed on October 7, 2015. Other information regarding the participants in the proxy solicitations and a description of their direct and indirect interests, by security holdings or otherwise, are contained in the definitive joint proxy statement/prospectus and other relevant materials to be filed with the SEC when they become available.

Cautionary Statement

This Form 8-K includes forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. When used in investor presentations, press releases, Securities and Exchange Commission (SEC) filings, and in oral statements made by or with the approval of one of Humana's executive officers, the words or phrases like expects, believes, anticipates, intends, likely will result, estimates, projects or variations of such words and expressions are intended to identify such forward-looking statements. These forward-looking statements are not guarantees of future performance and are subject to risks, uncertainties, and assumptions, including, among other things, information set forth in the Risk Factors section of the company's SEC filings, a summary of which includes but is not limited to the following:

Humana's merger with Aetna is subject to various closing conditions, including governmental, regulatory and stockholder approvals as well as other uncertainties and there can be no assurances as to whether and when it may be completed.

The merger agreement between Humana and Aetna limits Humana's ability to pursue alternative transactions to the proposed merger with Aetna.

The number of shares of Aetna common stock that Humana's stockholders will receive in the merger is based on a fixed exchange ratio. Because the market price of Aetna's common stock will fluctuate, Humana's stockholders cannot be certain of the value of the portion of the merger consideration to be paid in Aetna's common stock.

While the merger with Aetna is pending, Humana is subject to business uncertainties and contractual restrictions that could materially adversely affect Humana's results of operations, financial position and cash flows or result in a loss of employees, customers, members or suppliers.

If the merger agreement with Aetna is terminated, Humana may, under certain circumstances, be obligated to pay a termination fee to Aetna.

Failure to consummate the merger with Aetna could negatively impact Humana's results of operations, financial position and cash flows.

If Humana does not design and price its products properly and competitively, if the premiums Humana receives are insufficient to cover the cost of health care services delivered to its members, if the company is unable to implement clinical initiatives to provide a better health care experience for its members, lower costs and appropriately document the risk profile of its members, or if its estimates of benefits expense are inadequate, Humana's profitability could be materially adversely affected. Humana estimates the costs of its benefit expense payments, and designs and prices its products accordingly, using actuarial methods and assumptions based upon, among other relevant factors, claim payment patterns, medical cost inflation, and historical developments such as claim inventory levels and claim receipt patterns. These estimates, however, involve extensive judgment, and have considerable inherent variability because they are extremely sensitive

to changes in claim payment patterns and medical cost trends.

If Humana fails to effectively implement its operational and strategic initiatives, particularly its Medicare initiatives, state-based contract strategy, and its participation in the new health insurance exchanges, the company's business may be materially adversely affected, which is of particular importance given the concentration of the company's revenues in these products.

If Humana fails to properly maintain the integrity of its data, to strategically implement new information systems, to protect Humana's proprietary rights to its systems, or to defend against cyber-security attacks, the company's business may be materially adversely affected.

Humana's business may be materially adversely impacted by the adoption of a new coding set for diagnoses (commonly known as ICD-10), the implementation of which has been deferred to at least October 1, 2015.

Humana is involved in various legal actions, or disputes that could lead to legal actions (such as, among other things, provider contract disputes relating to rate adjustments resulting from the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, commonly referred to as "sequestration"; other provider contract disputes; and qui tam litigation brought by individuals on behalf of the government) and governmental and internal investigations, any of which, if resolved unfavorably to the company, could result in substantial monetary damages or changes in its business practices. Increased litigation and negative publicity could also increase the company's cost of doing business.

As a government contractor, Humana is exposed to risks that may materially adversely affect its business or its willingness or ability to participate in government health care programs including, among other things, loss of material government contracts, governmental audits and investigations, potential inadequacy of government-determined payment rates, potential restrictions on profitability, including by comparison of profitability of the company's Medicare Advantage business to non-Medicare Advantage business, or other changes in the governmental programs in which Humana participates.

The Health Care Reform Law, including The Patient Protection and Affordable Care Act and The Health Care and Education Reconciliation Act of 2010, could have a material adverse effect on Humana's results of operations, including restricting revenue, enrollment and premium growth in certain products and market segments, restricting the company's ability to expand into new markets, increasing the company's medical and operating costs by, among other things, requiring a minimum benefit ratio on insured products, lowering the company's Medicare payment rates and increasing the company's expenses associated with a non-deductible health insurance industry fee and other assessments; the company's financial position, including the company's ability to maintain the value of its goodwill; and the company's cash flows.

Humana's participation in the new federal and state health care exchanges, which entail uncertainties associated with mix, volume of business, and the operation of premium stabilization programs, which are subject to federal administrative action, could adversely affect the company's results of operations, financial position, and cash flows.

Humana's business activities are subject to substantial government regulation. New laws or regulations, or changes in existing laws or regulations or their manner of application could increase the company's cost of doing business and may adversely affect the company's business, profitability and cash flows.

If Humana fails to develop and maintain satisfactory relationships with the providers of care to its members, the company's business may be adversely affected.

Humana's pharmacy business is highly competitive and subjects it to regulations in addition to those the company faces with its core health benefits businesses.

Changes in the prescription drug industry pricing benchmarks may adversely affect Humana's financial performance.

If Humana does not continue to earn and retain purchase discounts and volume rebates from pharmaceutical manufacturers at current levels, Humana's gross margins may decline.

Humana's ability to obtain funds from certain of its licensed subsidiaries is restricted by state insurance regulations.

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Downgrades in Humana's debt ratings, should they occur, may adversely affect its business, results of operations, and financial condition.

The securities and credit markets may experience volatility and disruption, which may adversely affect Humana's business.

In making forward-looking statements, Humana is not undertaking to address or update them in future filings or communications regarding its business or results. In light of these risks, uncertainties, and assumptions, the forward-looking events discussed herein may or may not occur. There also may be other risks that the company is unable to predict at this time. Any of these risks and uncertainties may cause actual results to differ materially from the results discussed in the forward-looking statements.

Humana advises investors to read the following documents as filed by the company with the SEC for further discussion both of the risks it faces and its historical performance:

Form 10-K for the year ended December 31, 2014;

Form 10-Q for the quarters ended March 31, 2015 and June 30, 2015, and

Form 8-Ks filed during 2015.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this Report to be signed on its behalf by the undersigned hereunto duly authorized.

HUMANA INC.

**BY: /s/ Cynthia H. Zipperle
Cynthia H. Zipperle
Vice President, Chief Accounting
Officer and Controller**

(Principal Accounting Officer)

Dated: October 13, 2015