Fostering Competition in Consolidated Markets

Paul B. Ginsburg, Ph.D., Testimony to California Senate Committee on Health, March 16, 2016
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