Could the Amazon, Berkshire, JP Morgan Chase Venture Disrupt the Healthcare Industry and Improve Employer Sponsored Insurance Competition?

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On January 30, 2018, Amazon, Berkshire Hathaway, and JP Morgan Chase announced their initiative to create a new company designed to lower healthcare costs.[1] Together, the three companies currently employ 1.1 million employees worldwide. On average, employers pay $5,179 annually (83 percent of the premium) to cover a single employee or $12,591 annually (72 percent of the premium) to cover a family.[2] Employees cover the remaining amount, typically through a payroll deduction. With a large combined employee base of 1.1 million, these companies spend billions of dollars on employee healthcare plans. In fact, JPMorgan Chase spent $1.25 billion on healthcare alone last year.[3] The main focus of this joint venture is to drive down healthcare costs for their employees. Although the exact details are unclear, the three powerhouses will likely try to break through some of the recent price increases by using their combined negotiating power. If successful, hospitals, health systems, and pharmacy manufacturers could contract directly with the new company, allowing the company to purchase healthcare services at a greater volume and demand lower prices.

While the formal structure of the new entity remains uncertain, the new venture will rely heavily on technology to improve efficiency and reduce costs. The companies said in their joint statements, “the initial focus of the new company will be on technology solutions that will provide U.S. employees and their families with simplified, high-quality and transparent healthcare at a reasonable cost.”[4]

While promising, this exciting endeavor will likely face several hurdles. First, healthcare delivery remains very local. Employers traditionally have a hard time negotiating favorable prices or ensuring that providers deliver quality care, because individual employers rarely have enough leverage over provider organizations in an individual market.[5] The joint venture will have greater leverage in any shared market. David Blumenthal, President of the Commonwealth Fund, argues that the companies will still lack market power to negotiate better prices or provide their own healthcare services in the majority of other cities where they employ personnel.[6] Second, these three companies are relative newcomers to the healthcare industry with its complicated regulations and well established and funded payers.[7] Third, the healthcare industry also differs drastically from other specialty markets. Because healthcare consumers generally won’t settle for a lower quality product, market disruption by introducing lower priced and lower value services proves more challenging.[8] Lastly, the three companies are comprised of completely different workforces. Amazon’s lower-wage warehouse workers may prefer lower coverage health plans than JP Morgan’s highly paid workers who tend to prefer more generous benefit plans.[9]

The uncertainty surrounding how these companies plan to tackle healthcare costs leaves a lot of room for possibilities. Together these three companies have billions of dollars in assets, technological brilliance, business acumen, and a deep understanding of financial markets. Amazon has mastered the online retail market and its expertise could reshape how we engage with primary and pharmacy care. Berkshire Hathaway has expertise in calculating and assessing financial risk, which could radically change how we underwrite healthcare.

The companies most likely will create some sort of technological program that improves delivery of care. Possibilities include creating an app to help the companies' workers navigate their insurance benefits and health care. Experts have speculated the companies may leverage Amazon's Whole Foods acquisition as brick and mortar locations for minute-clinic style health services.[10] Perhaps Amazon could use its Alexa technology to dispense an array of health care services such as arranging doctor visits, refill prescriptions, or provide advice on how to manage health care problems. Or Amazon may create a virtual healthcare market in which providers and consumers aggregate their purchasing power to extract price concessions from the pharmaceutical industry.

While reshaping the employer sponsored health insurance market is an enormous task that will require overcoming significant obstacles, the current model of providing health care is long overdue for an overhaul to reduce costs and improve quality. The time is ripe for a new innovative market-based option. Due to the federal Employee Retirement Income and Security Act (ERISA), states have limited power to control health care costs on their own, as ERISA preempts states from regulating self-insured benefit plans. ERISA thus eliminates state regulation for some of the largest employer sponsored health plans, which are also not heavily regulated by federal legislation.[11] ERISA preemption and a lack of federal regulation mean that for the time being, successful price reduction efforts will have to come from market-based solutions.

Amazon, Berkshire, and JP Morgan Chase believe they have the solution to increase employer sponsored insurance competition. Whether the three powerhouses will use their expertise to go after insurers, hospitals, or drug companies remains uncertain. However, if this initiative succeeds, it may begin a new wave of employer created plans that together could disrupt the healthcare market, changing the face of employer-sponsored insurance and reshaping negotiation and administration of group plan prices. Stay tuned for developments and hopefully future answers.

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[1] Bill Chappel, *Amazon, Berkshire Hathaway, and JP Morgan Chase Launch New Health Care Company*, NPR (Jan. 30, 2018), https://www.npr.org/sections/thetwo-way/2018/01/30/581804474/amazon-berkshire-hathaway-and-jpmorgan-chase-launch-new-healthcare-company

[2] Christina Merhar, *How Much Does it Cost to Provide Health Insurance to Employees?* People Keep (Sep. 28, 2015), https://www.zanebenefits.com/blog/faq-how-much-does-it-cost-to-provide-health-insurance-to-employees

[3] Owen Tripp and Sally Welborn, *Are Employers About to Reverse the Nation's Alarming Healthcare Trends*?, EBN (Feb. 13, 2018), https://www.benefitnews.com/opinion/are-employers-about-to-reverse-the-nations-alarming-healthcare-trends.

[4] *Id.*

[5] Margot Sanger-Katz and Reed Ableson, *Can Amazon and Friends Handle Healthcare? There is Reason for Doubt*, N.Y. Times (Jan. 30, 2018), https://www.nytimes.com/2018/01/30/upshot/can-amazon-and-friends-handle-health-care-theres-reason-for-doubt.html

[6] David Blumenthal, *Can Three of America's Most Innovative Business Minds Really Transform Healthcare*? The Hill, (Feb. 5, 2018), http://thehill.com/opinion/healthcare/372074-can-three-of-amer

icas-most-innovative-business-minds-really-transform

[7] Sanger-Katz, *supra* note 5.

[8] Blumenthal, *supra* note 6.

[9] Sanger-Katz, *supra* note 5.

[10] Will Amazon Save Healthcare in the U.S.? Health Tech (Feb. 12, 2018), http://www.healthtechzone.com/topics/healthcare/articles/2018/02/12/436952-will-amazon-save-healthcare-the-us.htm.

[11] Tim Greaney, Lecture at UC Hastings College of the Law, February 1, 2018 at 3:30 PM.