Academic Articles & Reports Roundup: October 2016

We hope you had a happy Halloween! October's roundup includes articles covering 1) price transparency|2) provider collaborations in California|3) antitrust doctrine on state immunity|4) payment reforms|and 5) consumer healthcare costs. For the next few months, we will be using the Roundup to focus on a few great healthcare price and competition articles, rather than reporting on a wider array of articles that came out in the month. If you think we have overlooked any interesting articles, please feel free to send us what we've missed!

Price Transparency

In *The New Politics of US Health Care Prices: Institutional Reconfiguration and the Emergence of All-Payer Claims Databases* by Philip Rocco, Andrew S. Kelly (UC Hastings '19), Daniel Beland, and Michael Kinane, the authors analyze why all-payer claims databases (ACPDs) have been able to get broad political support when other forms of direct state regulation addressing healthcare prices have faced more pushback. The article argues that APCDs have been successful because advocates for these policies drew from accepted ideas about how price-transparency can be used as an effective tool, used traditional coalition building tactics, and built on an already-existing data collection infrastructure. The article suggests that other areas of health reform can follow the success of ACPDs by expanding on existing ideas, coalitions, and infrastructures in new ways. This is a fascinating look at the mechanics behind creating new health policy initiatives in state governments, and a great resource for understanding the emergence and impact of ACPDs on healthcare pricing.

Provider Collaborations

Ha Tu published *Many Routes to the Top: Improving Care Quality, Coordination, and Costs Through Provider Collaborations* in the California Health Care Almanac, which explores the rising number of provider collaborations in major California markets. The paper looks at major trends in this area, explores what factors led to the development of each partnership, and discusses the effects that these partnerships have on costs. The article discusses the most ambitious collaboration, provider collaborations that form region-wide care networks, as well as other types of collaborations with more limited scopes and objectives. Tu points out that, as compared with mergers and acquisitions, provider collaborations may be more advantageous for hospitals because they allow systems to maintain autonomy, avoid regulatory barriers, and lower costs while still joining clinical strengths together. Provider collaborations are expected to create more price competition and give consumers wider network option, however, Tu notes that its not certain that providers will provide integrated and efficient care to keep costs down. Some have also raised concerns about how collaborations increase consolidation, allowing providers to raise prices, even if market power is attained through a joint venture rather than a merger.

Antitrust Litigation

In *The New Antitrust Federalism*, Rebecca Haw Allensworth discusses the U.S. Supreme Court's shift to a "new antitrust federalism" through three recent decisions, including two healthcare cases, *State Board of Dental Examiners v. FTC* and *FTC v. Phoebe Putney Health System*. "Antitrust federalism" refers to the doctrine that state actions are immune from antitrust law. Under the old model, to determine whether an action was immune from antitrust law, the Court had to decide whether the action was made by a state actor, or whether it was made by an unprotected private entity. Under the new test, which Allensworth sees as modeled after administrative

law, the Court focuses on whether a decision was "actively supervised" by the state. The new test focuses on whether an action was made under sufficient state procedural review and political accountability. Allensworth argues that the new test is better than the old formalist distinction between state action and non-state action because it helps curb "industry capture" of self-regulation and properly discourage anticompetitive behavior, without inferring too heavily in state autonomy. The challenge Allensworth sees with the new standard is how the term "actively supervised" will be defined by the courts. She argues it needs to be given a tight definition in order for this new doctrine to succeed.

Payment Reform

David T. Feinberg and Mark B. McClellan published *More Value From Payment Reform in Healthcare and Biomedical Innovation*, which discusses challenges in the move to alternative payment models and provides several strategies for overcoming those challenges to ensure that payment reform can drive low-cost, high-quality care. The authors note that currently, the complexity of multiple requirements, measures, and benchmarks makes it challenging for providers to adapt to reforms. They suggest encouraging collaboration, including sharing of information and claims data from payers to create standard ways to facilitate reforms. They also suggest that pharmaceutical and medical device payments should be incorporated into payment reform, aligning payments for these products with value. The other challenge the authors highlight is the possibility that payment reform will lead to further healthcare consolidation. The authors encourage oversight of larger organizations for abuses of market power, and propose more stringent oversight to make sure that large organizations actually achieve the improved outcomes and lower costs they claim their consolidations will achieve.

Costs for Consumers

Mark A. Hall and colleagues, including Source advisory board member Paul Ginsburg, published *Solving Surprise Medical Bills*, which considers what policies and approaches would be most effective in tackling surprise medical billing. To address out-of-network bills from emergency care, the authors suggest at either federal or state levels, setting a fixed amount or requiring a form of dispute resolution to make sure costs are not passed on to consumers. The article also stresses the need for more than just transparency in communicating notifications to patients when care is out-of-network. They point out that notifications alone are insufficient because patients often have no choice of provider or are in a vulnerable position when they opt for out-of-network care. At a broad level, the author's suggested focusing on resolving high prices of all out-of-network billing, not just surprise and emergency situations.

The Slowdown in Employer Insurance Cost Growth: Why Many Workers Still Feel the Pinch by Sarah R. Collins and colleagues reports on employer-sponsored health plan premiums rates from 2010, the year the ACA was implemented, to 2015. The authors found that during those five years, premium rates for employer-sponsored plans rose at a slower rate than in the five years prior. Despite this, many Americans feel that healthcare costs are still unaffordable, and the article attributes this to both the lag in median family income growth, and plans continuing to have high deductibles. The study concludes by discussing the need to cut down on growth in overall medical costs, which drive premium and deductible rates.

That's all for October! Check back with us next month for another round of articles and reports.