The Source Roundup: October 2021 Edition

This month, we are pleased to highlight two recent publications co-authored by health policy researchers from The Source. We specifically examine articles and reports discussing market consolidation including 1) viable practices state policymakers can implement to address provider market power, 2) a critical look at legislation targeting concentrated markets, 3) statistical reports analyzing health insurance market consolidation, and 4) a study on the quality of care in post-merger rural hospitals. In addition, we cover articles that examine public option health plans recently enacted in some states, proposals to improve compliance with the federal price transparency rule, and research measuring the potential savings for insurers from shifting patients to non-hospital sites of care.

Market Consolidation/Competition

The U.S. healthcare system is riddled with concentrated markets, and consolidation is a primary driver of high and increasing health care costs, according to a new issue brief published by the *Milbank Memorial Fund.* In "Mitigating the Price Impacts of Health Care Consolidation," the Source's Katie Gudiksen, Alex Montague, and Jaime S. King propose policy recommendations to curb abuses of market power that adversely impact payers and patients. This brief is the third and final installment in a series describing what policymakers can do to address provider consolidation. The first paper discussed actions state and federal governments are taking to increase oversight of competition. The second paper examined how states can improve their merger review processes to limit or block mergers with anticompetitive potential. This final

publication in the series examines how dominant health systems can exert their market power through contracting practices and offers options and best practices to state policymakers seeking to address provider market power, including passing laws to prohibit specific clauses in contracts between health insurers and providers.

Many of the proposals policymakers have introduced to combat provider consolidation and resulting high hospital prices often limit regulations to highly concentrated hospital markets. In the *Health Affairs* article, however, researchers Maximilian J. Pany, Michael E. Chernew, and Leemore S. Dafny wrote that "Regulating Hospital Prices Based on Market Concentration is Likely to Leave High-Price Hospitals Unaffected." Using a large sample of 2017 U.S. commercial insurance claims, the researchers found that the majority of high-price hospitals are active in markets that meet federal definitions of low or moderate concentration. Furthermore, more than a quarter of all hospitals they deemed to be charging high prices fell within unconcentrated markets. As such, the researchers conclude that policies that target high prices regardless of the underlying market structure are likely to be more effective than those that limit action based on market concentration.

Not only are provider markets concentrated, but new data reveals similar consolidation issues in the insurer market. Almost three-fourths of U.S. metropolitan areas lacked a competitive health insurance market in 2020, with shrinking options among payers harming patients and providers, according to the newest release of the American Medical Association's annual analysis: Competition in Health Insurance: A Comprehensive Study of U.S. Markets. The updated analysis found that 73% of 384 metropolitan statistical markets were highly concentrated in 2020, an increase from 71% in 2014. In many cases, competition declined in areas dominated by just a few health insurers. Additionally, 54% of markets that were

designed as highly concentrated in 2014 became even less competitive by 2020, and another 26% of markets reached highly concentrated levels. The report states that these findings should raise significant antitrust concerns as market consolidation continues to grow, and urges federal and state authorities to vigorously examine the competitive effects of proposed mergers involving health insurers.

In addition to prices, a related metric to measure the impact of market concentration is the quality of care. In a new study published by JAMA Network Open, researchers H. Joanna Jiang, Kathryn R. Fingar, and Lan Liang examined the "Quality of Care Before and After Mergers and Acquisitions of Rural Hospitals." In a case-control study examining changes in quality of care at rural hospitals that merged and comparing with hospitals that remained independent, the research team found rural hospital mergers to be associated with improved mortality rates across multiple health conditions. These findings contrast with prior research that has been conducted on urban hospitals, which in general showed either no measurable impact or potentially decline in quality of care following consolidation. While there are multiple considerations for the pros and cons of consolidation, this research shows some of the potential benefits for rural hospitals and that such deals could play a meaningful role in improving the quality of rural healthcare services.

Price Transparency

Under a new federal rule, hospitals are required to post a machine-readable file with negotiated rates for all items and services, as well as accessible pricing information for consumers online. According to a report released by Georgetown University's Health Policy Institute, however, many hospitals are not yet compliant with CMS' price transparency rule. In "New Health Care Transparency Requirements: Recommendations

for Optimizing Pricing Data to Reduce System Costs," S. Corlette, M. Houston, M. Kona, R. Schwab, and N. Gooding write that the data hospitals posted have been in many cases hidden from web search engines or provided in a format that complicates analysis. To address this issue, the research panel proposes additional measures around increasing compliance and the usability of published pricing data. Such recommendations include 1) increasing the maximum penalty of $300, 2) requiring hospitals to present data through a uniform "machine readable template" that complies with CMS regulations, and 3) asking hospitals to display their commercial and Medicare rates side-by-side. Hospitals' failure to comply with the price transparency rule is continuing to complicate patient's ability to shop for care. Increased scrutiny is needed to enforce price transparency measures, enable more accurate oversight of insurers, and empower consumers to make informed purchasing decisions.

System Reform

While President Biden's public option plan seems to have fallen off the national radar, three states have forged ahead with their own public option legislation. The Source's Katie Gudiksen and Jaime King are joined by Erin C. Fuse Brown in co-authoring "State Public Option Plans – Too Modest to Improve Affordability?" a research article published by the *New England Journal of Medicine.* The piece examines the public option plans recently enacted by Washington, Colorado, and Nevada. Discussing the political and financial hurdles that states face in controlling provider rates, the authors explain that the public option-style plans created by these states have been narrowed to such an extent that they may fail to meet their affordability and coverage goals. The authors note that while these three public option plans have modest impact on affordability and costs, they are still valuable experiments in healthcare policy for other states, and even

the federal government, to learn from.

Healthcare Costs

With prescription drug prices on the rise, third-party payers are implementing different strategies to cut costs without compromising quality of care. As a new *Health Affairs* report shows, one method is to control where patients can receive infusion services. In "Price Differences to Insurers For Infused Cancer Drugs in Hospital Outpatient Departments and Physician Offices," James C. Robinson, Christopher M. Whaley, and Timothy T. Brown quantify the potential savings for insurers, as well as cost-sharing increases for enrollees, when insurers implement strategies to shift hospital-based care to other sites of care. Specifically, they examine the potential impacts of narrow-network contracting, percentage coinsurance, and reference pricing. The researchers conclude that large savings are potentially available to commercial insurers from shifting cancer infusion care to nonhospital settings, but cost-sharing burdens could become very high for patients.

That concludes this month's Roundup. If you find articles or reports that you think should be included in the monthly Roundup, please send them our way. Stay safe and healthy!