

To: Chairwoman Edith Ramirez, Federal Trade Commission

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RE: Strengthening Price Transparency Initiatives to Increase Health Care-Provider Competition and Reduce Health Care Costs

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Executive Summary

Price transparency in healthcare is increasingly receiving political attention, as it is believed to be a potential tool to contain the overwhelmingly high healthcare costs in the USA. Moreover, as patients face increased exposure to healthcare costs, they have an urgent need for meaningful and transparent price information. More than 30 states have implemented price transparency initiatives, which however, have not been proven to be effective. While mere requiring price transparency may increase competition among providers and lower prices in selected areas, it may do the opposite in other areas with limited healthcare providers. This memo aims to explore ways of strengthening price transparency initiatives. First, I evaluate the unique characteristics of the healthcare industry explaining the industry's reaction to mere requiring price transparency. Then I suggest three options that can ensure effective price transparency initiatives. And finally, I elaborate on the best recommendation, which promotes price transparency initiatives that targets stakeholders with more leverage in order to effectively increase competition among providers while preventing negative consequences.

Background

As health care costs continue to rise in the United States, politicians, employers, and patients devotedly search for new methods to reduce healthcare costs. With over 46 million Americans uninsured and over \$ 2.7 trillion spent on healthcare, the need to reduce healthcare costs is more apparent than ever (1,2,4). The Affordable Care Act has brought numerous cost-reduction initiatives to the forefront, and "full transparency of prices" was listed as one potential solution to reduce healthcare costs.

Price transparency means that consumers may understand how prices are set and they may be aware of price discrimination (1). Currently, consumers often have difficulty finding useful price data in health care markets (1). In particular, few consumers have a clear idea of what hospital stays or hospital-based procedures will cost, or understand how hospital charges are determined (1). Moreover, consumers are not aware of the significant price variation existing for hospitals and physician services across markets and even within markets (2). Price transparency then, implies that consumers can obtain price information easily, so they can usefully compare costs of different choices.

Standard economic theory suggests that price transparency increases competition among providers, and leads to lower and less varied prices (2). Driven by this ideology and increasing urgency advocacy, more than 30 states are considering or pursuing legislation to increase price transparency (6). Most of the initiatives implemented focus on publishing average or median within hospital prices for individual services (6). However, "patient demand for healthcare services generally does not respond in the same

manner as consumer demand for other goods in terms of price elasticity; Consumers can delay healthcare due to cost, but once a condition becomes severe, consumers will generally seek care regardless of price” (4). As such, the mere promotion of price transparency might have limited benefits, or worse, negative consequences in the healthcare industry.

Evidence

Despite the recent regulatory actions taken by states to increase price transparency, there is still a lack of provider competition in the market, which suggests the limitations of simply promoting price transparency (2). For example, a study evaluating New Hampshire’s price transparency initiative showed no decrease in price variation a year after the release of price information for 30 procedures, which was associated to the lack of competition among providers in the state (2,5). Three factors can be considered to explain the limitations of price transparency, and provide a pathway to designing successful price transparency initiatives in the industry.

First and foremost, it is more difficult to assess the quality of medical care than that of other goods. Due to the lack of timely and salient comparative quality information, patients tend to rely on cost as a proxy for quality (6). And the belief that higher-cost care must be better is so strongly held that higher price tags have been shown to improve patients’ responses to treatments through the placebo effect (6).

Secondly, Most patients are insured, so they pay very little of the cost of their medical care, which abates their incentive to choose a lower-cost provider (6). Moreover, the lack of independent information on the quality of care reinforces patients’ tendency to rely on physicians for advice about where to receive their care, and “patients may be unwilling to go against a clinician’s advice in the interest of saving a few dollars” (6).

Finally, determining the cost of medical care is relatively different from determining the cost of other goods because it is often hard to know in advance what exact combination of services a patient will need (6). So, it is a challenge to know which prices to publish, without deceiving patients.

Despite the limitations, evidence suggests that price transparency can be effective if it is enforced at the appropriate stakeholder level. For instance, one of the best examples of price transparency in a federal program is the disclosure of drug prices in the Medicare Part D program, signed into law in 2003 (2). This price transparency initiative does not target consumers alone, but it also targets decisions made at the insurer-provider level as well. The complex billing practices and the insurer-provider contracts makes the insurer-provider level crucial in making price transparency effective at the patient-provider level (4,5). In short, consumers seem to have limited power in the healthcare industry when it comes to increasing competition among healthcare providers.

Problem

There is limited competition in the healthcare industry, which facilitates the persistent variance and unnecessarily high healthcare costs, with some hospitals commanding almost 500% of what Medicare pays for hospital inpatient services, and more than 700% of what Medicare pays for hospital outpatient care (2). Given the unique characteristics of the healthcare industry, the main issue, then, focuses on how price transparency initiatives can be strengthened such that they effectively protect consumers

from unnecessary costs and enhance competition among providers without resulting in negative consequences in the healthcare industry.

Policy Options

As mentioned above, price transparency initiatives can be implemented through variety of methods and at different stakeholder levels. But if an initiative is to maximize the effectiveness of price transparency in the health industry, it will have to mandate the disclosure of prices and quality information at the proper stakeholder levels and, instantaneously, break down provider market power where it prevents price transparency from helping consumers” (2,4). The three potential initiatives to effectively promote price transparency are outlined below.

States can continue to enforce price transparency through legislation

One possible solution is for states to continue on the current course of promoting price transparency through legislation. As evidence suggest, price transparency legislation will have varied effects, depending upon particular conditions in the target market (4,5,6). In urban areas with a higher concentration of providers and less leverage, price transparency may enhance competition and drive healthcare costs down (6). However, rural areas with fewer providers may actually see healthcare prices increase, will no change in competition (6). Therefore, “blanket price transparency requirements should not be implemented through legislation” (4). As Muir et al argues, the legislature should instead focus on incentivizing price transparency in areas with less leverage and higher concentration of health providers where its intended effects are most probable (4).

Rate health plans and provide standard certification

Effective price transparency can also be implemented through what Muir et al terms “Visible Value Standard Certification” (4). The authors frame the Visible Value Standard as a set of criteria that would be created by a state exchange, an agency like FTC, or Department of Insurance whereby health plans could voluntarily submit cost, quality, and anticompetitive activities data to the exchange in order to apply for certification (4). The exchange would then list these criteria on its website and indicate which plans on the exchange were certified under this standard (4). In general, states and FTC are well positioned to implement and monitor this initiative because the Sherman Act empowers them; as such, they can effectively use the act to prevent unnecessary restraint in the healthcare market (3). Certification of health plans under the “Visible Value” standard through administrative or legislative action has the ability to dismantle geographic tying by dominant providers or services, thus, implementing effective price transparency (4).

Encourage employers to negotiate for price transparency from healthcare providers

With employer-sponsored health insurance being the leading source of health insurance in the USA, employers could obtain both quality information on the providers included in a health plan as well as the negotiated prices (4). They could use their influence as purchasers to demand higher value plans and avoid plans that pay inflated rates to certain providers (4). If FTC encourages employers to obtain knowledge of insurer-negotiated prices even self-insured employers will be able to demand lower prices and develop networks of high value providers (4). As argued by Muir et al, “employers,

especially large, self-insured employers, are in a better position to accumulate and analyze price and quality data than individual consumers and they also have the ability to leverage their employees' purchasing power to negotiate price" (4). They may, however, face challenges from legal barriers like trade secrets protection and gag clauses, which may limit them from demanding information (5). Nonetheless, employers are uniquely situated to have a game-changing impact on the way price transparency affects competition in healthcare compared to individual consumers, or even insurers and providers (4).

Recommendation

The best option would be the "Visible Value" Standard Certification. This option encompasses two elements crucial for ensuring effective price transparency in healthcare. First of all, the "Visible Value" Standard Certification targets provider leverage by discouraging anticompetitive behavior (4). Secondly, the strategy mandates disclosure of price information (4). It is crucial that these two elements are combined in one strategy for price transparency to be effective. As argued by Muir et al, breaking apart geographic markets, alone, risks only reforming healthcare pricing in the select areas where geographic ties exist (4). On the other hand, merely requiring price transparency may have the unwanted result of driving up healthcare costs in some areas (4). In combination, however, these elements have the potential to effectively increase competition among providers and lower healthcare costs across each state (4).

The structure of this initiative would first require the formation of exchange boards, or alternatively use government agencies, like FTC, to determine a plan's best-value criteria by evaluating the price and quality measures of each plan (4). Muir et al vow that this data could be collected entirely by voluntary disclosure from each health plan as part of the application process (awesome paper). Each health plan would then have to demonstrate it is not a product of any anticompetitive tactics, such as geographic tying leverage in order to be certified (4). This may, in turn, incentivize providers to refrain from anticompetitive activities in order to be included in a Visible Value standard health plan (4). Finally, each certified health plan would have to show that provider reimbursement rates are based on value-based payment systems, rather than on a fee-for-service basis (4). The mentioned conditions and their criteria could be made transparent to consumers via publication on a state exchange website (4). Undoubtedly, proper consumer education would be necessary to usher consumers into these plans, and incentivizes health plans to meet these best-value standards.

Through these mandated disclosures, the certification process stands to provide states with health plans of great value and integrity. If a large number of consumers purchase Visible Value standard plans, more insurer-provider partnerships may be motivated to follow suit. As a result, this initiative would increase competition among providers and help in containing healthcare costs.

Disclaimer: "I am a student at Columbia University. However, this comment to the Federal Trade Commission reflects my own personal opinions. This is not representative of the views of Columbia University or the Trustees of Columbia University."

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