CHAMBER HILL

INSIGHTS

House Energy and Commerce Health Subcommittee Looks at Transparency and Competition in Health Care

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On March 28, 2023, the House Energy and Commerce Health Subcommittee held a hearing on transparency and competition in health care. Members focused their discussion on hospital and insurer price transparency rules and pharmacy benefit managers (PBMs).

WITNESSES

- Chris Severn, Co-Founder & Chief Executive Officer, Turquoise Health
- Matthew Forge, Chief Executive Officer, Pullman Regional Hospital
- Marilyn Bartlett, Senior Policy Fellow, National Association of State Health Policy
- Sophia Tripoli, Director of Health Care Innovation, Families USA
- Dr. Benedic Ippolito, Senior Fellow in Economic Policy Studies, American Enterprise Institute

A committee-prepared hearing memo and the replay of the hearing can be found here.

MEMBER OPENING STATEMENTS

Chairman Brett Guthrie's (R-KY-2) opening statement focused on the unsustainable rising costs in health care – 2021 annual national costs were over $4 trillion. He also focused on market consolidation and a lack of price transparency as the largest drivers of these costs. Ranking Member Anna Eshoo (D-CA-16) echoed his statement with some additional facts on how much the U.S. overpays for drugs, DME and hospitals. Both the Chairman and the Ranking Member were very careful to point out that the hearing was completely bipartisan – and that they both wanted to focus on PBMs and the lack of transparency as drivers of the problem.

MEMBER DISCUSSION

Hospital and Insurer Price Transparency Data

Chairman Guthrie led a conversation on what are the musts for transparency, which include needing full disclosure of hospital prices as per statute and full insurer transparency. He acknowledged that the insurers are already at 90 percent reporting so are almost fully complying.

Ranking Member Eshoo also mentioned that hospitals need to be at 100 percent compliance with price reporting.

Full Committee Chair Cathy McMorris Rodgers (R-WA) questioned Mr. Forge that as the leader in the world on price transparency, could the experience be scaled nationwide. He answered that it is a challenge nationwide but can be scaled. He went on to state that data is the key to making things happen and right now there is a lack of data. Chairwoman McMorris Rodgers went on to ask Mr. Severn to describe the challenges hospitals are facing when it comes to transparency. He replied that there was no standard format in the beginning – and even that there is now a standard format, hospitals do not fill in each cell the same way. If there was a way for this data to be utilized and reported out quickly, providers could use it to steer patients to more affordable options.

Rep. Raul Ruiz (D-CA) asked what price transparency would do for families and stated that we need data on the negotiated rates between insurers and providers. Right now, that data is unavailable so patients cannot use it to shop around for best value. One witness answered that currently hospitals are posting things like percentage prices of Medicare or using N/A, which makes the data meaningless. He said that Congress should create a standard format where hospitals have to post dollar amounts, streamline the names of the services, and increase fines for those hospitals that do not comply.

Rep. Bill Johnson (R-OH) asked what could be done by Centers for Medicare and Medicaid Services (CMS) to better ensure compliance by hospitals when it comes to price transparency. The response indicated that hospitals are just failing to comply and there would be much more compliance with stricter enforcement,

Rep. Neal Dunn (R-FL) asked if Congress should change regulations regarding processing transparency data. The response was yes and CMS should change the process.

PBMs

Chairman Guthrie and Ranking Member Eshoo both said that PBMs need to be reformed – but in different ways. Chairman Guthrie wants PBMs to have to report on all of their drug prices – but stopped short of saying hospitals should publish their savings from PBMs. Rep. Eshoo said that the way PBMs get paid on their rebates makes them unwilling to pass savings on to patients. Rep. Eshoo also said that the middle men should be "taken out" of the PBMs altogether. This was a statement echoed by many – especially as many members felt the PBMs are disadvantaging or "destroying" community pharmacies.

Rep. Tony Cardenas (D-CA) discussed what would happen if PBMs published the rebates as currently there is little transparency. The answer was it would lower drug costs.

Rep. Buddy Cater (R-GA) said insurance companies should not be able to own PBMs and PBMs should not be able own the pharmacies. He went on to ask how to help employers understand how much PBMs are costing them and was told that if employers were given better information on rebates and net spends, then they would probably not use PBMs as much/at all.

Site Neutral Payments

While only one committee member bought up site neutral payments (Rep. Ann Kuster D-NH), it was notable that while the witnesses said over and over that site neutral payments would save money, none of the members, on either side of the aisle, pushed back on that idea.

Certificate of Need

Rep. Michael Burgess (R-TX) discussed how to support small independent medicine and that removing Certificate of Need (CON) laws could create new players in the market. A few witnesses echoed that statement when asked how to decrease costs and stop market consolidation.

340B Program

Rep. Larry Bucshon (R-IN) discussed the exploitation of the 340B program and that discount savings data needs to be published and hospitals should be sharing that data.

Rep. John Joyce (R-PA) asked about 340B increasing costs for patients. It was mentioned that this policy is pushing toward more consolidation which drives up the costs for patients and that no one knows how this money is being used and there needs to be more oversight. Hospitals in rural areas are having a hard time figuring out how to use 340B to help them.

Rep. Doris Matsui (D-CA) is concerned about the 340B program. 340B affects more than just the hospital, and small pharmacies also contribute to the program too. Without the 340B program, some critical services will be cut from the hospitals. Mr. Forge highlighted the need for better data to figure out what hospitals are doing with their savings before a definitive answer can be made if the program is working or not.

Market Consolidation

Chairman Guthrie lamented market consolidation, noting there are 2,000 fewer hospitals in the country because of it. He also was upset about the number of physician practices that have been acquired by hospitals/systems in the past few years. He feels this consolidation is driving down competition and increasing costs. Full Committee Chair McMorris Rogers echoed these comments.

Rep. Burgess touched on this issue in a different way by saying that physician-owned hospitals should again be allowed to increase competition.

Rep. Lori Trahan (D-MA) discussed the threat of access to care for small community hospitals as large systems buy up doctor practices, impacting prices and access to care. The small community hospitals don't have the market clout to compete. As low-income communities in her district are being impacted, she asked what could help ameliorate this and was told that expanding

site neutral payments and stopping systems from limiting which hospitals at which doctors can practice would help.

Rep. Kim Schrier (D-WA) brought up the trend of hospitals buying up ASCs. In Medicare, the site of service increases spending for the health plan, but also increases the out-of-pocket spend for the patient.

We trust you found this summary useful. Please reach out to us with any questions.