

Fostering Competition in Consolidated Markets

*Paul B. Ginsburg, Ph.D., Testimony to California Senate
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Increasingly Consolidated Markets (1)

- **Consolidation in many health care markets already extensive**
- **Trend accelerating**
 - **Providers: Increasingly challenging environment to be a small hospital or medical practice**
 - ◆ **Pressure on payment rates**
 - ◆ **New contracting models**
 - ◆ **Electronic medical records**
 - ◆ **Lifestyle choices by younger physicians**

Increasingly Consolidated Markets (2)

- **Insurers: Challenging environment for small insurers**
 - ◆ Multi-state employers prefer national accounts
 - ◆ Scale economies in building analytic capabilities
 - ◆ Scale needed to contract with providers with alternative payment models
- **Implications: Consolidation will increase even with vigorous anti-trust enforcement**
 - Need public and private initiatives beyond antitrust to foster competition on price and quality

Fostering Competition

- **Insurance market**
 - **Public and private exchanges**
 - ◆ Reduce entry barriers
 - ◆ Support consumer comparison of plans
 - ◆ Need to improve risk adjustment
 - **Focus most of statement on provider competition**
- **Provider market**
 - **Broadening anti-trust policy**
 - **Policies to foster market forces**
 - **Direct regulation of prices**

Broadening Anti-trust Policy

- **Hospital ownership of medical practices**
 - **Higher prices to purchasers**
 - ◆ Research literature to support this is developing
 - **Barrier to steering patients to high-value providers**
 - **Reduces potential competitors in reformed payment contracting market**
- **Cross-market mergers**
 - **“Must have” hospital achieves higher rates for system hospitals in other markets**
 - ◆ Agencies have looked at markets separately

Price and Quality Transparency

- **Transparency a societal value**
 - **But often oversold as strategy to foster competition**
 - **Some benefit designs have few incentives to choose lower-priced providers**
 - ◆ **High deductibles have little incentive for inpatients**
 - **Complexity makes this a heavy lift for many consumers**
 - ◆ **Some excellent price tools from insurers/employers getting little use**
 - **Quality transparency an aspiration for future**

Network Strategies (1)

- **Concept: insurer as purchasing agent**
- **Shifting volume from high-priced to low-priced providers**
 - **Three potential sources of savings**
 - ◆ **Higher proportion of care at lower-priced providers**
 - ◆ **Discounts from providers seeking inclusion**
 - ◆ **Stronger incentives for providers to reduce costs**

Network Strategies (2)

- **Potential for using broader measures of price and incorporate quality**
 - Analytic parallels to alternative payment models
 - ◆ Cost per patient per year or per episode
- **Opportunity for integration of payment and delivery**
 - Provider-sponsored plans or joint ventures with insurers

Narrow vs. Tiered Networks (1)

- **Narrow networks a more powerful tool**
 - **Stronger patient incentives for steering**
 - **Attraction of larger premium reduction**
 - ◆ **Around 15 percent in ACA Marketplace plans**
 - **Exchanges provide ideal environment**
 - ◆ **Fixed contributions mean strong incentives to seek lower premiums—and accept less choice**
 - ◆ **Absence of “one-size-fits-all” constraint**
 - ◆ **Exchange tools facilitate consumer comparisons of networks across plans**

Narrow vs. Tiered Networks (2)

- **Tiered networks have potentially larger consumer acceptance**
 - Point of service choices
 - ◆ Popularity of PPOs and tiered formularies
- **But dominant providers have blocked many tiered networks**
 - 2010 legislation in Massachusetts opened door to tiered plans in state

Narrow vs. Tiered Networks (3)

- **Reference pricing: an “extra strength” tiered network approach**
 - **Stronger incentives for patients to use providers under the reference price**
 - **A relatively simple choice for patients**
 - **CalPERS success with joint replacement and other services**
 - ◆ **But how much spending is suited for this approach?**
 - **Concept of “shoppable” services**

Challenges for Network Approaches

- **Need for better transparency about networks**
- **Getting network adequacy requirements right**
 - Balance between cost saving, risk selection prevention and consumer protection
 - Importance of speedy appeals on specialist needs
- **“Surprise balance bills” an issue for broad networks as well**

Other Steps to Foster Competition

- **Steps to foster independent medical practices**
 - Public and private payers
- **Additional restrictions on anti-competitive behavior**
 - All or nothing requirements
 - Most favored nation clauses

Regulatory Alternatives

- **Some states contemplating rate setting**
 - **Some success in the past**
- **Challenges for using approach in 2016**
 - **Large differences between commercial, Medicare and Medicaid rates likely to be grandfathered**
 - ◆ **Or regulate only commercial rates (WV)**
 - **Rate setting needs to encourage payment reform rather than block it**
 - ◆ **Promising attempt in Maryland**
 - ◆ **Can it work if rate setting applies only to hospital rates?**

Possible Legislative Priorities

- **Restrictions on anti-competitive practices**
 - Preferred tier placement demands
 - Most favored nation clauses
 - All or none contracting requirements
- **Regulate network adequacy wisely**
 - A potent tool to foster competition—even in consolidated markets
 - Address the problems while preserving much of the potency

Concluding Thought

- **Payment reform likely to contribute to consolidation**
 - Proceed with payment reform
 - Enforce anti-trust policy and pursue additional policies that foster competition
 - Consider rate setting a “stick in the closet” to use if market approaches fail

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